



*California State Board of Equalization,
Legislative Division*

LEGISLATIVE BULLETIN



State Capitol Building (from the East) c.1945
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SALES AND USE TAX LEGISLATION 2001

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Assembly Bill 180 (Cedillo) Chapter 383
Exemption for AIDS Thrift Stores Extended

Tax levy; effective October 1, 2001. Amends Section 6363.3 of the Revenue and Taxation Code.

BILL SUMMARY

This bill extends to January 1, 2007, the sales and use tax exemption for sales of used clothing, household items, or other retail items by thrift stores operated for purposes of raising funds to provide specified services to AIDS patients.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENTS

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property (including second hand property) in this state, unless specifically exempted by law. Under existing law, Section 6363.3 of the Revenue and Taxation Code, as added by AB 3187 (Stats. 1996, Ch. 781), provides a sales and use tax exemption until January 1, 2002 for sales of used clothing, household items, and other retail items sold by thrift stores operated by a nonprofit organization. To qualify, the purpose of the thrift store must be to obtain revenue for the funding of medical and social services to individuals with AIDS, and at least 75 percent of those revenues must actually be expended for that purpose.

Current law also provides an exemption for sales by other charitable organizations. Under Section 6375 of the Revenue and Taxation Code, sales (including thrift store sales) by charitable organizations are exempt from sales and use tax under the following conditions:

1. The organization must be formed and operated for charitable purposes and must qualify for the "welfare exemption" from property taxation provided by Section 214 of the Revenue and Taxation Code.
2. The organization must be engaged in the relief of poverty and distress.
3. The organization's sales must be made principally as a matter of assistance to purchasers in distressed financial condition.
4. The property sold must have been made, prepared, and assembled or manufactured by the organization.

Merchandise sold through thrift stores operated by Goodwill Industries, the Salvation Army, and St. Vincent de Paul, for example, qualify for the exemption under Section 6375.

AMENDMENTS

This bill amends Section 6363.3 of the Revenue and Taxation Code to extend until January 1, 2007, the exemption for sales of used pieces of clothing, household items, or other retail items by thrift stores operated by a nonprofit organization if the purpose of the thrift store is to obtain revenue for the funding of medical, hospice, or social services to AIDS patients, as provided.

BACKGROUND

A bill to eliminate the sunset date in existing law for merchandise sold through thrift stores operated for purposes of funding services to individuals with AIDS, was considered during the 2000 Legislative Session (AB 1667, Knox). The bill failed passage in the Senate Revenue and Taxation Committee.

COMMENTS

1. **Purpose.** This bill is intended to make permanent the existing exemption for sales by thrift stores operated for purposes of funding services to individuals with AIDS
2. **Provisions will not be problematic to administer.** Enactment of this measure does not materially affect the Board's administration of the sales and use tax law.

Assembly Bill 309 (Longville) Chapter 429*Prepayment of Sales Tax on Fuel*

Tax levy; effective October 2, 2001, but operative January 1, 2002. Amends Sections 6471.4, 6480, 6480.1, 6480.2, 6480.3, 6480.4, 6480.6, 6480.7, 7320, 7326, 7330, 7337, 7343, 7344, 7364, 7404, 7405, 7453, 7653, 7657, 7727, 8101, 8126, 60015, 60022, 60027, 60034, 60052, 60056, 60057, 60058, 60101, 60105, 60106.2, 60106.3, 60107, 60161, 60163, 60181, 60206, 60211, 60360, 60401, 60501, 60503.1, 60503.2, 60521, and 60605 of, adds Sections 7345, 7372, 7373, 7659.93, 8106.8, 60025, 60047, 60047.1, 60048, 60048.1, 60049, 60049.1, 60063, 60064, 60135, 60204.5, 60253, 60361.5, and 60508.4 to, repeals Sections 6480.5, 6480.8, 7652, 7654, and 60203 of, repeals and adds Sections 7486 and 7487 of, and repeals Article 1.6 (commencing with Section 6480.10) of Chapter 5 of Part 1 of Division 2 of, the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this measure moves the first point of retail sales tax prepayment on fuel to the rack to coincide with the imposition of the excise tax.

Sponsor: State Board of Equalization

LAW PRIOR TO AMENDMENT

Under existing law, any distributor or broker (seller) of motor vehicle fuel, as defined in Part 2 (commencing with Section 7301) of the Revenue and Taxation Code, or any aircraft jet fuel dealer who sells aircraft jet fuel as defined by Section 7372 of the Revenue and Taxation Code, or any producer, importer or jobber (seller) who makes a sale of diesel fuel, as defined in Part 3 (commencing with Section 8601) or Part 31 (commencing with Section 60001) of the Revenue and Taxation Code, is required to collect prepayment of retail sales tax from the person to whom the fuel is sold. Generally, the types of fuels subject to the prepayment provisions include gasoline, aircraft jet fuel and diesel fuel. The prepayment rates for the period April 1, 2001 through March 31, 2002 are \$0.095 per gallon on gasoline, \$0.05 per gallon on aircraft jet fuel, and \$0.08 per gallon on diesel fuel. With the exception of the person making the retail sale of the fuel to the consumer, each seller of fuel is required to report and pay the prepayment amounts to the Board. Also, when the seller of fuel reports and pays his or her prepayment to the Board, the seller of fuel is allowed to claim a credit for the prepayment amount paid to his or her vendor. The person making the retail sale of the fuel to the consumer is allowed to claim a credit for the prepayment amount paid to his or her vendor when reporting the retail sales tax due on the retail sale of the fuel.

AMENDMENTS

This measure moves the first point of retail sales tax prepayment on fuel to the rack to coincide with the imposition of the excise tax.

BACKGROUND

The prepayment of retail sales tax on motor vehicle fuel was added by the passage of Senate Bill 1610 (Ch. 214, Stats. 1986). Prior to the passage of SB 1610, sales tax on fuel was only collected on the final retail sale. Before the prepayment of retail sales tax on motor vehicle fuel requirement, tax evasion by service stations was a problem. Due to the number of retail service stations in the state, and the nature of operations, many service stations would either fail to obtain the necessary seller's permit, or they would obtain the permit but fail to report the entire tax liability from their retail sales. By requiring the prepayment of the retail sales tax on motor vehicle fuel, 80 percent of the retail sales tax is collected in advance. Since the retailer is required to prepay a large portion of its sales tax liability, each retailer has an incentive to report the correct sales amount and recoup the tax already paid to its supplier. Also, information on how many gallons of fuel are sold to each vendor is documented. Board staff uses this information to trace the flow of fuel from seller to seller and ultimately reconcile those numbers with the final retail sale.

Until January 1, 2002, the excise tax on gasoline is imposed upon distributors for the privilege of distributing gasoline in this state. Distribution includes refining, producing, blending, or compounding gasoline in this state coupled with the sale, donation, consignment for sale, barter, or use of the fuel in this state. Distribution also includes importing into this state, coupled with the sale, donation, consignment for sale, barter, or use of the fuel in this state. The first distribution of gasoline generally occurs at the highest point in the distribution chain, before the gasoline leaves the refinery by way of a terminal rack or pipeline.

By contrast, the collection point of the excise tax on diesel fuel is at the refinery or terminal rack level. The rack is a level in the distribution chain at a refinery or at a storage and distribution facility at the end of a pipeline where gasoline, aircraft jet fuel, or diesel fuel are delivered through a mechanism (the rack as it leaves the refinery or storage facility) into ground transportation, such as a truck, trailer, or railroad car.

Beginning January 1, 2002, Assembly Bill 2114 (Ch. 1053, Stats 2000) shifts the imposition of the excise tax on gasoline from the point of first distribution to the rack. Moving the point of taxation to the rack will have several benefits. First, the point of taxation will be consistent with the diesel fuel tax law and the federal excise tax law. Also, with the implementation of the Excise Fuel Information Reporting System (ExFIRS) by the Internal Revenue Service, there is a federal tracking system that will be a tremendous aid in deterring tax evasion for any state that taxes fuel at the rack.

COMMENTS

1. **Purpose.** To simplify the payment and reporting of the prepaid sales tax on fuel.
2. **This measure will simplify reporting for fuel sellers.** Imposing the retail sales tax prepayment on fuel at the same point as the motor vehicle fuel tax simplifies payment and reporting since the imposition of the prepayment of sales tax coincides with the imposition of the state motor vehicle fuel tax and the federal excise tax imposed on motor vehicle fuel.
3. **The provisions of this bill could help reduce tax evasion.** The Board will be able to utilize ExSTARS (and its component, ExFIRS), a federal tracking system, to gather and analyze motor fuel industry records to determine where and by which entity, federal and state motor fuel taxes are not being remitted. In addition, the Board can use the federal tracking system to track the prepayment of retail sales tax on fuel to prevent tax evasion.

Assembly Bill 426 (Cardoza, et al.) Chapter 156
Budget Trailer Bill Containing Agricultural-related Exemptions

Tax levy; effective August 7, 2001, but operative September 1, 2001. Amends Sections 6353, 20543, and 20544 of, and adds Sections 6051.45, 6201.45, 6356.5, 6356.6, 6357.1, and 6358.5 to, the Revenue and Taxation Code.

BILL SUMMARY

This is a budget trailer bill implementing various provisions incorporated into the 2001-02 Budget. This bill, among other things, provides the following:

1. An extension of the $\frac{1}{4}$ percent state General Fund rate reduction if the General Fund revenues equals a specified amount. (Sections 6051.45 and 6201.45)
2. A state* and local sales and use tax exemption for the sale and purchase of liquefied petroleum gas (LPG) that is delivered to a "qualified residence," as defined, by the seller, that is sold for household use in the qualified residence, and LPG that is purchased by qualifying persons, as defined, for use in producing and harvesting agricultural products. (Section 6353)
3. A state* sales and use tax exemption on sales and purchases of farm equipment and machinery for use by a qualified person engaged in producing and harvesting agricultural products, or purchased by a person who assists such qualified persons in producing and harvesting agricultural products, as specified. (Section 6356.5)
4. A state* sales and use tax exemption for sales and purchases of equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person to be used primarily in harvesting timber. (Section 6356.6)
5. A state* sales and use tax exemption for sales of diesel fuel used in food processing and in farming activities, including transporting farm products to the marketplace, beginning no later than September 1, 2001. (Section 6357.1)
6. A state* sales and use tax exemption for the sale and purchase of any race horse breeding stock, as defined. (Section 6358.5)

*While the state tax rate is 4.75 percent for calendar year 2001, it is anticipated that the tax rate will return to 5.0 percent in 2002. Therefore, prior to January 1, 2002, these provisions result in a 4.75 percent state sales and use tax exemption. On and after January 1, 2002, these provisions will result in a 5.0 percent state sales and use tax exemption.

Sponsor: Assembly Member Cardoza

Sales Tax Rate Reduction Trigger

LAW PRIOR TO AMENDMENT

Under existing law, Sections 6051.3 and 6201.3 of the Revenue and Taxation Code provide for the imposition of a 1/4 percent State General Fund sales and use tax rate. Sections 6051.4 and 6201.4 specify that the 1/4 percent rate imposed by these sections ceases to be operative on and after January 1 following any November 1 in which the Director of Finance certifies that:

- the amount in the Special Fund for Economic Uncertainties as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year, and
- the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without including any revenue derived from the 1/4 percent rate on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.

Currently, a base state and local sales and use tax rate of 7 percent is imposed as noted below:

- 4 3/4 percent state tax allocated to the state's General Fund (Sections 6051 and 6201).
- 1/2 percent state tax allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Sections 6051.2 and 6201.2).
- 1/2 percent state tax allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Sec. 35 of Article XIII of the California Constitution).
- 1 1/4 percent Bradley-Burns Uniform Local Sales and Use Tax which is allocated to cities and counties (Part 1.5 (commencing with Section 7200)).

An additional local district tax ranging from 1/8 to 1 1/4 percent (referred to as Transactions and Use taxes) is imposed by special taxing jurisdictions in various counties and cities within the state (Part 1.6 (commencing with Section 7252)).

Also, as noted above, Sections 6051.3 and 6201.3 impose a 1/4 percent state tax, which is allocated to the state's General Fund. However, the tax imposed by these sections ceased to be operative January 1, 2001 since the specified conditions above have occurred.

AMENDMENTS

This bill adds Sections 6051.45 and 6201.45 to provide that the $\frac{1}{4}$ percent state sales and use tax provided for in Section 6051.3 and 6201.3 shall not be operative in any calendar year beginning on or after January 1, 2002, provided the Director of Finance determines that the General Fund reserve is 3 percent of revenues excluding the revenues derived from the $\frac{1}{4}$ cent sales and use tax rate and actual General Fund Revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.

BACKGROUND

Sections 6051.3, 6051.4, 6201.3, and 6201.4 were added during the 1991 Legislative Session as part of a comprehensive package to address a \$14 billion state budget gap. At that time, the Legislature enacted SB 179 (Deddeh, Chapter 88, Statutes of 1991) and AB 2181 (Vasconcellos, Chapter 85, Statutes of 1991) to increase the sales and use tax rate by 1 $\frac{1}{4}$ percent as well as to repeal various sales and use tax exemptions.

COMMENTS

1. **Purpose.** This bill is intended to modify the provisions which would extend the $\frac{1}{4}$ percent reduction in the state sales and use tax rate.
2. **Rate should increase to 5% January 1, 2002.** According to budget consultants, it is anticipated that, even with the modifications proposed in this measure, the $\frac{1}{4}$ percent rate will become operative January 1, 2002, since the General Fund revenues are not expected to exceed the level that would trigger the rate reduction.

