This Week in State Tax (TWIST)

February 9, 2026

California: OTA denies resale classification in appliance recycling program

In a recent decision, the California Office of Tax Appeals (OTA) addressed whether a taxpayer's operation of an appliance exchange program resulted in nontaxable sales for resale or taxable retail sales. In the program at issue, a collective of utility companies contracted with the taxpayer to purchase, deliver and install certain new, energy efficient appliances (refrigerators and washing machines) to customers. The taxpayer was also responsible for removing, recycling and disposing of the older appliances. The utilities compensated the taxpayer based on the number of appliances installed. On its returns, the taxpayer reported the entirety of its gross receipts from the utilities as nontaxable sales for resale.

On audit, the California Department of Tax and Fee Administration (CDTFA) assessed the taxpayer, finding that the transfer of the appliances to the end customers constituted taxable retail sales and not sales for resale. On appeal, the taxpayer argued that two sales occurred in each transaction: 1) a sale for resale by the taxpayer to the utility companies, and 2) a sale from the utility companies to the end customers. The OTA ultimately rejected this argument and determined that only one sale of tangible personal property occurred – from the taxpayer to the end customer. As the transaction involved certain services, the OTA also applied the true object test and determined the true object was the tangible personal property (*i.e.,* the appliance). As a result, the OTA upheld the CDTFA assessment and found the taxpayer responsible for sales tax.

In reaching its decision, the OTA explained that because the taxpayer did not obtain resale certificates from the utility companies, it bore the burden of demonstrating that the transactions qualified as sales for resale. The contracts between the taxpayer and the utility companies were silent as to whether title to the appliances was transferred. The agreements described various services performed by the taxpayer, (*e.g.*, procurement, delivery, installation, and recycling of the appliances), but did not establish that the utility companies ever purchased the appliances or held them for resale. Instead, the taxpayer retained ownership and possession of the appliances from the time of purchase through installation. Viewed from the true object perspective, the OTA found that the true object of the transactions was to provide energy efficient appliances to end customers, and that the installation and removal services were part of that transaction. For questions regarding 2026-OTA-097, or other questions relating to indirect tax matters in California, please contact Jim Kuhl.

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