



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	<b>04/18/13</b>	Bill No:	<b><a href="#">Senate Bill 19</a></b>
Tax Program:	<b>Sales and Use</b>	Author:	<b>Knight</b>
Sponsor:	<b>Author</b>	Code Sections:	<b>RTC 6380</b>
Related Bills:	<b>SB 412 (Knight)</b>	Effective Date:	<b>Effective immediately, but operative first day of calendar quarter 90 days after enactment</b>

**BILL SUMMARY**

This bill exempts from sales and use tax equipment and materials purchased for use in the construction or improvement of specified facilities at commercial space launch sites.

**ANALYSIS**

**CURRENT LAW**

Except where the law provides a specific exemption or exclusion, California’s Sales and Use Tax Law<sup>1</sup> imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

Existing law<sup>2</sup> exempts from the sales and use tax purchases of qualified property for use in space flight. “Space flight” means any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind. “Qualified property” consists of:

- Tangible personal property that has space flight capability. This includes such things as orbital space facilities, space propulsion systems, space vehicles, satellites, or space stations of any kind, and any related components.
- Tangible personal property intended to be placed or used aboard any facility, system, vehicle, satellite, or station, whether or not that property returns to this state for subsequent use, storage, or other consumption.
- Fuel produced, sold, and used exclusively for space flight and not adaptable for use in ordinary motor vehicles.

**PROPOSED LAW**

This bill amends RTC Section 6380 to exempt from the sales and use tax sales and purchases of equipment and materials used to construct, reconstruct, or improve new or existing facilities designed to launch, manufacture, fabricate, assemble, or process equipment that facilitates the renovation, rehabilitation, or reconstruction of commercial space launch sites.

<sup>1</sup> Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (RTC).

<sup>2</sup> RTC Section 6380.

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.*

## BACKGROUND

In 1993, SB 671 (Alquist, et al.)<sup>3</sup> added RTC Section 6380. At the time, the exemption targeted Motorola Company's, IRIDIUM™ global wireless communications network project. The project contemplated the launch of 66 low-earth-orbit satellites. Combined with land-based wireless systems, Motorola anticipated these satellites would enable subscribers to communicate with handheld telephones and pagers virtually anywhere in the world. Due to the required orbit, Santa Barbara County's Vandenberg Air Force Base was the only United States base equipped to launch these satellites.

Subsequent to the exemption's enactment, three different launch companies launched 72-satellites and in-orbit spares. Of the 72 satellites, 40 were launched from Vandenberg. In November 1998, the company introduced its telecommunications service. However, the project failed within a year because of the lack of subscribers.

In 1998, AB 2798 (Machado, et al.)<sup>4</sup> amended Section 6380 to remove the requirement that the space flight property originate from Vandenberg Air Force Base. The bill also removed the January 1, 2004 sunset date.

## LEGISLATIVE HISTORY

**SB 1582 (1999-00, O'Connell)** contained provisions similar to this bill. SB 1582 failed to pass out of the Senate Revenue and Taxation Committee (SR&T).

**SB 76 (2001-02, O'Connell)** contained provisions similar to this bill and also proposed to exempt property purchased for space property assembly, launch, or transport, regardless of whether the launch occurs in California. The measure failed passage in the SR&T.

**SB 640 (2001-02, Knight)** and **AB 1575 (2001-02, Campbell)** also contained provisions similar to this bill, but excluded property for which the manufacturer's income tax credit<sup>5</sup> was claimed. SB 640 failed passage in the SR&T; AB 1575 was not heard.

**AB 1869, (2003-04, Maldonado)** contained provisions similar to this bill, but included a January 1, 2012 sunset date. This bill failed passage in the Assembly Revenue and Taxation Committee.