Liquid Petroleum Gas Exemption

LAW PRIOR TO AMENDMENT

Under existing law, sales or use tax applies to the retail sale of tangible personal property in this state, unless specifically exempted by statute. Section 6353 of the Sales and Use Tax Law currently provides an exemption from sales and use tax for the sale or use of gas delivered to consumers through mains, lines, or pipes. Thus, sales of LPG delivered to consumers through mains, lines, or pipes currently qualify for exemption from tax.

However, in order to qualify for the exemption under Section 6353, the LPG must be sold in vaporized form and delivered to the purchaser through mains, lines or pipes. The Board has determined that this requirement is met even if the gas is initially delivered in liquid form into a tank on the purchaser's premises if the tank belongs to the seller of the gas, or is leased by the purchaser to the seller and there is an explicit agreement between them stating that the seller retains title to and possession of the LPG until it is delivered in vapor form to the customer through the customer's mains or pipes. Virtually all sales of LPG for residential use, except for use in barbecues, could qualify for this exemption if the parties were to properly structure the transactions. However, not everyone takes advantage of this exemption in part because of the difficulty in understanding how to comply with its requirements. As a result, essentially identical sales of LPG are subject to tax, or not, based solely on whether the parties understand the requirements of the exemption.

AMENDMENTS

This bill amends Section 6353 of the Sales and Use Tax Law to provide an exemption from sales and use tax for the sale and use of LPG delivered to a qualified residence by the seller that is sold for household use in the qualified residence, and LPG purchased for use by a qualified person, as defined, to be used in producing and harvesting agricultural products, provided in both cases, the LPG is delivered into a tank with a storage capacity for LPG that is equal to or greater than 30 gallons.

The bill defines "qualified residence" to mean a primary residence, not serviced by gas mains and pipes, and "qualified person" as any person engaged in a line of business described in Codes 0111 to 0291 of the Standard Industrial Classification Manual and any other person that assists that person in the lines of businesses described in producing and harvesting agricultural products.

BACKGROUND

The original Retail Sales Tax Act, enacted in 1933, provided the current exemption from sales and use tax of gas, electricity, and water when delivered to consumers through mains, lines or pipes.

Chapter 402 of the Statutes of 1972 expanded this exemption to include water sold in bulk quantities of 50 gallons or more for general household use if the residence is not serviced by mains, lines, or pipes.

Chapter 1010 of the Statutes of 1978 included exhaust steam, waste steam, heat or resultant energy, produced in connection with cogeneration technology.

Chapter 420, Statutes of 1986, specified that water delivered through mains, lines or pipes, for purposes of the exemption, includes steam and geothermal steam, brines and heat.

Bills similar to AB 426 have been considered in the past. During the 2000 Legislative Session, AB 1788 (Machado) was held in the Assembly Appropriations Committee. During the 1999 Legislative Session, AB 214 (Machado) was held in the Assembly Appropriations Committee. In the 1997-98 Legislative Session, AB 1019 (Machado) was held in the Senate Appropriations Committee. In the 1995-96 Session, SB 1455 (Leslie) failed passage in the Senate Revenue and Taxation Committee. The Board voted to support AB 1788, and took a neutral position on the remainder of the bills.

Other bills proposing to exempt various fuel and gas substances for residential use not delivered through mains, lines or pipes include: AB 149 (Chappie) of the 1977-78 session, AB 359 (Chappie) of the 1979-80 session, AB 10 (Kelly) and AB 130 (Lockyer) of the 1981-82 session, AB 2203 (Kelly) of the 1983-84 session, AB 2117 (Hannigan) and AB 2562 (Seastrand) of the 1985-86 session and AB 127 (Areias) of the 1987-88 session.

COMMENTS

- 1. Purpose.** The bill is intended to provide equal tax treatment for those who must use liquefied petroleum gas in their residences, as well as to alleviate the financial hardship that the energy crisis is causing the agricultural sector. The residences of the majority of affected consumers are not located in areas serviced through mains, lines, or pipes. Their purchases of LPG can qualify for the existing exemption only when they meet all the requirements for that exemption even though these consumers use the LPG for cooking and heating just as other consumers who reside in areas serviced through mains, lines, and pipes use electricity and natural gas.
- 2. A qualified residence only includes a primary residence.** The exemption contained in this measure does not apply to sales of LPG to be used in a vacation home. LPG sellers will be required to document that the sale was made to a person in their primary residence in order to support the claimed exempt sale. It is unclear how a purchaser will document to the LPG seller that the delivery is being made to a primary residence versus a vacation home.
- 3. The record-keeping of LPG sellers will change.** Many LPG sellers provide a complete LPG service. In other words, in addition to selling LPG for residential purposes, many sell for commercial, industrial, agricultural, motor fuel, and forklift purposes. Enactment of this provision essentially requires LPG sellers to separately account for LPG sold for qualified residential and agricultural uses from other nonqualifying sales for purposes of filing sales and use tax returns and reporting the tax.

Farm Equipment and Machinery Exemption**LAW PRIOR TO AMENDMENT**

Under existing law, the sales or use tax applies to the sale or use of tangible personal property in this state, unless otherwise exempted or excluded by statute. Under current law, the sales and use tax applies to sales and purchases of farm equipment, including tractors, to the same extent as it applies to any other sale of tangible personal property that is not otherwise exempted or excluded from tax by statute.

The Sales and Use Tax Law provides some exemptions related to the agricultural industry, as follows:

- Tax does not apply to the sale or purchase of any form of animal life or seeds and plants of a kind, the products of which ordinarily constitute food for human consumption (e.g., sales or purchases of cows, bees, chickens, strawberry plants, and citrus seeds are exempt from tax).
- Sales or purchases of feed for “food” animals and fertilizer for “food” plants are exempt from sales and use tax.
- The sale and purchase of drugs and medicines administered to animals as additives to feed or drinking water are exempt if the primary purpose is to prevent and control disease of “food” animals or of animals which are to be resold.
- Other drugs and medicines, the primary purpose of which is the prevention or control of disease, that are administered to “food” animals are exempt.

AMENDMENTS

This bill adds Section 6356.5 to the Sales and Use Tax Law to exempt from the State’s General Fund portion of the sales and use tax, sales and purchases of farm equipment and machinery, and the parts thereof, purchased by a qualified person for use primarily in producing and harvesting agricultural products.

The bill defines “qualified person” as any person engaged in a line of business described in Codes 0111 to 0291 of the Standard Industrial Classification Manual, and any other person that uses farm equipment and machinery to assist such persons in producing and harvesting agricultural products.

The bill defines “farm equipment and machinery” as implements of husbandry, as defined in Section 411.

BACKGROUND

There have been several bills considered in the past to provide a partial exemption for sales of agricultural-related equipment. These include:

AB 3089 (1993-94) which would have provided a five percent sales and use tax exemption with respect to tangible personal property purchased by new businesses engaged in the production of food, fiber, and other agricultural commodities. This bill failed passage in the Assembly Revenue and Taxation Committee.

AB 208 (1995-96), similar to AB 3089 above, was amended in the Assembly Revenue and Taxation Committee to delete these sales and use tax provisions.

AB 138 (1997-98), also similar to AB 3089 and AB 208, died in the Assembly Appropriations Committee.

SB 38 (1997-98) would have provided a five percent sales and use tax exemption for sales of implements of husbandry to new businesses engaged in agricultural production or agricultural services. This measure failed passage in the Senate Revenue and Taxation Committee.

SB 818 (1999-00) would have provided a five percent state sales and use tax exemption for tangible personal property purchased by new businesses for use in post-harvesting activities of agricultural commodities. This measure failed passage in the Senate Revenue and Taxation Committee.

COMMENTS

- 1. Purpose.** This bill is intended to provide an exemption for the farming industry in conformity with other states. Proponents state that California is one of only four states that currently imposes a sales and use tax on farm equipment.
- 2. Partial exemptions are difficult for both retailers and the Board.** Retailers of farm equipment and machinery will now be required to program their registers to compute only the applicable local and district taxes on their sales of farm equipment and machinery. In addition, they will have to segregate in their records sales subject to the partial exemption, sales with a complete exemption (such as the sale of a strawberry plant), and sales that are fully taxable. This bill adds a new level of complexity, which could create a corresponding increase in errors in reporting the tax to the Board. This increase in errors could complicate the Board's administration of the sales and use tax law.

Timber Harvesting Equipment Exemption

LAW PRIOR TO AMENDMENT

Existing law imposes a sales or use tax on the gross receipts from the sale of, or the storage, use, or other consumption of, tangible personal property, unless specifically exempted by statute. Under existing law, sales of machinery and equipment for timber harvesting are subject to sales or use tax to the same extent as sales of any other tangible personal property not specifically exempted or excluded by law.

AMENDMENTS

This bill adds Section 6356.6 to the Revenue and Taxation Code to provide a state General Fund sales and use tax exemption for the sale and purchase of equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person to be used primarily in harvesting timber.

The bill authorizes the Board to adopt emergency regulations to specify the equipment and machinery exempted by this section.

The bill defines “qualified person” as any person engaged in commercial timber harvesting.

COMMENTS

1. **Purpose.** This provision is intended to reduce the acquisition costs of timber harvesting machinery and equipment through a state tax exemption.
2. **Partial exemptions are difficult for both retailers and the Board.** Retailers of timber harvesting equipment and machinery will now be required to program their registers to compute only the applicable local and district taxes on their sales timber harvesting equipment. In addition, they will now have to segregate in their records sales subject to the partial exemption and sales that are fully taxable. This will add a new level of complexity, which could create a corresponding increase in errors in reporting the tax to the Board. This increase in errors could complicate the Board’s administration of the sales and use tax law.

Diesel Fuel Exemption

LAW PRIOR TO AMENDMENT

Existing law imposes a sales or use tax on the gross receipts from the sale of, or the storage, use, or other consumption of, tangible personal property, unless specifically exempted by statute. Under existing law, sales of diesel fuel are subject to sales or use tax.

Section 6385 of the Revenue and Taxation Code provides a sales tax exemption for that portion of fuel and petroleum products sold to a water common carrier that is left on board after the water common carrier reaches its first out-of-state destination. With respect to air common carriers, Section 6357.5 provides an exemption for the sale or purchase of fuel and petroleum products sold to air common carriers when the fuel and petroleum products are for immediate consumption or shipment in the conduct of the air carrier's business on an international flight.

Current law provides that the sales tax revenue from the sale of diesel fuel is allocated on a quarterly basis to the Public Transportation Account. The money transferred to the Public Transportation Account is generally used to fund public transit projects.

AMENDMENTS

This bill adds Section 6357.1 to the Sales and Use Tax Law to provide a state General Fund sales and use tax exemption commencing no later than September 1, 2001, for the sale and purchase of diesel fuel used in farming activities and food processing.

The bill defines "farming activities" by reference to Section 263A of the Internal Revenue Code, and further specifies that "farming activities" also includes the transportation and delivery of farm products to the marketplace.

BACKGROUND

Three bills were introduced last year to provide varying exemptions for sales of gasoline and diesel fuel. Assembly Bill 1706 (Strickland, et al.) would have provided a sales and use tax exemption for sales of gasoline and diesel fuel. AB 1706 was amended in the Assembly Revenue and Taxation Committee to remove the tax exemption language from the bill. Assembly Bill 43 (Villaraigosa) would have provided a 5 percent state sales and use tax exemption for sales of gasoline and diesel fuel for the period June 1, 2000 through September 30, 2000. AB 43 was never heard in a policy committee. Senate Bill 1777 (Burton) would have provided a 5 percent state sales and use tax exemption for sales of gasoline and diesel fuel, and also would have created a Petroleum Windfall Profits Tax that would have been imposed on refineries for failing to pass on the tax exemption savings to consumers. SB 1777 was never heard in a policy committee. The Board was neutral on AB 1706, neutral, point out problems on AB 43 and in support of SB 1777.

COMMENTS

1. **Purpose.** The bill's purpose is to alleviate the financial hardship that the energy crisis is causing the agricultural sector.
2. **Definition of farming activities.** The exemption applies to sales of diesel fuel used in farming activities. This bill provides that "farming activities" is defined to have the same meaning as "farming business" as set forth in Section 263A of the Internal Revenue Code (IRC). IRC 263A provides for the capitalization and inclusion of inventory costs of certain expenses. This section refers to items produced by a taxpayer in a farming business, such as any animal, or any plant which has a preproductive period of 2 years or less.
3. **"Food processing" is undefined.** The bill additionally specifies that the exemption includes sales and purchases of diesel fuel used in food processing. It is unclear what the intent of this provision is. Would the exemption apply to diesel fuel used in a forklift at a bakery, or used in a diesel-powered generator at a grocery store? Absent a definition, disputes could occur between the Board's and diesel fuel sellers' interpretation.
4. **"Marketplace" is undefined.** The extent to which this exemption should apply is unclear. For example, "marketplace" could mean the point at which the farm product is placed into the chain of commerce for processing, or it could mean the point at which the product is offered to consumers. As an example, would the diesel fuel used in trucks that are used to transport milk from the dairy farm to the dairy be exempt? What about the diesel fuel used to transport the milk from the dairy to the grocery store?
5. **Transportation funding will be reduced.** Current law provides that the sales tax revenue on sales of diesel fuel be transferred to the Public Transportation Account. The revenue transferred to this fund is used to pay for various mass transit projects in the state. This exemption for sales of diesel fuel will eliminate a portion of the revenues that would normally be appropriated to the Public Transportation Account.
6. **Exemption could be difficult for retailers to administer.** This exemption for sales of diesel fuel applies only to sales of diesel fuel used in food processing and in producing and harvesting agricultural products and transporting those products to market. Retailers will be required to obtain and retain documentary evidence supporting any claimed exempt sales. This will require a trucker to provide documentary evidence to the fuel retailer about the type of product they are transporting and where they are transporting it in order to support the exemption. This will be very difficult since truckers often purchase diesel fuel from card-lock locations where there is no attendant to adjust the price of diesel at the pump for the exemption or obtain documentary evidence from the purchaser to support the exemption.
7. **Partial tax exemptions are difficult to administer.** Due to the method used to report partial tax exemptions, any return containing a claimed partial tax exemption must be processed manually for the proper allocation of local taxes. Prior to enactment of this measure, the law contained two partial tax exemptions: sales of

manufacturing equipment and teleproduction equipment. The number of returns affected by these partial tax exemptions are relatively minor. However, the exemption created by this measure will cause a significant increase in the number of returns filed containing the partial tax exemption. Additionally, diesel fuel is generally sold at the pump for a tax-included price. Since this exemption will only apply to some sales of diesel fuel, retailers will likely incur difficulties adjusting the sales price for exempt sales of diesel fuel.

