

## BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
<b>Franchise Tax Board</b>	<b>Assembly Revenue &amp; Taxation Committee</b>	<b>AB 1717</b>

**SUBJECT:** FTB Income Tax Forms for Use Tax Reporting and Payment; “Acceptable Tax Return” Means Original Return

### SUMMARY

This bill would modify the definition of acceptable tax return to mean an original return.

### REASON FOR THE BILL

The reason for the bill is to clarify that use tax can be reported on an original return regardless of the date the original return is filed.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2018, and operative for returns required to be filed after that date.

### STATE LAW

The California Department of Tax and Fee Administration (CDTFA)<sup>1</sup> is responsible for collecting sales and use tax. California use tax is imposed on any person who purchases tangible personal property for use, consumption, or storage in this state where the purchase is not subject to California sales tax. Generally, use tax is owed when the purchase is made outside of California, and the property is used in California. A typical purchase subject to California use tax is a purchase shipped from an out-of-state retailer to a California consumer. The use tax rate is the same as the sales tax rate, and varies depending on the county and city within California where the taxpayer resides.

Taxpayers may report and pay use tax directly to the CDTFA or report and pay use tax on their California income tax return.

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<sup>1</sup> Effective July 1, 2017, pursuant to AB 102, Chapter 16, Statutes of 2017, this responsibility transferred from the Board of Equalization to the Department of Tax and Fee Administration.

Individual taxpayers that have made one or more single non-business purchases of individual items of tangible personal property, each with a sales price of less than \$1,000, can report their use tax liability by using the use tax table shown in the instructions for their individual tax return, or they can report the actual use tax due. In addition, utilization of the use tax table precludes the CDTFA from making any determinations for understatements of use tax against any person with qualified purchases who utilizes the use tax table in accordance with the accompanying instructions.

For a person who reports use tax, the amount of payments or credits reported on an income tax return are applied first to the use tax liability reported on the tax return, and then to the income taxes, penalties, or interest thereon.

### **THIS BILL**

This bill would define an acceptable tax return to mean an original return, clarifying that use tax can be reported on an original return regardless of the date the original return is filed.

### **LEGISLATIVE HISTORY**

AB 1593 (Assembly Revenue and Taxation Committee, 2017/2018) would require a number to be entered on the use tax line of personal income tax returns. AB 1593 is currently in the Senate Appropriations Committee.

AB 2758 (Assembly Revenue and Taxation Committee, Chapter 541, Statutes of 2014) modified the priority of payments to replace income tax with use tax as the first liability to be paid.

SB 86 (Committee on Budget and Fiscal Review, Chapter 14, Statutes of 2011) among other things, allows a person that meets the requirements to report the use tax liability by using a use tax table shown in the instructions for the individual tax return or by reporting the actual use tax due. In addition, this law precludes the BOE from making any determinations for understatements of use tax against any person with qualified purchases who utilizes the use tax table in accordance with the accompanying instructions.

SB 858 (Committee of Budget and Fiscal Review, Chapter 721, Statutes of 2010) among other things, reauthorized and made permanent the option for taxpayers to report use tax on their personal income or corporation tax returns.

### **OTHER STATES' INFORMATION**

Because this bill only defines an acceptable tax return for purposes of reporting use tax, a review of other states' tax information would not be relevant.

### **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

**ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

**APPOINTMENTS**

None.

**SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

**VOTES**

	<b>Date</b>	<b>Yes</b>	<b>No</b>
Senate Floor	07/20/17	38	0
Assembly Floor	05/11/17	77	0

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