**SB 193 (2005-06, Maldonado)** contained provisions similar to this bill. That measure failed passage in the SR&T.

## COMMENTS

**1. Sponsor and Purpose.** As the sponsor, Senator Knight proposes this measure to expand and protect California's space flight industry. According to the author's office, California is challenged by other states, notably Florida, Texas, and Alaska, which compete directly with California for space launch flights. Also, Alabama, Arizona, Colorado, Nevada, New Mexico, and Virginia have increased their efforts to attract the high-dollar space industry. The international space market is also drawing business away from California. In order to retain the companies that we have in California, and continue to bring in new companies, the author believes California must provide additional incentives, such as tax breaks and upgraded facilities.

---

<sup>3</sup> Stats. 1993, Ch. 881.

<sup>4</sup> Stats. 1998, Ch. 323.

<sup>5</sup> RTC Sections 17053.49 or 23649.

2. **California is home to two commercial space launch sites:** Vandenberg Air Force Base (a federal government-owned site) and Mojave Air and Space Port (an East Kern Airport District-owned and operated site).
3. **Bill broadens the existing exemption.** The law's existing exemption applies to purchases of property to be launched *in space*. This bill targets purchases of property that improve the *facilities at* commercial space launch sites, including a mission control center. Specifically, the bill expands the exemption to include all materials and equipment purchased for use in constructing or improving *facilities* designed to:
  - Launch equipment that facilitates the renovation, rehabilitation, or reconstruction of commercial space launch sites,
  - Manufacture equipment that facilitates the renovation, rehabilitation, or reconstruction of commercial space launch sites, or
  - Fabricate, assemble, or process equipment that facilitates the renovation, rehabilitation, or reconstruction of commercial space launch sites.

This appears to include, for example, materials and equipment purchased for use in constructing a rocket hangar, or constructing a satellite manufacturing plant or a space launch facility, as long as those facilities facilitate a commercial space launch site's renovation, rehabilitation, or reconstruction.

4. **How this exemption works.** Contracts to make improvements to real property that include the installation of such items as buildings, launch pads, and fencing, are construction contracts. Generally, for sales and use tax purposes, the law regards the contractor as the consumer of materials (where the contractor pays the tax when he or she buys the materials) and the retailer of equipment and fixtures (where the contractor reports the tax on his or her selling price). This bill enables contractors to purchase materials, fixtures, and equipment without payment of tax in his or her performance of a construction contract for facilities designed as specified in the bill.

Also, this bill enables any other purchaser of qualifying tangible personal property to purchase the property from retailers without payment of sales tax reimbursement or use tax.

The BOE's Regulation 1667, *Exemption Certificates*, provides sellers instructions related to making sales to persons claiming a tax exemption. If this bill becomes law, contractors and other purchasers of qualifying property must provide the seller written certification that the property will be used in an exempt manner. This certification, if taken in good faith, relieves the seller from tax liability. If the purchaser uses the property in a manner not qualifying for the exemption, the regulation specifies that the purchaser is liable for the tax.

5. **Related legislation.** Senator Knight also introduced [SB 412](#) this session to exempt purchases of manufacturing, research and development machinery and equipment by specified aerospace products and parts manufacturers.

**COST ESTIMATE**

The BOE's costs to administer this bill will increase. These costs include advising affected retailers and contractors, revising BOE's regulation and publications, and answering inquiries from taxpayers and the general public. A cost estimate will be performed as the bill progresses.

**REVENUE ESTIMATE**

The commercial spaceflight industry is composed of private and public entities providing commercial space transportation services. This bill offers a sales and use tax exemption for these entities' material and equipment purchases utilized in constructing or upgrading commercial space launch sites.

The United States Census Bureau does not have specific data on investments related to commercial space launch sites. The Mojave Space Port has more than 12 firms involved in space-related activities. One firm has invested approximately \$200 million at Mojave Space Port, and recently built an \$8 million hangar.

This bill is effective January 1, 2014. We have no information that indicates which qualifying materials and equipment purchases will be exempted by this measure on and after the bill's effective date. Staff is continuing its research, and will update this estimate as information becomes available.

---

Analysis prepared by:	Sheila Waters	916-445-6579	04/30/13
Contact:	Michele Pielsticker	916-322-2376	
ls			0019sb041813stw.docx

---

*This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.*