- 8. Interstate users of diesel will continue to pay an amount equivalent to the sales tax.** Pursuant to Sections 60115 and 60116 of the Diesel Fuel Tax Law, interstate users must pay an excise tax on each gallon of diesel fuel used in this state at a tax rate of 18 cents per gallon plus an amount equivalent to the rate of sales tax imposed on diesel fuel purchased in this state. Interstate users can subsequently claim a credit for the total amount of the tax on each gallon used outside California provided they actually paid the tax to an in-state retailer. These provisions in the law were added by AB 1269 (Ch. 618, 1997) in order to eliminate the incentive for an interstate user to tank up outside California. Since there are no conforming amendments to Sections 60115 and 60116, interstate users will continue to be required to pay the equivalent sales tax component on their use of diesel fuel in this state.
- 9. Prepayment requirements will cause cash flow problems for some diesel fuel suppliers.** Prior to enactment of this measure, when diesel fuel retailers purchased the fuel from their suppliers, the retailers were required to pay the suppliers the sales tax prepayment, currently at the rate of 8 cents per gallon. A credit for the amount of that prepayment would then be claimed by the retailer on the sales tax return in which the sales of the diesel fuel were reported. Under this measure, those diesel fuel retailers that have substantial sales to farmers or food processors could be in the position of making prepayments to their suppliers that far exceed their sales tax liability. This will result in credit returns for which the retailers would be required to wait for the Board to issue refunds for the overpayment – a situation that could create cash flow difficulties for some diesel fuel retailers.

Race Horse Breeding Stock Exemption**LAW PRIOR TO AMENDMENT**

The existing Sales and Use Tax Law imposes a tax on the sale of, or the storage, use, or other consumption in this state of, tangible personal property, unless that property is specifically exempted or excluded by statute. Generally, sales of horses and any other animals are subject to tax to the same extent as any other sales of tangible personal property. However, existing law does provide the following exemptions or exclusions with respect to sales and other types of transfers of animals:

- Section 6010.40 excludes from the computation of sales and use tax any receipts associated with the transfer by a local government animal shelter or a nonprofit animal welfare organization of any animal to an individual for use as a pet.
- Section 6358 provides an exemption for the sale or purchase of any form of animal life the products of which ordinarily constitute food for human consumption (e.g., sales and purchases of cows, bees, and chickens are exempt from tax).
- Section 6366.5 provides an exemption for the sale and purchase of endangered or threatened animal and plant species if both the seller and the purchaser are nonprofit zoological societies.

For purposes of establishing whether a horse is subject to ad valorem property tax or to the race horse in lieu tax, the Board's Property Tax Rule 1046 provides in part that a horse used for breeding purposes means a registered male animal that has serviced three or more registered females for the purpose of producing a racehorse during the two previous calendar years or a registered female animal that has been bred to a registered male for the purpose of producing a racehorse during the two previous calendar years.

AMENDMENTS

This bill adds Section 6358.5 to the Sales and Use Tax Law to exempt from the state General Fund sales and use tax rate, the sale and purchase of any race horse breeding stock.

The bill defines "race horse breeding stock" to mean a horse that is capable of reproduction and for which the purchaser states that it is the purchaser's sole intent to use the horse for breeding purposes.

BACKGROUND

Other bills proposing to provide an exemption for thoroughbred horses have been considered in the past. AB 2757 (Wright) of the 1987-88 Legislative Session would have provided an exemption similar to this measure, and would have additionally exempted receipts attributable to stallion services, sales of thoroughbred horses less

than two years of age sold to an out-of-state resident that are transported outside California, receipts for boarding and training thoroughbred horses, and the temporary use of thoroughbred horses within this state for purposes of racing, exhibiting, or performing. AB 2679 (Wright) of the 1986-87 session would have created an exemption for the sale and purchase of a thoroughbred horse or an Arabian horse which is used as breeding stock.

COMMENTS

- 1. Purpose.** The purpose of this provision is to assist California purchasers who wish to acquire race horse breeding stock without the added expense of tax on their acquisitions.
- 2. Proponents view this measure as an enhancement to revenues and an opportunity to make California a more friendly place to the race horse industry.** Proponents of this provision point out that this exemption could ultimately enhance the sales and use tax base, since an incentive would be created to breed more horses for racing purposes. Since the final sale of a race horse would remain subject to tax, proponents believe that California's sales and use tax revenues would actually be enhanced. As an example, a horse bred to race may be sold as a yearling for \$3,000 and then compete as a race horse at a value of \$10,000. According to statistics maintained by The Jockey Club, the State of Kentucky annually leads the list of states producing registered thoroughbred foals, consistently increasing its share in recent years. From the top 12 foal producing states, only Kentucky, Florida, and Pennsylvania have produced more registered foals in 1999 than at the start of the decade. For more than a quarter of a century, since The Jockey Club began computerized analysis of the foal crop, Kentucky has been followed by California and Florida. In 1994, however, Florida overtook California to become the nation's second largest producer of registered thoroughbred foals. Under Kentucky's Sales and Use Tax Law, all sales of horses are exempt from tax. Florida exempts the sale of a race horse by its owner provided the owner is also the breeder of the animal. Proponents of this exemption see this bill as an opportunity to "spur" the race horse industry in California and to make California's tax climate more competitive with the two leading states in the production of registered thoroughbred foals.

Assembly Bill 585 (Nation) Chapter 704*CPA Certification Requirements*

Effective January 1, 2002. Amends Sections 5081, 5082, 5082.1, 5082.3, 5082.4, 5087, and 5088 of, amends and repeals Sections 5081.1, 5082.2, 5083, and 5084 of, and adds Sections 5076, 5082.5, 5090, 5091, 5092, 5093, 5094, and 5095 to, the Business and Professions Code.

BILL SUMMARY

This bill modifies the exam, education, and experience requirements for a certified public accountant (CPA) candidate and would create a peer review process for attest firms.

Sponsor: *Board of Equalization
California Society of Certified Public Accountants*

LAW PRIOR TO AMENDMENT

Under existing law, to be licensed as a CPA, a candidate must pass the Uniform CPA examination, meet specified experience requirements, pass a professional ethics exam and pay the appropriate fees. Once licensed, a CPA must also meet continuing education requirements.

The Uniform CPA examination is given twice each year; in the first week of May and November. The exam is a two-day exam, consisting of four subjects: Business Law and Professional Responsibilities, Auditing, Accounting and Reporting, and Financial Accounting and Reporting. Candidates may take the four subject parts in any order. Candidates who have not passed any subjects are required to take at least two subjects. The minimum passing score in each subject is 75.

A candidate who passes two or more subjects of the examination receives conditional credit for those subjects. Candidates with conditional credit can be re-examined in the remaining subject(s) within a period of three years (six subsequent exams). If the candidate passes the remaining subject(s) within the conditional period, the candidate is considered to have passed the examination. Candidates who fail to pass the remaining subject(s) within three years forfeit all conditional credit.

In California, a candidate must satisfy one of the following education requirements to be admitted to the exam. These are currently the only education requirements for the CPA license:

- Complete a baccalaureate degree (BA) that includes specific core courses of 35 semester units of business subjects and 10 semester units of accounting and/or auditing subjects.

- Complete 120 semester units of course work including the core course requirements (but no degree).
- Complete the equivalent of either of the first two requirements at a foreign college or university.
- Complete Board of Accountancy specified preliminary examinations or be a member of a Board recognized foreign accounting body.

The candidate must self certify that the education requirements have been met as of the date of application to the exam.

A candidate for licensure is required to meet both a time and experience requirement. Generally, a candidate for licensure must have three years' experience working in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing employment may be qualified experience provided that the work was performed under the direct supervision of an individual licensed as a CPA. One year of the experience may be waived for candidates that are graduates of accredited colleges. The experience must be performed in accordance with applicable professional standards.

Candidates must generally complete at least 500 hours of audit, review, or compilation experience. The experience must demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in full-disclosure financial statements, including all of the following:

- Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- Experience in preparing audit working papers covering examination of the accounts usually found in accounting records.
- Experience in planning the program of audit work including the selection of the procedures to be followed.
- Experience in preparing written explanations and comments on the finding of the examination and the content of the accounting records.
- Experience in preparing and analyzing financial statements together with explanations and notes thereon.

AMENDMENTS

The provisions of this bill:

- **Modify the exam requirements.** This bill allows the Board of Accountancy to adopt regulations specifying the standards for passage of the examination and for reexamination. The education requirements for taking the exam remain the same. Transitional rules will be provided so that candidates who already have conditional credit when the new law and regulations become effective will be allowed to pass the remaining parts under the prior law and regulations.

- **Increase the educational requirements.** Although the education requirements for taking the Uniform CPA Examination remain the same, under the provisions of this bill, candidates have two new education options to obtain a license. The first option requires the candidate to have a baccalaureate or higher degree including a minimum of 24 semester units in accounting and 24 semester units in business related subjects. The second option consists of the same requirements as the first option in addition to the requirement of completing at least 150 semester units of college education.
- **Modify the experience requirement.** The provisions of this bill no longer require attest experience for licensure. Candidates have the option of completing two years of general experience if they qualify under the first option for education, or only one year of general experience if they qualify under the second option for education. The general experience requirement consists of professional experience providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills performed in accordance with professional standards. The experience must be supervised and verified, under penalty of perjury, by a licensed CPA.
- **Provide transitional rules for the education and experience requirements.** Under the provisions of this bill, there is a four-year transition period where candidates could choose to qualify under either the old or new education and experience requirements. However, candidates are not permitted to combine the old education requirements with the new experience requirements.
- **Establish a peer review requirement for attest firms.** This bill requires firms that perform audits, reviews, or examinations of prospective financial information (attest services) to receive a comprehensive assessment of its reports, work papers, auditing procedures, and quality controls by a peer review. Acceptable peer reviews could be obtained from any provider as long as the peer review was performed in accordance with professional standards and the Board of Accountancy approves the provider.

COMMENTS

1. **Purpose.** To remove some of the barriers to entry for CPA candidates by modifying the examination and experience requirements.
2. **This measure will allow more Board auditors to obtain licensure as a CPA.** For many CPA candidates, the attest experience is the most difficult to obtain since only 13 percent of CPAs consider audits to be their primary area of practice and auditing skills and knowledge must be frequently updated. For Board employees, the attest experience is very difficult to obtain. Typically, Board employees conduct audits to verify that specific taxes or fees administered by the Board are properly reported. Board auditors do not perform financial statement audits that are part of the attest experience requirement. However, Board auditors may participate in the Board's CPA program in order to fulfill the attest experience requirement. This program allows Board auditors to perform financial statement audits under the supervision of

a licensed CPA employed by the Board. Due to the constraints of finding taxpayers willing to participate in this voluntary program and the limited number of CPA supervisor/leads, it takes an extended period of time for candidates to gain the required experience. This measure provides that the new experience requirement would consist of either 1 or 2 years of professional experience providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills performed in accordance with professional standards. The experience must be supervised and verified, under penalty of perjury, by a licensed CPA. Auditors with the Board should be able to obtain this type of experience conducting routine audits and examinations that are part of their normal duties.

3. Provisions of this measure should improve recruitment and retention efforts.

When a student earns a degree in accountancy, employment opportunities may include public accounting and governmental accounting. Currently, public accounting offers the benefit of more easily obtaining the necessary attest experience to become licensed. While the attest experience can be obtained through employment with a governmental agency, it is generally more difficult and lengthy to obtain. Some employees have left the Board to complete the experience requirement at a public accounting firm. The provisions of this measure allow students to choose governmental accounting for employment and remain on the same footing as those students who choose public accounting for employment. This measure should assist the Board's efforts to retain quality employees and recruit the best candidates for employment vacancies.

4. Education requirements could increase. The law prior to this measure required that a candidate must meet one of the four education requirement described earlier. The provisions of this measure allow a candidate the option to complete 150 semester units with a baccalaureate or graduate degree from an accredited college or university. However, candidates may still qualify to take the exam with only 120 semester units and obtain the additional 30 semester units after taking the exam. This allows candidates to choose a specialized field of study for their additional required coursework, such as tax, auditing, financial analysis, or any number of other related specialties. This should result in better educated candidates.

Assembly Bill 646 (Horton) Chapter 706
Medicines Furnished by Outpatient Clinics

Tax levy; effective October 11, 2001, but operative April 1, 2002. Amends Section 6369 of the Revenue and Taxation Code.

