

[Assembly Bill 199](#) (Eggman)

Date: 08/25/15

Program: Sales and Use

Sponsor: Californians Against Waste

Public Resources Code Sections 26003 and 26011.8

Effective: Upon enactment

Michele Pielsticker (Chief) 916.322.2376

Sheila T. Waters (Analyst) 916.445.6579

Summary: Until January 1, 2021, allows a sale and use tax exclusion for projects that process or use recycled feedstock when the exclusion is approved by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA).

Summary of Amendments: The amendments since the previous analysis make technical changes that include a sunset date of January 1, 2021 for the proposed exclusion related to recycled feedstock.

Purpose: To maximize California's infrastructure and investment in recycling.

Fiscal Impact Summary: All projects approved by CAEATFA, including the projects described in this bill, are limited to \$100 million each calendar year.

Existing Law: CAEATFA: Existing law¹ contains a specific sales and use tax exclusion² for tangible personal property purchased for certain approved manufacturing projects. In 2010, legislation³ authorized the CAEATFA until January 1, 2021, to approve sales and use tax exclusions for tangible personal property utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative energy source products, components or systems. In 2012, legislation⁴ was enacted to authorize CAEATFA until July 1, 2016, to approve sales and use tax exclusions related to advanced manufacturing projects. The law⁵ provides a \$100 million cap for these exclusions.

CAEATFA's approval of these exclusions is based on whether the project results in a net fiscal or environmental benefit to the State.

Sales and use tax partial exemption: Beginning July 1, 2014, and until July 1, 2022, existing law⁶ provides qualified manufacturers, biotechnology and other physical, engineering, and life science researchers and developers a 4.1875% sales and use tax exemption for their purchases of qualifying tangible personal property used in a qualifying manner. As an example, biofuel manufacturers produce ethanol and biodiesel fuel, and certain manufacturing equipment they buy qualifies for this partial exemption.

California's sales and use tax rates: Effective January 1, 2013, California imposes a statewide 7.5% sales and use tax on tangible personal property sales and purchases. The table below shows California's various sales and use tax rate components (the table excludes voter-approved city and county district taxes):

¹ Revenue and Taxation Code (RTC) Section 6010.8.

² An "exclusion" means the transfer of the property is neither a "sale" nor a "purchase" and is therefore excluded from the application of the sales and use tax. An "exemption" involves a retail sale that, absent an exemption in law, would otherwise be subject to the tax.

³ SB 71 (Ch. 10, Stats. 2010, effective March 24, 2010).

⁴ SB 1128 (Ch. 677, Stats. 2011, effective January 1, 2013).

⁵ Public Resources Code Section 26011.8.

⁶ RTC Section 6377.1.

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, and 6201.3)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5)
0.25%	State (Education Protection Account)	Schools and community college funding (Section 36, Article XIII, State Constitution) (until 01/01/17)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	City and county general operations (RTC Section 7203.1, operative 7/1/04); Dedicated to county transportation purposes
7.50%	Total Statewide Rate	

Proposed Law: Until January 1, 2021, this bill includes within the term “project” for purposes of CAEATFA’s authority to approve sales and use tax exclusions, tangible personal property if at least 50% of its use is either to process recycled feedstock that is intended to be reused to produce another product or to use recycled feedstock to produce another product or soil amendment. The bill specifically excludes from the term “project” tangible personal property that processes or uses recycled feedstock in a manner that constitutes disposal, as defined.

The bill defines “recycled feedstock” as materials that would otherwise be destined for disposal, having completed its intended end use and product lifecycle.

Commentary:

- 1. Effect of the bill.** Expands CAEATFA’s current program to authorize CAEATFA to approve sale and use tax exclusions related to projects that process and use recycled feedstock.
- 2. The August 25, 2015 amendments** make non-substantive technical corrections. The **August 18, 2015 amendments** made a technical correction, so that the bill’s proposed exclusion related to recycled feedstock processes and use would repeal on January 1, 2021 – the same date that CAEATFA’s authority to approve exclusions related to certain advanced transportation technologies or alternative source components sunsets. The **June 9, 2015 amendments** substitute “incidental” for “incident” twice.
- 3. Any change to the PRC’s definition of “project” can have a direct sales and use tax implication.** Under the law, the sales and use tax exclusion is linked directly with the PRC’s defined term “project.” When that term is changed within the PRC context, the change can result in a direct state and local sales and use tax revenue impact.
- 4. The sales and use tax exclusion’s administration falls primarily under the CAEATFA.** As a result, the BOE’s administrative duties would have minimal effect.

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.

Administrative Costs: The BOE would incur some absorbable costs in notifications, changes to the BOE's website and publications, and answering inquiries.

Revenue Impact: Existing law limits the allowable sales and use tax exclusion for all projects approved by CAEAFTA, including this bill's described projects, to \$100 million each calendar year. Between November 2010 and July 2015, CAEATFA has approved tax exclusions of about \$318 million, but only \$81.8 million in tax has actually been claimed.