



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

DRAFT

Date:	01/23/13	Bill No:	Assembly Bill 163
Tax Program:	Sales and Use	Author:	Atkins
Sponsor:	Navy Region Southwest	Code Sections:	RTC 6363.4
Related Bills:		Effective Date:	Upon Enactment

BILL SUMMARY

This bill removes the January 1, 2014 sunset date on a sales and use tax exemption for specified military-related nonprofit thrift store sales.

ANALYSIS

CURRENT LAW

Existing law imposes the sales or use tax on all sales or purchases of tangible personal property in this state, unless specifically exempted or excluded by law. California’s Sales and Use Tax Law does not generally exempt nonprofit organizations, sellers or purchasers engaged in charitable activities, or those who enjoy certain income tax or property tax privileges. However, several specific statutes benefit various nonprofit groups engaged in charitable activities. For example, Revenue and Taxation Code Section 6363.4 exempts specific military-related thrift store sales from the sales and use tax until January 1, 2014. This section provides that thrift store sales are exempt from sales and use tax when nonprofit organizations operate the thrift stores on military installations and partner with the United States Department of Defense to provide financial, educational, and other assistance to members of the United States Naval Service, eligible family members, and survivors in need.

Sections 6363.3 and 6375 also exempt from the sales and use tax specified nonprofit thrift store sales. Section 6363.3 exempts thrift store sales of used clothing, household items, or other retail items if a nonprofit organization operates the thrift store and the store aims primarily to raise revenue for the funding of medical, hospice, or social services to chronically ill individuals.

Section 6375 applies to charitable organization sales if the organization qualifies for the property tax “welfare exemption” under Revenue and Taxation Code Section 214. To be exempt, the law requires that : (1) the organization relieves poverty and distress; (2) the sales principally assist financially distressed purchasers; and (3) the organization makes, prepares, assembles, or manufactures the property sold. For example, Goodwill’s and Salvation Army’s thrift store sales qualify for an exemption under Section 6375 because their thrift store premises qualify for the “welfare exemption” under Section 214.

PROPOSED LAW

This bill amends Section 6363.4 to delete the January 1, 2014 sunset date on the sales and use tax exemption for military-related thrift store sales.

If enacted, the bill takes effect immediately.

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

Senate Bill 765 (Dutton, Ch. 615, Stats. 2009) added Sales and Use Tax Law Section 6363.4. All Members of the Board of Equalization (BOE) voted unanimously to sponsor SB 765 at its December 8, 2008 Legislative Committee meeting. The BOE Members supported this narrowly crafted exemption with no sunset date, as they believed our service members and their families should not bear the additional expense of the sales tax added to the price of their thrift store purchases. At the SB 765 hearing, the Assembly Revenue and Taxation Committee added the sunset date.

Section 6363.4 applies only to thrift store sales by the Navy-Marine Corps Relief Society (NMCRS). Although other military branches have similar relief societies, we understand that those societies do not operate thrift stores or make other sales of tangible personal property.

Operating in partnership with the Navy and Marine Corps, the NMCRS is a nonprofit, charitable organization that qualifies for federal and state income tax exempt status.¹ The NMCRS provides financial, educational, and other assistance to members of the U.S. Naval Services and their eligible family members and survivors when they need it. To assist in relief services, the NMCRS operates 27 thrift stores, including seven at California Naval or Marine bases in San Diego, Barstow, Miramar, Camp Pendleton, Port Imperial Beach, Ventura and Lemoore. These thrift stores sell nominally-priced used clothing, uniforms, and household items to service members and their families. The thrift stores' sales income partly supports relief services to the Navy-Marine Corps community.

COMMENTS

1. **Sponsor and purpose.** The Navy Region Southwest sponsored the bill. According to the author's office, the NMCRS thrift stores provide an important service that supports military families. Maximizing the amount of money that assists veterans and active duty personnel is a small acknowledgment of the many sacrifices they have made for their fellow Californians.
2. **Who shops at these thrift stores?** Located on military bases and not open to the general public, the NMCRS allows only military families and Department of Defense employees, including retirees and civilian contractors, to patronize these thrift stores.
3. **Sunset date removal matches the BOE's 2008 proposal.** The BOE has not had the opportunity to take a position on this measure. However, in 2008, the BOE sponsored this exemption with no sunset date.
4. **Technical correction.** Because Section 3 duplicates Section 2, we recommend deletion of that section.

¹ Title 26, Section 501(c)(3) of the United States Code for federal income tax purposes, and 23701d of the Revenue and Taxation Code for state income tax purposes

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COST ESTIMATE

The administrative costs are absorbable.

REVENUE ESTIMATE

The 2011 NMCRS *Annual Report* discloses miscellaneous receipts of \$950,000, principally from thrift store sales. Assuming these sales comprise 80 percent of those miscellaneous receipts, total thrift store sales amount to \$760,000. Because seven of the 27 thrift stores (26%) are located in California, we assume total exempt sales under this measure amount to \$197,600 (26% of \$760,000).

We multiplied total exempt sales of \$197,600 by 7.9%² and estimate that the annual state and local sales and use tax revenue loss amounts to \$15,610, as follows:

State General Fund (4.1875%)	\$ 8,274
Local Revenue Fund 2011 (1.0625%)	2,099
State Fiscal Recovery Fund (.25%)	494
Local Revenue Fund (.5%)	988
Local Public Safety Fund (.5%)	988
Local and County (1%)	1,976
Special districts (.4%)	791
Total	<u>\$15,610</u>

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² The 7.9% rate is the average sales tax rate of the seven thrift stores as of January 1, 2013. Five thrift stores are located in 8% tax rate areas, and two are located in 7.5% tax rate areas.

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