BILL SUMMARY

This bill specifies that sales of medicines to clinics, as defined, for the treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, and podiatrist, are exempt from sales and use tax.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Under existing law, sales or use tax applies to all sales or purchases of tangible personal property, unless otherwise exempted or excluded from the computation of sales or use tax. Section 6369 of the Sales and Use Tax Law provides an exemption from tax for the sale and use of medicines sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being. "Health facility" is defined within this statute by a cross-reference to Section 1250 of the Health and Safety Code. Section 1250 provides a comprehensive description of the types of establishments that fall under that term, including hospitals, skilled nursing facilities, psychiatric facilities, and others. However, outpatient clinics – which basically provide care to patients who remain less than 24 hours - do not fall within this comprehensive description. Consequently, sales of medicines to outpatient clinics for the treatment of a human being are subject to tax to the same extent as any other sale of tangible personal property.

Existing law defines outpatient clinics under Section 1200 of the Health and Safety Code. This section provides that, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility.

AMENDMENTS

This bill amends Section 6369 of the Sales and Use Tax Law to incorporate a cross-reference to Section 1200 of the Health and Safety Code for purposes of enhancing the definition of "health facility" to include within the exemption, medicines sold to surgical clinics and similar health facilities for the treatment of human beings.

COMMENTS

1. **Purpose.** This bill's purpose is to provide an equitable solution to a confusing area in the sales and use tax law that has resulted in errors in reporting tax on sales of medicines to surgical clinics. Surgical clinics and similar outpatient clinics essentially provide the same service to patients as hospitals and any other qualifying health facility, and there is no logical reason why these facilities should be taxed in a manner differently than those establishments already benefiting from the existing exemption.

2. **Enactment of this bill updates the Sales and Use Tax Law to reflect practices in modern medicine.** Advances in medicine have made it possible to perform on an outpatient basis many procedures that historically were performed only in hospitals. In addition, due to the rising costs of hospitalization, many insurers are offering incentives or provisions to guide patients toward less expensive outpatient services. It is illogical and inequitable to impose the tax on medicines that these outpatient clinics furnish to patients in connection with essentially the same services that were previously performed only by hospitals.

Assembly Bill 863 (Thomson) Chapter 263
Transactions and Use Taxes – City of West Sacramento

Effective January 1, 2002. Adds Chapter 2.98 (commencing with Section 7286.75) to Part 1.7 of Division 2 of the Revenue and Taxation Code.

BILL SUMMARY

This measure authorizes the City of West Sacramento, subject to two-thirds or majority voter approval, to levy a transactions and use tax at a rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, as specified.

Sponsor: City of West Sacramento

LAW PRIOR TO AMENDMENT

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at $1\frac{1}{4}$ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the $1\frac{1}{4}$ percent local tax.

Under the Bradley-Burns Law, the $\frac{1}{4}$ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed $1\frac{1}{4}$ percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable rate of transactions and use taxes levied by any district may not exceed $1\frac{1}{2}$ percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed $1\frac{3}{4}$ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of $\frac{1}{4}$ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either $\frac{1}{4}$ or $\frac{1}{2}$ percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a

transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

In addition to county authorization to levy a tax, through specific legislation, some cities have received authorization to impose a transactions and use tax. The following cities are so authorized: Avalon, Calexico, Clearlake, Clovis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Sebastopol, Truckee, Woodland, and the town of Yucca Valley (the cities of Calexico, Clearlake, Placerville, Truckee, and Woodland are currently imposing a tax). Fresno had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

The City of West Sacramento is located in Yolo County, which imposes no additional countywide transactions and use taxes. Under the Bradley-Burns Law, West Sacramento imposes a sales and use tax rate of 1.0 percent, which is credited against Yolo County's one percent rate. The city of Woodland, located in Yolo County, imposes a $\frac{1}{2}$ % transactions and use tax. Therefore, the current state and local tax rate throughout most of Yolo County is 7 percent. The combined state and local tax rate in Woodland is $7\frac{1}{2}$ percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

AMENDMENT

This measure adds Chapter 2.98 (commencing with Section 7286.75) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the City of West Sacramento to impose a transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, upon two-thirds approval of the city council and subsequent two-thirds or majority voter approval, as determined by the ordinance proposing the tax and establishing how the revenues shall be expended. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This measure also includes findings and declarations that a special law is necessary because of the uniquely difficult fiscal pressures being experienced by the City of West Sacramento in providing essential services and funding for city programs and operations.

IN GENERAL

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of $\frac{1}{2}$ percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of $\frac{1}{8}$ percent. San Francisco City and County has the highest combined transactions and use tax rate of $1\frac{1}{4}$ percent. The remaining districts impose rates in between these ranges. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of January 1, 2001) is shown on the attached schedule.

BACKGROUND

There have been several bills in prior years to authorize cities to impose transactions and use taxes. The Board is generally opposed to extending this authorization to cities, arguing that multiple rates covering multiple jurisdictions within a single county make record-keeping for retailers more complex, resulting in a larger margin of error. During the 1997-98 Legislative Session, the Board voted to oppose SB 355 (Monteith), which allows the city of Madera to levy a $\frac{1}{4}$ percent sales tax for public safety services; AB 1472 (Thomson), which allows the City of Woodland to impose a transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent, upon voter approval, for general revenue purposes; SB 1424 (Maddy) which allows the City of Clovis to levy a 0.3 percent sales tax for police and fire facilities; and SB 781(Maddy) which allows the City of Placerville to levy a $\frac{1}{8}$ or $\frac{1}{4}$ percent sales tax for police services. During the 1999-2000 Session, the Board was opposed to AB 1371 (Granlund), which allows the Town of Yucca Valley to levy a $\frac{1}{4}$ percent tax, or multiple thereof, for transportation and the town's parks. Assembly Bill 147 (Strom-Martin, et al.) allows the City of Sebastopol to levy a transactions and use tax at a rate of $\frac{1}{8}$ percent for general revenue purposes. (That bill was amended late in the Session and the Board did not have an opportunity to take a position.) Those bills were all enacted: SB 355 (Chapter 409), AB 1472 (Chapter 712), SB 1424 (Chapter 158), SB 781 (Chapter 234), AB 1371 (Chapter 110), and AB 147 (Chapter 264).

COMMENTS

1. **Purpose.** To enable the city to raise additional general fund revenues.
2. **Proliferation of locally-imposed taxes creates problems.** In 1955, the Bradley-Burns Uniform Local Sales and Use Tax Law was enacted in an effort to put an end to the problems associated with differences in the amount of sales tax levied among the various communities of the state. The varying rates between cities prior to the enactment of this uniform law created a very difficult situation for retailers, confused consumers, and created fiscal problems for the cities and counties. A retailer was faced with many situations that complicated tax collection, reporting, auditing, and

accounting. Because of the differences in taxes between areas, a retailer was affected competitively. Many retailers advertised "no city sales tax if you buy in this area." This factor distorted what would otherwise have been logical economic advantages or disadvantages. With the enactment of the Bradley-Burns Law, costs to the retailer were reduced, and illogical competitive situations were corrected.

The Transactions and Use Tax Law is becoming as complicated as the local tax laws were before the enactment of the Bradley-Burns Law, and retailers and consumers are again experiencing the confusion caused by varying tax rates in varying communities. Prior to 1991, all districts imposing a transactions and use tax had boundaries equal to their respective county lines. In 1991, legislation was enacted for the first time to allow a city to impose a transactions and use tax. That city was Calexico. Currently, fourteen cities have gained such authorization. The proliferation of tax rates dependent on the area in which the sale is made compounds compliance problems for retailers doing business in several districts and makes record-keeping more complex, resulting in a larger margin of error and increased Board administrative costs.

3. **Multiplicity of tax rates is gaining national attention.** The Streamlined Sales Tax Project is a nationwide effort to simplify sales and use taxes in all states. Congress is currently reviewing this and other sales tax simplification efforts. Some proposals would expand states' rights to impose a use tax collection duty in exchange for certain simplifications, including the imposition of a single statewide sales and use tax rate. Allowing more cities to impose transactions and use taxes moves California away from national efforts concerning sales and use tax simplicity.
4. **Legislature should consider revising the Transactions and Use Tax Law to parallel the Bradley-Burns Uniform Local Tax Law.** There are over 470 cities in California. As more cities gain authorization to levy their own local taxes, the administration of these taxes becomes exceedingly complicated. Considering the increasing number of measures approved by the Legislature authorizing cities to impose transactions and use taxes, strong consideration should be given to revising the Transactions and Use Tax Law so that its provisions parallel the Bradley-Burns Law. In that way, all taxable sales attributable to a retailer located within that special taxing district would be subject to the district tax, regardless of where the property is delivered (unlike the state and Bradley-Burns tax, the transactions tax does not apply to gross receipts from the sale of property to be used outside the district when the property is shipped to a point outside the district). This would minimize the problems associated with districts that are not coterminous with county boundaries. However, retailers in varying communities with various tax rates could continue to be affected competitively.
5. **City transactions and use taxes may limit county flexibility.** The Transactions and Use Tax Law places a cap on the total transactions and use tax rate that may be levied within a county. The limit is 1½%, except in the City and County of San Francisco and the County of San Mateo, as noted previously. A city-wide transactions and use tax counts against the cap, thus limiting the fiscal options of the county.

6. **It may not be cost effective for some cities to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated. The maximum administrative costs for a district imposing a transaction and use tax rate of one-half of 1 percent is capped at 1.5 percent of the revenue generated. If the City of West Sacramento were to impose this tax, it is not expected that the administrative costs would exceed the cap.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2000-01 administrative costs assessments to the existing special taxing jurisdictions range between \$3,000 (City of Avalon Municipal Hospital and Clinic) and \$7.1 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2000-01 the State General Fund is absorbing an estimated \$1,000,000 as a result of the cap limitations on administrative cost recovery.

Assembly Bill 984 (Papan) Chapter 592*Sale and Leaseback of Public Passenger Transportation Vehicles Exemption*

Tax levy; effective October 9, 2001, but operative November 1, 2001. Adds and repeals Section 6368.8 of the Revenue and Taxation Code.

BILL SUMMARY

This measure provides a sales and use tax exemption until January 1, 2004, for the sale and leaseback of public passenger transportation vehicles when sold or leased by a transit authority, special district, or governmental entity.

Sponsor: California Transit Association

LAW PRIOR TO AMENDMENT

Under the existing sales and use tax law, sales or use tax applies to the sale or use of all tangible personal property, unless specifically exempted. Generally, a sale includes any lease of tangible personal property for a consideration. However, leases of mobile transportation equipment are specifically excluded from the definition of a "sale." Mobile transportation equipment (MTE) includes equipment such as railroad cars, buses, trucks, tractors, aircraft and ships. The lessor of MTE is regarded as the consumer of the property and tax applies to the retail sale to the lessor, unless the lessor makes a timely election to report tax on the fair rental value.

AMENDMENT

This measure adds Section 6368.8 to the Sales and Use Tax Law to provide an exemption from the sales and use tax for the sale in this state of, or the storage, use, or other consumption in this state of qualified equipment sold or leased by a qualified person and leased or subleased back to that qualified person. To qualify for the exemption, the qualified equipment must be sold or leased by a qualified person, the qualified person must have paid sales tax reimbursement or use tax with respect to the acquisition of the qualified equipment, and the qualified equipment must be sold or leased back to the qualified person.

This measure defines "qualified equipment" to mean a vehicle or vessel and any related equipment used in the provision of public passenger transportation services, including, but not limited to, bus and van fleets, ferry boats, rail passenger cars, locomotives, other rail vehicles, train control equipment, communication systems, global positioning systems, and other systems and accessories related to the operation of a vehicle or vessel used in the provision of public transportation services.

This measure defines “qualified person” as an entity that qualifies as a claimant, as defined in Section 99203 of the Public Utilities Code, eligible to receive allocations under the Transportation Development Act (commencing with Section 99200 of the Public Utilities Code).

This measure also provides that the exemption apply to subsequent purchases of qualified equipment by a qualified person at the end of the term of a lease or sublease of qualified equipment.

This measure becomes operative on the first day of the first calendar *month* commencing more than 15 days after the effective date. The provisions of this measure will remain in effect only until January 1, 2004, and as of that date will be repealed.

This measure also requires the Legislative Analyst, in consultation with the State Board of Equalization and the Franchise Tax Board, to conduct a study on the impact of the exemption and submit a report to the Legislature by January 1, 2003. The report will contain the number of persons utilizing the proposed exemption, the fiscal impact of the exemption including the total exemption amount and any depreciation claimed for qualified equipment, the impact of federal law on the utilization of the exemption, the impact of the exemption on California’s public transit sector, and a recommendation as to whether the exemption should be extended beyond the January 1, 2004 expiration date, and if it is recommended that the exemption should be extended, recommendations on modifications to the exemption provisions contained in this measure.

IN GENERAL

Since 1990, a number of California transit agencies have sought to generate additional revenues by entering into transactions which transfer the depreciation attributes of an asset, such as passenger rail cars or buses, to a private taxable entity. Such arrangements are described as a “sale and leaseback.” The transaction allows the private firm to take federal income tax deductions, while permitting the equipment to be used by the transit agency for its intended public purpose of providing transit services. In exchange for participating in the transaction, the transit agency receives an up-front payment from the private firm. The up-front payment from the private firm is enough to cover the lease payments over the term of the lease, plus a premium of 6-8 percent of the equipment cost. This 6-8 percent premium is revenue the transit agency can use to meet future transit capital or operating needs.

The transit agency pays sales or use tax on the initial purchase of the equipment. However, if a transit agency were to enter into a sale and leaseback under current law, the sale by the transit agency to the purchaser/lessor would also be subject to sales or use tax. This additional sales or use tax expense would offset the 6-8 percent premium that the transit agency would have received. Due to the imposition of the sales and use tax, there is no financial benefit for either party to enter into such a transaction.

BACKGROUND

Assembly Bill 3382 (Ch. 558, Stats. 1990) provided that a “sale” and “purchase” does not include any transfer of title to, nor any lease of, tangible personal property pursuant to an acquisition sales and leaseback. To qualify as an acquisition sale and leaseback, the person must have paid sales tax reimbursement or use tax on the purchase price of the property and the acquisition sale and leaseback must be consummated within 90 days of the person’s first functional use of the property. In practice, many of the assets held by a transit agency have been functionally used for more than 90 days, so the acquisition sale and leaseback provisions would not apply.

COMMENTS

- 1. Purpose.** To provide a means for transit agencies to enter into sale and leaseback transactions without the penalty of paying the sales or use tax twice.
- 2. Income tax benefit is not available to transit agencies.** Since transit agencies do not pay income taxes, they have no way to depreciate their assets for income tax purposes. This bill would allow the transit agency to transfer the income tax benefit to another entity in exchange for a share of the benefit.
- 3. Definition of a qualified person.** The exemption would only be available to a qualified person. This measure defines a qualified person to mean an entity that qualifies as a claimant, as defined in Section 99203 of the Public Utilities Code, eligible to receive allocations under Transportation Development Act (commencing with Section 99200 of the Public Utilities Code). Section 99203 of the Public Utilities Code defines a “claimant,” or any derivative term, such as “applicant,” to mean an operator, city, county, or consolidated transportation service agency.
- 4. Report to the Legislature is required.** The provisions of this measure require the Legislative Analyst, in consultation with the State Board of Equalization and the Franchise Tax Board, to conduct a study on the impact of the exemption and submit a report to the Legislature by January 1, 2003. The report will contain the number of persons utilizing the proposed exemption. The Board will have to maintain records of these exemptions for the report.
- 5. This bill would not be problematic to administer.** The provisions of this measure will apply to a limited number of transactions and will not be difficult for the Board to administer. However, the exemption becomes operative on the first day of the first calendar month commencing more than 15 days after the effective date of the bill. This leaves the Board with as little as 15 days to prepare to administer the exemption prior to the exemption actually becoming operative.

Assembly Bill 1123 (Committee on Revenue and Taxation) Chapter 251
Board-Sponsored Measure

Effective January 1, 2002. Amends Section 25205.6 of the Health and Safety Code, amends Sections 42886 and 42886.1 of the Public Resources Code, amends Sections 6593.5, 7285, 7285.5, 7288.3, 7655, 7657, 7658, 7658.1, 7659.2, 8878, 8878.5, 11409, 30014, 30016, 30104, 30108, 30176.1, 30181, 30283.5, 32255, 32256.5, 38455, 40103.5, 41097.5, 43152.9, 43158.5, 45156.5, 46157.5, 50112.4, 55046, and 60212 of, adds Article 2.5 (commencing with Section 7659.9) to Chapter 5 of Part 2 of Division 2 of, and repeals Section 30463 of, the Revenue and Taxation Code.

BILL SUMMARY

This bill contains Board of Equalization-sponsored housekeeping provisions that accomplish, specifically with respect to Sales and Use Tax, the following:

1. Expands the circumstances under which relief of interest may be granted due to an unreasonable error or delay by the Board. (Section 6593.5)
2. Clarifies a county's authority to levy a transactions and use tax. (Sections 7285, 7285.5, and 7288.3)

Sponsor: Board of Equalization

Provide the Board with the authority to grant relief of interest imposed due to an audit determination, provided the relief is granted due to an unreasonable error or delay by an employee of the Board

LAW PRIOR TO AMENDMENTS

Under existing law, tax payments made after the due date are subject to interest. Current law allows the Board to relieve the taxpayer of interest when the reason for late payment is due to a disaster or due to an unreasonable error or delay by an employee of the Board acting in his or her official capacity.

COMMENT

The provision to allow the Board to grant relief from interest was added by AB 821 (Chapter 612, Statutes of 1998). The purpose of that Board-sponsored bill was to address situations where interest was imposed upon the taxpayer due to unreasonable errors or delays by Board employees. However, the bill inadvertently omitted situations where interest is imposed due to an audit determination or a late prepayment of sales

tax on diesel or other fuels by not including the appropriate code sections that address those situations.

These amendments provide the Board the authority to grant relief of interest in all applicable instances, including an audit determination and late prepayment of sales tax on diesel and other fuels, provided the reason for late payment is due to unreasonable error or delay by an employee of the Board.

For example, in the situation where an audit determination is made, an unreasonable error or delay by an employee of the Board could include delays due to an unexpected lengthy absence from work by the auditor which results in a significant delay in completion of the audit. However, it would not include situations where the completion of the audit is delayed due to delays requested by the taxpayer, delays due to normal verification procedures used in an audit, or due to the Board not selecting the taxpayer's account for audit until a later date.

Amend Transactions and Use Tax Law to (1) clarify that an ordinance, not a resolution, is necessary for the adoption of the tax; (2) clarify that Section 7285 authorizes counties to levy a transactions and use tax for general purposes; (3) delete the necessity of forming an authority to levy a district tax for special purposes; (4) require two-thirds voter approval of a special-purpose tax; and (5) clarify that transactions and use taxes may be levied in multiples of 0.25%

LAW PRIOR TO AMENDMENT

Under current law, Revenue and Taxation Code Section 7285 provides that the board of supervisors of any county may levy a transactions and use tax at a rate of 0.25 percent or a multiple thereof, if the ordinance or resolution proposing that tax is approved by a two-thirds vote of all members of the board of supervisors and the tax is approved by a majority vote of the qualified voters of the county voting in an election on the issue. Conversely, Revenue and Taxation Code Sections 7261, 7262, and 7285.5 require adoption of an ordinance. Those sections do not allow the board of supervisors to adopt a resolution stating its intent to subsequently enact an ordinance if the resolution receives voter approval.

Under Section 7285, a county may adopt a resolution of intent to levy the tax, obtain voter approval of the resolution, but then neglect to subsequently enact an ordinance to levy the tax. Without an ordinance detailing the specifics of the proposal, the tax cannot go into effect. This omission may not be detected until the county submits the required documents to the board to enable it to enter into a contract to administer the tax. As a result, the ordinance would have to be enacted at the last minute, sometimes risking a delay in implementing the tax.

Under current law, Revenue and Taxation Code Section 7285.5 provides that the board of supervisors of any county may establish an authority for specific purposes. That authority may impose a transactions and use tax at a rate of 0.25 or 0.5 percent,

provided that the ordinance proposing that tax is approved by a two-thirds vote of the authority and is subsequently approved by a majority vote of the qualified voters.

COMMENT

When Section 7285 was enacted in 1987, several appellate court opinions indicated that if a district tax was levied by a special district and the revenues placed in the general fund of that district (rather than a special account) the tax was a general tax, not a special tax, and so did not require two-thirds voter approval. The Legislature believed that no voter approval was required at all, but included a provision to require voter approval due to the passage the previous year of Proposition 62. Thus, the Legislature incorporated the special authority requirement into the statute in order to permit majority voter approval.

The decision in *Rider v. San Diego* (1991) 1 Cal.4th 1, and subsequent voter approval of Proposition 218 in 1996, clarified that a tax levied by a special-purpose agency is a special tax, requiring two-thirds voter approval. The language in Section 7285.5 and 7288.3 (enacted in 1989 and 1991, respectively) regarding the special authority and majority voter approval is therefore contrary to law, and its continued presence in the statute has caused considerable confusion. Counties are unsure if the majority voter-approval requirements in Sections 7285.5 and 7288.3 invalidate the authority to levy a special tax. In addition, the rates in Sections 7285.5 and 7288.3 are pegged at 0.25% or 0.5%, instead of 0.25% or a multiple thereof, as in Section 7285. Except for the voter-approval thresholds, the requirements of Sections 7285, 7285.5, and 7288.3 should be harmonized.

Section 7285 does not specifically state the purposes for which the tax may be authorized. Only by comparison to Section 7285.5, or by reference to the legislative history, is it apparent that the tax authority granted by that section is for general purposes. As a result, the precise nature of the taxing authority granted to counties by Section 7285 is not clear.

These amendments clarify that Section 7285 authorizes counties to levy a transactions and use tax for general purposes. These amendments also remove the option that counties adopt a resolution to pass a general purpose tax, and therefore requires only passage of an ordinance. In addition, the amendments allow counties to levy a special tax directly, without first establishing an authority for specific purposes, saving time and resources that now are spent on obtaining that authority.

Assembly Bill 1472 (Longville) Chapter 826*New or Remanufactured Trailers or Semitrailers*

Effective January 1, 2002. Amends Sections 225, 6388.5, 10752, 10753.1, 10753.2, and 10753.9 of the Revenue and Taxation Code, and amends Sections 4000.6, 4004, 4150.1, 4452, 4458, 5011, 5014.1, 5017, 5101, 5301, 5902, 9250.7, 9250.8, 9250.10, 9250.13, 9250.14, 9250.19, 9400, 9400.1, 9407, 9408, 9700, and 9706 of, adds Section 9400.3 to, and repeals Section 666 of, the Vehicle Code, and amends Section 59 of Chapter 861 of the Statutes of 2000.

BILL SUMMARY

This bill would, for purposes of the exemption related to new or remanufactured trailers or semitrailers, allow the purchaser's agent to furnish the necessary documents, and allow for the purchaser's or lessee's United States Department of Transportation number or Single State Registration System filing as a substitute to the above described written evidence if the vehicle is licensed under the permanent trailer identification plate program, and is used exclusively in interstate or foreign commerce.

Sponsor: Assembly Member Longville

LAW PRIOR TO AMENDMENTS

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property in this state. Under existing law, Section 6388.5 of the Revenue and Taxation Code provides a sales and use tax exemption whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery. To qualify for the exemption, existing law requires the purchaser to furnish the following to the manufacturer, remanufacturer, or dealer:

- (a) Written evidence of an out-of-state license and registration for the vehicle.
- (b) The purchaser's affidavit attesting that he or she purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to him or her.

AMENDMENTS

This bill, among other things, amends Section 6388.5 of the Revenue and Taxation Code to allow the purchaser's agent to furnish the necessary documents for purposes of the exemption for new or remanufactured trailers or semitrailers, and allow for the purchaser's or lessee's United States Department of Transportation number or Single State Registration System filing as a substitute for written evidence if the vehicle is licensed under the permanent trailer identification plate program, and is used exclusively in interstate or foreign commerce.

COMMENTS

1. **Purpose.** This bill is sponsored by the author and is intended to clarify the intent and implementation of the Commercial Vehicle Registration Act of 2000, which instituted a gross vehicle weight fee system for trucks and a permanent trailer plate identification program for trailers.
2. **Provisions will not be problematic to administer.** Enactment of this measure does not materially affect the Board's administration of the sales and use tax law.

Senate Bill 133 (Figueroa) Chapter 718
CPA Certification Requirements

Effective January 1, 2002. Amends Sections 5000, 5015.6, 5020, 5081, 5082, 5082.1, 5082.3, 5082.4, 5087, 5088, and 5134 of, amends and repeals Sections 5081.1, 5082.2, 5083, and 5084 of, and adds Sections 5076, 5082.5, 5090, 5091, 5092, 5093, 5094, and 5095 to, the Business and Professions Code.

BILL SUMMARY

This bill extends the sunset date for the existence of the Board of Accountancy, modify the exam, education, and experience requirements for a certified public accountant (CPA) candidate, creates a peer review process for attest firms, modifies the contingent fund reserve balance the Board of Accountancy maintains and modifies the maximum fee the Board of Accountancy may impose for specified services.

Sponsor: Joint Legislative Sunset Review Committee

LAW PRIOR TO AMENDMENT

Existing law provides for the licensing and regulation of accountants by the State Board of Accountancy (BOA) in the Department of Consumer Affairs. The provisions creating the BOA and authorizing the BOA to appoint an executive officer will become inoperative on July 1, 2002, and will be repealed on January 1, 2003. Existing law also requires that the board maintain a reserve balance in its contingent fund equal to approximately 3 months of annual authorized expenditures

Under existing law, to be licensed as a CPA, a candidate must pass the Uniform CPA examination, meet specified experience requirements, pass a professional ethics exam and pay the appropriate fees. Once licensed, a CPA must also meet continuing education requirements.

The Uniform CPA examination is given twice each year; in the first week of May and November. The exam is a two-day exam, consisting of four subjects: Business Law and Professional Responsibilities, Auditing, Accounting and Reporting, and Financial Accounting and Reporting. Candidates may take the four subject parts in any order. Candidates who have not passed any subjects are required to take at least two subjects. The minimum passing score in each subject is 75.

A candidate who passes two or more subjects of the examination receives conditional credit for those subjects. Candidates with conditional credit can be re-examined in the remaining subject(s) within a period of three years (six subsequent exams). If the candidate passes the remaining subject(s) within the conditional period, the candidate is

considered to have passed the examination. Candidates who fail to pass the remaining subject(s) within three years forfeit all conditional credit.

In California, a candidate must satisfy one of the following education requirements to be admitted to the exam. These are currently the only education requirements for the CPA license:

- Complete a baccalaureate degree (BA) that includes specific core courses of 35 semester units of business subjects and 10 semester units of accounting and/or auditing subjects.
- Complete 120 semester units of course work including the core course requirements (but no degree).
- Complete the equivalent of either of the first two requirements at a foreign college or university.
- Complete BOA specified preliminary examinations or be a member of a BOA recognized foreign accounting body.

The candidate must self certify that the education requirements have been met as of the date of application to the exam.

A candidate for licensure is required to meet both a time and experience requirement. Generally, a candidate for licensure must have three years' experience working in the employ of a person licensed or otherwise having comparable authority under the laws of any state or country to engage in the practice of public accountancy. Experience in private or governmental accounting or auditing employment may be qualified experience provided that the work was performed under the direct supervision of an individual licensed as a CPA. One year of the experience may be waived for candidates that are graduates of accredited colleges. The experience must be performed in accordance with applicable professional standards.

Candidates must generally complete at least 500 hours of audit, review, or compilation experience. The experience must demonstrate an understanding of the requirements of planning and conducting an audit with minimum supervision which results in full-disclosure financial statements, including all of the following:

- Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- Experience in preparing audit working papers covering examination of the accounts usually found in accounting records.
- Experience in planning the program of audit work including the selection of the procedures to be followed.
- Experience in preparing written explanations and comments on the finding of the examination and the content of the accounting records.
- Experience in preparing and analyzing financial statements together with explanations and notes thereon.

AMENDMENTS

This measure:

- **Modifies the exam requirements.** This bill allows the BOA to adopt regulations specifying the standards for passage of the examination and for reexamination. The education requirements for taking the exam remains the same. Transitional rules will be provided so that candidates who already have conditional credit when the new law and regulations become effective would be allowed to pass the remaining parts under the prior law and regulations.
- **Increases the educational requirements.** Although the education requirement for taking the Uniform CPA Examination remain the same, under the provisions of this bill, candidates have two new education options to obtain a license. The first option requires the candidate to have a baccalaureate or higher degree including a minimum of 24 semester units in accounting and 24 semester units in business related subjects. The second option consists of the same requirements as the first option in addition to the requirement of completing at least 150 semester units of college education.
- **Modifies the experience requirement.** The provisions of this bill no longer require attest experience for licensure. Candidates have the option of completing two years of general experience if they qualify under the first option for education, or only one year of general experience if they qualify under the second option for education. The general experience requirement consists of professional experience providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills performed in accordance with professional standards. The experience must be supervised and verified, under penalty of perjury, by a licensed CPA.
- **Provides transitional rules for the education and experience requirements.** Under the provisions of this bill, there is a four-year transition period where candidates could choose to qualify under either the old or new education and experience requirements. However, candidates are not permitted to combine the old education requirements with the new experience requirements.
- **Establishes a peer review requirement for attest firms.** This bill requires firms that perform audits, reviews, or examinations of prospective financial information (attest services) to receive a comprehensive assessment of its reports, work papers, auditing procedures, and quality controls by a peer review. Acceptable peer reviews could be obtained from any provider as long as the peer review was performed in accordance with professional standards and the BOA approves the provider.
- **Extends the sunset date for the Board of Accountancy.** This bill extends the current sunset date for the existence of the BOA from July 1, 2002 until July 1, 2006.
- **Modifies the contingent fund reserve balance.** This bill allows the BOA to maintain its contingent fund reserve balance equal to six months of estimated annual authorized expenditures in the fiscal year in which the expenditures will occur.

COMMENTS

1. **Purpose.** This bill is intended to extend the existence of the BOA and also to remove some of the barriers to entry for CPA candidates by modifying the examination and experience requirements.
2. **This bill will allow more Board of Equalization (Board) auditors to obtain licensure as a CPA.** For many CPA candidates, the attest experience is the most difficult to obtain since only 13 percent of CPAs consider audits to be their primary area of practice and auditing skills and knowledge must be frequently updated. For Board employees, the attest experience is very difficult to obtain. Typically, Board employees conduct audits to verify that specific taxes or fees administered by the Board are properly reported. Board auditors do not perform financial statement audits that are part of the attest experience requirement. However, Board auditors may participate in the Board's CPA program in order to fulfill the attest experience requirement. This program allows Board auditors to perform financial statement audits under the supervision of a licensed CPA employed by the Board. Due to the constraints of finding taxpayers willing to participate in this voluntary program and the limited number of CPA supervisor/leads, it takes an extended period of time for candidates to gain the required experience. This bill provides that the new experience requirement would consist of either 1 or 2 years of professional experience providing any type of services or advice using accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills performed in accordance with professional standards. The experience must be supervised and verified, under penalty of perjury, by a licensed CPA. Auditors with the Board should be able to obtain this type of experience conducting routine audits and examinations that are part of their normal duties.
3. **Provisions of this bill should improve recruitment and retention efforts.** When a student earns a degree in accountancy, employment opportunities may include public accounting and governmental accounting. Currently, public accounting offers the benefit of more easily obtaining the necessary attest experience to become licensed. While the attest experience can be obtained through employment with a governmental agency, it is generally more difficult and lengthy to obtain. Some employees have left the Board to complete the experience requirement at a public accounting firm. The provisions of this bill will allow students to choose governmental accounting for employment and remain on the same footing as those students who choose public accounting for employment. This bill should assist the Board's efforts to retain quality employees and recruit the best candidates for employment vacancies.
4. **Education requirements could increase.** Current law requires that a candidate must meet one of the four education requirements described earlier in this analysis. The provisions of this bill allow a candidate the option to complete 150 semester units with a baccalaureate or graduate degree from an accredited college or university. However, candidates may still qualify to take the exam with only 120 semester units and obtain the additional 30 semester units after taking the exam. This will allow candidates to choose a specialized field of study for their additional

required coursework, such as tax, auditing, financial analysis, or any number of other related specialties. This should result in better educated candidates.

5. **Renewal fees.** Current law provides that the BOA set the renewal fee so that the reserve balance in the contingent fund will cover three months of estimated annual authorized expenditures. Current law also provides that the renewal fee is not to exceed \$250. This bill allows the BOA more flexibility in setting the renewal fees since the BOA will have a more accurate six month figure to work with, rather than a three month figure. The current renewal fee imposed by the BOA is \$200, and that amount is not expected to change.
6. **Examination fees.** The current Uniform CPA examination is offered only twice each year and consists of a four part written examination. The American Institute of Certified Public Accountants (AICPA) has determined that in order for the Uniform CPA Examination to continue to protect the public interest and to maintain the confidence of its various constituencies, it should provide a comprehensive assessment of the entry-level knowledge and skills required by CPAs in a changing business and financial environment. Revising and computerizing the Uniform CPA Examination is the most efficient and cost-effective way to accomplish these goals. The AICPA acknowledges that computer-based testing results in an examination that is more expensive than the current paper-based test but less expensive than a more comprehensive paper-based examination that tests all the entry-level knowledge and skills required by CPAs.

Current law provides that the BOA set fees every two years by regulation based on actual costs. This bill revises the maximum amount the BOA may impose for sitting for the CPA exam. Due to anticipated changes in the exam, the cost to the BOA is expected to increase beyond the amount allowable under current law. Current law allows a maximum fee of \$250, while the amount actually imposed by the BOA consists of a \$60 registration fee plus \$31 for each part of the exam taken (a candidate sitting for all four parts of the exam would pay a total fee of \$184). The new fee ceiling proposed in this bill is \$600, and the BOA anticipates the actual cost of the new exam should not to exceed \$575.

Senate Bill 394 (Sher, et al.) Chapter 343
Internet Tax Freedom Act

Effective January 1, 2002. Amends and repeals Section 65004 of the Revenue and Taxation Code.

BILL SUMMARY

This bill extends California's Internet Tax Freedom Act for an additional one or two years, depending on when the California Commission on Tax Policy in the New Economy submits a specified report.

Sponsor: Senator Sher

LAW PRIOR TO AMENDMENTS

State law: Part 32 (commencing with section 65001) of Division 2 of the Revenue and Taxation Code was added by AB 1614 (Ch. 351, Stats. 1998) to create the "California Internet Tax Freedom Act." Subdivision (h) of section 65002 states the legislative intent that no existing or future state taxes or state fees be imposed by the state in a discriminatory manner upon Internet access or online computer services.

Subdivision (a) of section 65004 specifies that for the period January 1, 1999 through January 1, 2002, no local government may impose, assess, or attempt to collect any tax or fee on: 1) Internet access, online computer services, or the use of either; 2) a bit tax or bandwidth tax; or 3) any discriminatory tax on Internet access or online computer services. Subdivision (b) of section 65004 provides that this prohibition does not include any new or existing tax of general application, including but not limited to any sales and use tax, business license tax, or utility user tax that is imposed or assessed in a uniform and nondiscriminatory manner, as specified.

Under existing law, Part 18.3 (commencing with Section 38061) of the Revenue and Taxation Code, as added by SB 1933 (Stats. 2000, Ch. 619), the California Commission on Tax Policy in the New Economy was created to examine the impact of the Internet and other forms of electronic technology on the sales and use tax, telecommunications taxes, property taxes, and income taxes, as specified. Section 38066 requires the Commission to submit an interim report to the Governor and the Legislature not later than 12 months from the date of the Commission's first public meeting and a final report with recommendations not later than 24 months from the date of the Commission's first public meeting.

Federal law: Under Title XI and XII of the Omnibus Appropriations Act of 1998, approved as H.R. 4328 by Congress on October 20, 1998 and signed as Public Law 105-277 on October 21, 1998, the federal "Internet Tax Freedom Act" was created to do the following:

- Prohibit state and local governments from taxing Internet access from October 1, 1998 until October 21, 2001.
- Prohibit state and local governments from imposing taxes that would subject buyers and sellers of electronic commerce to taxation in multiple states and protect against the imposition of new tax liability for consumers and vendors involved in commercial transactions over the Internet, including the application of discriminatory tax collection requirements imposed on out-of-state businesses through strained interpretations of "nexus."
- Establish a commission to study electronic commerce tax issues and report back to Congress after 18 months on whether electronic commerce should be taxed, and if so, how such commerce can be taxed in a manner that ensures that it will not be subject to special, multiple, or discriminatory taxes.
- Specify that it is the Sense of Congress that there should be no federal taxes on Internet access or electronic commerce.
- Declare that the Internet should be a tariff-free zone.

AMENDMENTS

This bill amends subdivision (d) of Section 65004 of the Revenue and Taxation Code to provide that the Internet Tax Freedom Act would remain in effect until January 1, 2004, unless the California Commission on Tax Policy in the New Economy fails to submit a specified report, in which case the California Internet Tax Freedom Act would be repealed on January 1, 2003

BACKGROUND

A measure to extend the sunset date was considered during the 2000 Legislative Session. That measure, AB 1784 (Lempert, et al.) was enacted into law (Chapter 618). However, the bill never became operative because the bill also contained an uncodified section that provided that AB 1784 would only become operative if Assembly Bill 2412 was enacted and became effective on or before January 1, 2001. Since Assembly Bill 2412 was vetoed by the Governor, the provisions of AB 1784 never became operative. (Assembly Bill 2412, Migden and Aroner, would have required certain out-of-state dot-com retailers to collect the applicable use tax if they were related to a substantially similar retailer operating in California, as specified.)

COMMENTS

1. **Purpose.** The measure is intended to continue a responsible tax policy regarding the taxation of the Internet so as to avoid any potential burdens placed on this evolving medium.
2. **There is pending federal legislation to also extend the federal Internet Tax Freedom Act.** Several bills pertaining to Federal Internet taxation have been introduced in Congress before to either make the federal moratorium permanent, or to extend it. These include: S. 245, S. 246, and S. 589 (Robert Smith), S. 288 (Wyden and Leahy), S. 512 (Dorgan, et al.), S. 777 (Allen & Burns), H.R. 1410 (Istook, et al.), HR 1552 (Cox, et al.) and HR 1675 (Cox).
3. **Board supported both federal and state legislation.** The Board unanimously supported the 1998 federal "Internet Tax Freedom Act" as well as California's Internet Tax Freedom Act of 1998.

Senate Bill 445 (Burton) Chapter 670*Purpose of Tax Proceedings*

Effective January 1, 2002. Amends Section 11125.1 of the Government Code, and amends Sections 7081 and 21002 of the Revenue and Taxation Code.

BILL SUMMARY

Among its provisions, this bill amends the Sales and Use Tax Law's Taxpayers' Bill of Rights to declare that the purpose of any tax proceeding is the determination of the taxpayer's correct amount of tax liability. (Revenue and Taxation Code Sections 7081)

Sponsor: Senator Burton

Revenue and Taxation Code Sections 7081 and 21002

LAW PRIOR TO AMENDMENTS

The Sales and Use Tax Law and the Franchise and Income Tax Law contain Taxpayers' Bill of Rights provisions to ensure that the Board of Equalization (BOE) and Franchise Tax Board (FTB) conduct assessment and collection operations that protect California taxpayers' privacy and property rights. Each respective Bill of Rights contain specific findings and declarations of intent regarding the expectations and responsibilities of taxpayers and both Boards. Taxpayers' Bill of Rights provisions have also been enacted for many other BOE tax and fee programs.

AMENDMENTS

This bill amends Revenue and Taxation Code Sections 7081 and 21002 to add Legislative findings that the purpose of any proceeding between the BOE or the FTB and a taxpayer is the determination of the taxpayer's correct amount of tax liability. This bill also states the Legislature's intent that both the BOE and the FTB may inquire into, and shall allow the taxpayer every opportunity to present, all relevant information pertaining to the taxpayer's liability.

COMMENTS

1. **Purpose.** This bill is intended to declare that tax proceedings are performed to correctly determine the taxpayer's liability.

2. **Amendments.** July 16, 2001 amendments clarify that the Board of Equalization and the Franchise Tax Board may inquire into all relevant information pertaining to a taxpayer's liability in furtherance of the determination of the correct amount of tax liability. These amendments were adopted in the Assembly Revenue and Taxation Committee. (Sections 7081 and 21002)
3. **Historically, legislators, taxpayers, tax practitioners, tax attorneys, and FTB members have expressed concern with the length of time it takes the agency to resolve protests and appeals.** A Federal Taxpayer Bill of Rights required that FTB, in cooperation with BOE, the State Bar Association, certified public accountants, and other interested parties, develop a plan to reduce the time to resolve state income tax protests and appeals. The plan was implemented by FTB in 1989, and informational packages were developed to inform taxpayers of the new procedures. However, the Office of Administrative Law determined that those packages were invalid regulations.
4. **The BOE recently acted to expedite business tax appeals.** Board staff is required to issue a decision and recommendation within 90 days after the submission of additional documents to the conference holder. BOE staff does not anticipate that the provisions in this bill will have a material impact on its procedures.
5. **The FTB recently proposed protest regulations to specify the procedures necessary for staff to make a "determination of the correct amount of tax."** The protest regulations would have shortened the time for FTB action on a protest from 33 months, which is the average time now taken, to 24 months. They also would have prohibited a re-audit of a taxpayer as part of the protest process unless the taxpayer had opened up new issues or failed to provide information during the audit.

Senate Bill 685 (Costa) Chapter 474*Transactions and Use Taxes – Fresno County Transportation Authority*

Effective January 1, 2002. Amends Sections 142001, 142050, 142052, 142200, 142201, 142250, 142251, 142254, 142257, 142258, and 142260 of, repeals Section 142110 of, and repeals and adds Sections 142255, 142256, 142259, and 142263 of, the Public Utilities Code, and adds and repeals Section 7252.10 of the Revenue and Taxation Code.

BILL SUMMARY

This measure authorizes the Fresno County Transportation Authority, subject to 2/3rds voter approval, to levy a transactions and use tax at a rate of 1/2 percent for an additional 30 years to finance regional transportation improvements.

Sponsor: Senator Costa

LAW PRIOR TO AMENDMENT

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The rate of tax is fixed at 1 1/4 percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1 1/4 percent local tax.

Under this Bradley-Burns Uniform Local Sales and Use Tax Law, the 1/4 percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1 1/4 percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of 1/4 percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under this law, the maximum allowable rate of transactions and use taxes levied by any district may not exceed 1 1/2 percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed 1 3/4 and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of 1/4 percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either

1/4 or 1/2 percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of 1/4 or 1/2 percent for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section but obtains approval of two-thirds votes rather than a majority vote of the qualified electors of the authority.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of 1/8 or 1/4 percent for purposes of funding public libraries, upon two-thirds voter approval.

Fresno county currently imposes two transactions and use taxes. The Fresno County Transportation Authority imposes a 1/2 percent transactions and use tax to finance highway improvements and local transportation. This tax became effective July 1, 1987 and will expire June 30, 2007. The authority will terminate two years after the tax is last collected and existing law will be repealed at that time.

The county also imposes the Fresno County Public Library Transactions and Use Tax at a rate of 1/8 percent, effective April 1, 1999. The city of Clovis, in Fresno county, imposes the City of Clovis Public Safety Transactions and Use Tax at a rate of 0.30 percent, applicable only within the city limits. (The city of Fresno also imposed the Fresno Metropolitan Projects Authority at a rate of 0.10% from July 1, 1993 until March 20, 1996, when it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.) Therefore, the current state and local tax rate in Fresno county is 7.625 percent. The tax rate in Clovis is 7.925 percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

AMENDMENT

This measure adds and repeals Chapter 7252.10 of the Revenue and Taxation Code to authorize the Fresno County Transportation Authority to continue to impose a transactions and use tax rate of 1/2 percent, subject to two-thirds voter approval, for an additional 30 years. The tax imposed shall be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This measure also amends various sections of the Public Utilities Code necessary to revise the Fresno County Transportation Authority.

IN GENERAL

Many special districts in California impose an additional tax that is administered by the Board. These taxes are commonly referred to as transactions and use taxes. In Sacramento County, for example, a transactions and use tax of 1/2 percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation

projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the County of Stanislaus imposes the lowest transactions and use tax rate of 1/8 of one percent. San Francisco City and County has the highest transactions and use tax rate of 1 1/4 percent. The remaining districts impose rates in between these ranges. In addition, due to the past two fiscal years' budget surpluses and the next fiscal year's projected surplus in the General Fund, an automatic trigger in Sections 6051.3 and 6201.3 of the Revenue and Taxation Code decreased the state sales tax rate by the 1/4 percent effective 01-01-01. Accordingly, the minimum state and local combined sales and use tax rate is 7%. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of 1/1/01) is shown on the attached schedule.

COMMENTS

1. **Purpose.** To renew Fresno County's transactions and use tax.
2. **It may not be cost effective for some districts to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transactions and use tax rate of 1/2 percent is capped at 1.5 percent of the revenue generated. If Fresno County were to impose this tax, it is expected that the administrative costs would continue to be assessed at the capped limit of 1.5 percent of revenue generated.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2000-01 administrative costs assessments to the existing special taxing jurisdictions range between \$3,000 (City of Avalon Municipal Hospital and Clinic) and \$7.1 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2000-01 the State General Fund is absorbing an estimated \$1.6 million as a result of the cap limitations on administrative cost recovery. Included in this amount is \$128,000 for the existing Fresno County Transportation Authority.

Senate Bill 1185 (Committee on Revenue and Taxation) Chapter 543*Reimbursement of Third Party Check Charges*

Effective January 1, 2002. Amends Section 25205.5 of the Health and Safety Code, amends Sections 7096, 9274, 17037, 17062, 17276, 18417, 18633.5, 19104, 19191, 19192, 19306, 19311, 19378, 19443, 19604, 19607, 19705, 21006, 21027, 23001, 23040.1, 23051.7, 23055, 23182, 23608.2, 23609, 23610.5, 23622.8, 23630, 23645, 23646, 23649, 23772, 24416, 24453, 24472, 30459.4, 32402, 32474, 40214, 41174, 43525, 45652, 45870, 46502, 46625, 50140, 50156.14, 55222, 55335, and 60633.1 of, amends the heading of Part 11 (commencing with Section 23001) of Division 2 of, and amends the heading of Chapter 2 (commencing with Section 23101) of Part 11 of Division 2 of, and adds Section 55053 to, the Revenue and Taxation Code.

BILL SUMMARY

Among other things, this bill contains Board of Equalization-sponsored provisions to allow taxpayers to file a claim with the Board for reimbursement of any reasonable third-party check charge fees incurred as the direct result of an erroneous levy or notice to withhold by the Board.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENTS

Under current law, Revenue and Taxation Code Section 7096 provides that a taxpayer may file a claim with the Board for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold issued by the Board. Bank charges include a financial institution's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution. However, the current law contains no provisions for reimbursement of other check charge fees imposed on the taxpayer.

Taxpayers are routinely reimbursed for bank charges related to erroneous levies, but not for related third party charges, such as bounced check charges imposed by daycare centers, retailers, or utility companies. While the amounts involved are relatively minor (approximately \$40 each for the 10 or so cases each year), the Board has disallowed third party reimbursements because those charges are not covered by Section 7096.

COMMENT

This provision adds reasonable third party check charges to the amount that the Board is authorized to reimburse a taxpayer from charges they incur due to an erroneous levy or notice to withhold by the Board. It is fair and equitable to reimburse taxpayers for third party charges and this proposed change is well within the intent of the original legislation that authorized the Board to reimburse taxpayers for Board errors.

Senate Bill 1186 (Chesbro) Chapter 292
City of Sebastopol District Tax Vote Requirement

Effective January 1, 2002. Amends Section 7286.80 of the Revenue and Taxation Code.

BILL SUMMARY

This measure modifies the vote requirement for the existing City of Sebastopol transactions and use tax authority from a two-thirds to a majority approval by voters.

Sponsor: City of Sebastopol

LAW PRIOR TO AMENDMENT

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1¼ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under the Bradley-Burns Law, the ¼ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1¼ percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of ¼ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all sections of the Transactions and Use Tax Law, the maximum allowable rate of transactions and use taxes levied by any district may not exceed 1½ percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of ¼ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either ¼ or ½ percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a transactions and use tax rate of ¼ or ½ percent for purposes of funding drug abuse

prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

In addition to county authorization to levy a tax, through specific legislation, some cities have received authorization to impose a transactions and use tax. The following cities are so authorized: Avalon, Calexico, Clearlake, Clovis, Fort Bragg, Fresno (and its sphere of influence), Lakeport, Madera, North Lake Tahoe (within boundaries established in legislation), Placerville, Sebastopol, Truckee, Woodland, and the town of Yucca Valley (the cities of Calexico, Clearlake, Placerville, Truckee, Clovis, Avalon and Woodland are currently imposing a tax). Fresno had imposed a tax for the period 7/1/93 through 3/21/96, however, this tax ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a.

The City of Sebastopol is currently authorized to levy a $\frac{1}{8}$ percent transactions and use tax, subject to majority approval by the City Council and two-thirds approval by the voters.

The City of Sebastopol is located in Sonoma County, which imposes an additional $\frac{1}{4}$ percent countywide transactions and use tax for the purpose of using the revenues to purchase land to be kept as open space. Under the Bradley-Burns Law, Sebastopol imposes a sales and use tax rate of .975 percent, which is credited against Sonoma County's one percent rate. Therefore, the current state and local tax rate in Sonoma County is $7\frac{1}{4}$ percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes and all local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

AMENDMENT

This measure amends Section 7286.80 of the Revenue and Taxation Code to authorize the City of Sebastopol to impose a transactions and use tax rate of $\frac{1}{8}$ percent, upon two-thirds approval of the city council and subsequent majority voter approval. The revenues generated by the tax could be expended for the city's general purposes. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251).

BACKGROUND

Assembly Bill 147 (Ch. 264, Stats 2000) authorized the City of Sebastopol, subject to two-thirds voter approval, to levy a transactions and use tax at a rate of 1/8 percent for general revenue purposes. On November 7, 2000, the voters of the City of Sebastopol voted on Measure Q, which would have levied the 1/8 percent transactions and use tax authorized by AB 147. Measure Q obtained 50.4 percent of the yes votes and failed to pass since a two-thirds majority was required.

There have been several bills in prior years to authorize cities to impose transactions and use taxes. The Board is generally opposed to extending this authorization to cities, arguing that multiple rates covering multiple jurisdictions within a single county make record-keeping for retailers more complex, resulting in a larger margin of error. During the 1997-98 Legislative Session, the Board voted to oppose SB 355 (Monteith), which allows the city of Madera to levy a ¼ percent sales tax for public safety services; AB 1472 (Thomson), which allows the City of Woodland to impose a transactions and use tax rate of ¼ or ½ percent, upon voter approval, for general revenue purposes; SB 1424 (Maddy) which allows the City of Clovis to levy a 0.3 percent sales tax for police and fire facilities; and SB 781(Maddy) which allows the City of Placerville to levy a ⅛ or ¼ percent sales tax for police services. During the 1999-2000 Session, the Board was opposed to AB 1371 (Granlund), which allows the Town of Yucca Valley to levy a ¼ percent tax, or multiple thereof, for transportation and the town's parks. Assembly Bill 147 (Strom-Martin, et al.) allows the City of Sebastopol to levy a transactions and use tax at a rate of ⅛ percent for general revenue purposes. (That bill was amended late in the Session and the Board did not have an opportunity to take a position.) Those bills were all enacted: SB 355 (Chapter 409), AB 1472 (Chapter 712), SB 1424 (Chapter 158), SB 781 (Chapter 234), AB 1371 (Chapter 110), and AB 147 (Chapter 264).

IN GENERAL

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of ½ percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of ⅛ percent. San Francisco City and County have the highest combined transactions and use tax rate of 1¼ percent. The remaining districts impose rates in between these ranges. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of January 1, 2001) is shown on the attached schedule.

COMMENTS

1. **Purpose.** To enable the city to raise additional general fund revenues.
2. **City of Sebastopol currently has authority to levy a transactions and use tax.** Assembly Bill 147 (Ch. 264, Stats. 2000) authorized the City of Sebastopol, subject to majority approval by the members of the city council and two-thirds voter approval, to levy a transactions and use tax at a rate of 1/8 percent for general revenue purposes. This measure changes the city council approval from a majority to two-thirds approval and the public vote requirement from two-thirds to a majority.
3. **Proliferation of locally-imposed taxes creates problems.** In 1955, the Bradley-Burns Uniform Local Sales and Use Tax Law was enacted in an effort to put an end to the problems associated with differences in the amount of sales tax levied among the various communities of the state. The varying rates between cities prior to the enactment of this uniform law created a very difficult situation for retailers, confused consumers, and created fiscal problems for the cities and counties. A retailer was faced with many situations that complicated tax collection, reporting, auditing, and accounting. Because of the differences in taxes between areas, a retailer was affected competitively. Many retailers advertised "no city sales tax if you buy in this area." This factor distorted what would otherwise have been logical economic advantages or disadvantages. With the enactment of the Bradley-Burns Law, costs to the retailer were reduced, and illogical competitive situations were corrected.

The Transactions and Use Tax Law is becoming as complicated as the local tax laws were before the enactment of the Bradley-Burns Law, and retailers and consumers are again experiencing the confusion caused by varying tax rates in varying communities. Prior to 1991, all districts imposing a transactions and use tax had boundaries equal to their respective county lines. In 1991, legislation was enacted for the first time to allow a city to impose a transactions and use tax. That city was Calexico. Currently, fourteen cities have gained such authorization. The proliferation of tax rates dependent on the area in which the sale is made compounds compliance problems for retailers doing business in several districts and makes record-keeping more complex, resulting in a larger margin of error and increased Board administrative costs.

4. **Multiplicity of tax rates is gaining national attention.** The Streamlined Sales Tax Project is a nationwide effort to simplify sales and use taxes in all states. Congress is currently reviewing this and other sales tax simplification efforts. Some proposals would expand states' rights to impose a use tax collection duty in exchange for certain simplifications, including the imposition of a single statewide sales and use tax rate. Allowing more cities to impose transactions and use taxes moves California away from national efforts concerning sales and use tax simplicity.
5. **Legislature should consider revising the Transactions and Use Tax Law to parallel the Bradley-Burns Uniform Local Tax Law.** There are over 470 cities in California. As more cities gain authorization to levy their own local taxes, the administration of these taxes becomes exceedingly complicated. Considering the

increasing number of measures approved by the Legislature authorizing cities to impose transactions and use taxes, strong consideration should be given to revising the Transactions and Use Tax Law so that its provisions parallel the Bradley-Burns Law. In that way, all taxable sales attributable to a retailer located within that special taxing district would be subject to the district tax, regardless of where the property is delivered (unlike the state and Bradley-Burns tax, the transactions tax does not apply to gross receipts from the sale of property to be used outside the district when the property is shipped to a point outside the district). This would minimize the problems associated with districts that are not coterminous with county boundaries. However, retailers in varying communities with various tax rates could continue to be affected competitively.

6. **City transactions and use taxes may limit county flexibility.** The Transactions and Use Tax Law places a cap on the total transactions and use tax rate that may be levied within a county. The limit is 1½%, except in the City and County of San Francisco and the County of San Mateo, as noted previously. A city-wide transactions and use tax counts against the cap, thus limiting the fiscal options of the county.
7. **It may not be cost effective for some cities to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate of one-quarter of 1 percent is capped at 3 percent of the revenue generated. The maximum administrative costs for a district imposing a transaction and use tax rate of one-half of 1 percent is capped at 1.5 percent of the revenue generated.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2001-02 administrative costs assessments to the existing special taxing jurisdictions range between \$5,000 (City of Avalon Municipal Hospital and Clinic) and \$6.8 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2001-02 the State General Fund is absorbing an estimated \$2 million as a result of the cap limitations on administrative cost recovery.

Senate Bill 1187 (Costa) Chapter 285
Transactions and Use Taxes – Fresno County Zoo

Effective September 10, 2001. Adds Chapter 2.85 (commencing with Section 7286.43) to Part 1.7 of Division 2 of the Revenue and Taxation Code.

BILL SUMMARY

This measure authorizes Fresno County to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno County and may impose a transactions and use tax of 0.10 percent, subject to two-thirds voter approval, to fund those purposes.

Sponsor: Fresno Zoological Society

LAW PRIOR TO AMENDMENT

The Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code) authorizes counties to impose a local sales and use tax. The tax rate is fixed at 1¼ percent of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use in the county. All counties within California have adopted ordinances under the terms of the Bradley-Burns Law and levy the 1¼ percent local tax.

Under the Bradley-Burns Law, the ¼ percent tax rate is earmarked for county transportation purposes, and 1 percent may be used for general purposes. Cities are authorized to impose a sales and use tax rate of up to 1 percent, which is credited against the county rate so that the combined local tax rate under the Bradley-Burns Law does not exceed 1¼ percent.

Under the existing Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code), counties are additionally authorized to impose a transactions and use tax rate of ¼ percent, or multiple thereof, if the ordinance imposing that tax is approved by the voters. Under all Transactions and Use Tax Law, the maximum allowable rate of transactions and use taxes levied by any district may not exceed 1½ percent, with the exception of San Francisco and San Mateo, whose combined rates may not exceed 1¾ and 2 percent, respectively.

Section 7285 of the Transactions and Use Tax Law additionally allows counties to levy a transactions and use tax rate of ¼ percent, or multiple thereof, for general purposes with the approval of a majority of the voters. Section 7285.5 permits a county to form a special purpose authority which may levy a transactions and use tax at the rate of either ¼ or ½ percent, with majority voter approval. Section 7288.1 also allows counties to establish a Local Public Finance Authority to adopt an ordinance to impose a

transactions and use tax rate of $\frac{1}{4}$ or $\frac{1}{2}$ percent for purposes of funding drug abuse prevention, crime prevention, health care services, and public education upon majority voter approval. (Board legal staff have taken the position that a special purpose authority may only impose a transactions and use tax if the authority meets the requirements of the section and obtains approval of two-thirds, rather than a majority vote, of the qualified electors in the district.) Finally, Section 7286.59 allows counties to levy a transactions and use tax rate of $\frac{1}{8}$ or $\frac{1}{4}$ percent for purposes of funding public libraries, upon two-thirds voter approval.

Section 7262.6 of the Revenue and Taxation Code provides that the Fresno Metropolitan Projects Authority may impose a transactions and use tax rate of 0.10 percent, upon approval by the voters of the "sphere of influence" of the City of Fresno. That tax was imposed from 7/1/93 through 3/21/96, however, it ceased to be operative, as it was declared unconstitutional in *Howard Jarvis Taxpayers' Association v. Fresno Metropolitan Projects Authority* (1995) 40 Cal.App.4th 1359, mod.(1996) 41 Cal.App.4th 1523a due to the two-thirds vote requirement for special taxes.

Three transactions and use taxes are currently imposed within Fresno County's boundaries. The Fresno County Transportation Authority ($\frac{1}{2}$ percent), the Fresno County Public Library tax ($\frac{1}{8}$ percent), and the City of Clovis Public Safety tax (0.30 percent). Therefore, the current state and local tax rate throughout most of Fresno County is 7.625 percent. The tax rate in Clovis is 7.925 percent.

The Board performs all functions in the administration and operations of the ordinances imposing the Bradley-Burns Uniform Local Sales and Use Tax and the Transactions and Use Taxes. All local jurisdictions imposing these local taxes are required to contract with the Board for administration of these taxes.

AMENDMENT

This measure adds Chapter 2.85 (commencing with Section 7286.43) to Part 1.7 of Division 2 of the Revenue and Taxation Code to authorize the County of Fresno to establish a special purpose authority for the support of zoos, zoological facilities, and related zoological purposes in Fresno. That authority could then impose a transactions and use tax rate of 0.10 percent, upon two-thirds approval of the authority's governing board and subsequent two-thirds approval of the county's voters. If approved, the revenues generated by the tax could be expended for the support of zoos, zoological facilities, and related zoological purposes in Fresno County. The tax would be levied pursuant to existing law regarding transactions and use taxes (Part 1.6, commencing with Section 7251). This measure also includes findings and declarations that a special law is necessary because of the unique difficulties being experienced by Fresno County's zoological facilities. This measure is an urgency statute that goes into immediate effect upon its enactment, and therefore required two-thirds Legislative approval.

IN GENERAL

Many special districts in California impose transactions and use taxes that are administered by the Board. In Sacramento County, for example, a transactions and use tax of $\frac{1}{2}$ percent is levied by the Sacramento County Transportation Authority for purposes of funding transportation projects. The first special tax district of this sort was created in 1970 when voters approved the San Francisco Bay Area Rapid Transit District to pay for bonds and notes issued for construction of the BART system. The tax rate in these special taxing districts varies from district to district. Currently, the counties of Fresno, Nevada, Solano, and Stanislaus impose the lowest transactions and use tax rate of $\frac{1}{8}$ percent. San Francisco City and County has the highest combined transactions and use tax rate of $1\frac{1}{4}$ percent. The remaining districts impose rates in between these ranges. The various combined state and local tax rates and taxing jurisdictions levying those rates (as of January 1, 2001) is shown on the attached schedule.

COMMENTS

1. **Purpose.** To raise additional revenues to benefit the county zoos.
2. **It may not be cost effective for some districts to impose a transactions and use tax.** The Board's total administrative costs are driven by the workload involved in processing returns, and are relatively fixed. The cost of administering these taxes is not related to the revenue generated by the tax. However, the ratio of such costs to the amount of revenue generated by a tax varies widely. Therefore, if the tax rate or volume is very low, the ratio will be high. Revenue and Taxation Code Section 7273, as amended by Chapter 890, Statutes of 1998 (AB 836, Sweeney, et al.) and again by Chapter 865, Statutes of 1999 (SB 1302, Rev & Tax Committee) requires the Board to cap administrative costs based on the lesser of the ratio during the first full year the tax is in effect, or a predetermined amount based on the tax rate and applied to the revenues generated in the taxing jurisdiction. The maximum administrative costs for a district imposing a transaction and use tax rate below one-quarter of 1 percent is capped at 5 percent of the revenue generated. If Fresno were to impose this tax, it is not expected that the administrative costs would exceed the cap.

In some local taxing jurisdictions, administrative costs do exceed the cap. As a point of perspective, the Board's estimated 2000-01 administrative costs assessments to the existing special taxing jurisdictions range between \$3,000 (City of Avalon Municipal Hospital and Clinic) and \$7.1 million (Los Angeles Transportation Commission). Because the Board is limited in the amount it may charge special taxing jurisdictions, any shortfall that results from actual costs exceeding the amount the Board may charge would impact the General Fund. For 2000-01 the State General Fund is absorbing an estimated \$1,000,000 as a result of the cap limitations on administrative cost recovery.

TABLE OF SECTIONS AFFECTED

SECTIONS	BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code			
§6051.45 Add	AB 426	Ch. 156	Sales tax trigger
§6201.45 Add	AB 426	Ch. 156	Use tax trigger
§6353 Amend	AB 426	Ch. 156	LPG exemption
§6356.5 Add	AB 426	Ch. 156	Farm equipment and machinery exemption
§6356.6 Add	AB 426	Ch. 156	Timber harvesting equipment exemption
§6357.1 Add	AB 426	Ch. 156	Diesel fuel for farming activities exemption
§6358.5 Add	AB 426	Ch. 156	Racehorse breeding stock exemption
§6363.3 Amend	AB 180	Ch. 383	AIDS thrift store exemption sunset date extended
§6368.8 Add Repeal	AB 984	Ch. 592	Sale and leaseback of public passenger transportation vehicles
§6369 Amend	AB 646	Ch. 706	Medicines sold to outpatient clinics exemption
§6388.5 Amend	AB 1472	Ch. 826	New or remanufactured trailers or semitrailers documentation
§6471.4 Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480 Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.1 Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.2 Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.3 Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§6480.4	Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.5	Repeal	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.6	Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.7	Amend	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6480.8	Repeal	AB 309	Ch. 429	Prepayment of sales tax on fuel
Article 1.6 (commencing with §6480.10)	Repeal	AB 309	Ch. 429	Prepayment of sales tax on fuel
§6593.5	Amend	AB 1123	Ch. 251	Interest relief for unreasonable delay
§7081	Amend	SB 445	Ch. 670	Legislature's findings and declarations: tax proceedings
§7096	Amend	SB 1185	Ch. 543	Reimbursement of third party check charges
§7252.10	Add Repeal	SB 685	Ch. 474	Transactions and use tax: Fresno County Transportation Authority
§7285	Amend	AB 1123	Ch. 251	Clarification regarding counties ability to levy a transactions and use tax for special purposes
§7285.5	Amend	AB 1123	Ch. 251	Clarification regarding counties ability to levy a transactions and use tax for special purposes
Ch. 2.85 (commencing with §7286.43) to Part 1.7	Add	SB 1187	Ch. 285	Transactions and use tax: Fresno County Zoo

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTIONS	BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code			
Ch. 2.98 Add (commencing with §7286.75) to Part 1.7	AB 863	Ch. 263	Transactions and use tax: West Sacramento
§7286.80 Amend	SB 1186	Ch. 292	Sebastopol transactions and use tax vote requirement
§7288.3 Amend	AB 1123	Ch. 251	Clarification regarding counties ability to levy a transactions and use tax
§65004 Amend	SB 394	Ch. 343	Internet Tax Freedom Act extension
Business and Professions Code			
§5000 Amend	SB 133	Ch. 718	Certified Public Accountant requirements
§5015.6 Amend	SB 133	Ch. 718	Certified Public Accountant requirements
§5020 Amend	SB 133	Ch. 718	Certified Public Accountant requirements
§5076 Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5081 Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5081.1 Amend Repeal	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5082 Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5082.1 Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Business and Professions Code				
§5082.2	Amend Repeal	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5082.3	Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5082.4	Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5082.5	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5083	Amend Repeal	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5084	Amend Repeal	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5087	Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5088	Amend	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5090	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5091	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5092	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5093	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5094	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Business and Profession Code				
§5095	Add	AB 585 SB 133	Ch. 704 Ch. 718	Certified Public Accountant requirements
§5134	Amend	SB 133	Ch. 718	Certified Public Accountant requirements
Public Utilities Code				
§142001	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142050	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142052	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142200	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142201	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142250	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142251	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142254	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142255	Repeal Add	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142256	Repeal Add	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority

TABLE OF SECTIONS AFFECTED (CONTINUED)

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Public Utilities Code				
§142257	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142258	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142259	Repeal Add	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142260	Amend	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority
§142263	Repeal Add	SB 685	Ch. 474	Transactions and Use Tax – Fresno County Transportation Authority