

**Repeal Sections 7204.02, 7204.5, and 7208 of the Bradley-Burns Uniform Local Sales and Use Tax Law and Sections 7251.2 and 7271.05 of the Transactions and Use Tax Law as these sections were enacted to serve a specific purpose and that purpose has been accomplished. (Technical)**

**Source: Legal Department and Legislative Section**

**Existing Law**

Sections 7204.02, 7204.2, 7204.5, and 7208 of the Bradley-Burns Uniform Local Sales and Use Tax Law (hereinafter referred to as Bradley-Burns law) and Sections 7251.2 and 7271.05 of the Transactions and Use Tax Law (hereinafter referred to as District tax law) were enacted to address specific issues. Those issues have been addressed and the statutes are no longer needed and should be repealed.

The following provides a summary of these sections:

- **Section 7204.02**, added by Senate Bill (SB) 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provides that, beginning July 1, 1992, and for each year through and until July 1, 1997, the Board shall reduce local sales tax revenues transmitted to affected cities, counties, and cities and counties by an amount to recover 1/5 of the amount transmitted to these local entities pursuant to Section 7204.01, plus interest. Section 7204.01, also added by SB 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provided the procedures whereby the local entities could make a request to the Controller to receive an amount attributable to any reductions in local sales tax revenues as a result of the October 17, 1989 earthquake (known as The Loma Prieta Earthquake). Section 7204.01 was repealed effective January 1, 1992.

Since the requirements under Section 7204.02 have been accomplished, it appears that the statute is no longer needed, and, therefore should be repealed.

- **Section 7204.5**, added by SB 1102 (Ch. 620, Stats. 1997), provided certain offset provisions for the County of Napa and any cities located in Napa County. It allowed Napa County and cities to take up to three years to repay the Board for refunds of the local tax on oak barrels purchased for making wine. The provisions required the Board to notify the city or county of amounts subject to offset and, upon request of a city or county, to remit to the city or county that offset portion of the refund deducted from tax revenue transmittals by the Board which exceeded \$50,000 in a calendar quarter. The Board, thereafter, would deduct a pro rata share of that offset portion from future transmittals of tax revenues, over a period not to exceed three years, until the entire amount of the offset portion had been repaid.

In 1996, information submitted to the Board supported the fact that oak wine barrels were purchased primarily for the purpose of incorporating oak into the wine to be sold, and not purchased as containers for aging wine. Effective April 3, 1996, sales and use tax Regulation 1525 was amended to recognize that oak wine barrels purchased for such purposes were purchased for resale based on existing law. The amendment to Regulation 1525 had retroactive treatment and applied to overpayments of tax on sales or purchases of oak wine barrels within the statute of limitation period (i.e. three years from the due date of the return for the period for which the overpayment was made).

As a result of this regulatory change, any overpayments of local sales taxes to be refunded to taxpayers had to be deducted from future transmittals of local taxes to local entities. The refund of local taxes posed a financial hardship for certain local entities, such as Napa County. SB 1102, effective January 1, 1998, sought to ease the financial hardship on the County of Napa and the cities located within Napa County by providing a three-year period for Napa and any cities to repay the local taxes. Since the repayment has been completed, Section 7204.5 is no longer needed.

- **Section 7208**, added by SB 636 (Ch. 1785, Stats. 1959) and took effect September 18, 1959, provides that in the case of tangible personal property purchased from a retailer whose place of business was located in a county which, following purchase, imposes a tax pursuant to Bradley-Burns law operative on or after July 1, 1959, but not later than July 1, 1960, a notice of determination of tax shall be issued within four months of the end of the quarterly period during which the storage, use, or other consumption of the property became taxable.

Section 7208 provided a special statute of limitation period on the issuance of a notice of determination of local use tax where all of the following conditions existed:

- 1) The purchaser purchases the property from a retailer whose place of business was in a county which at the date of the purchase was not imposing a Bradley-Burns tax.
- 2) The purchaser used the property in a county which imposed a Bradley-Burns tax.
- 3) After the date of the purchase, the county in which the retailer's place of business was located began imposing a Bradley-Burns tax.
- 4) The newly imposed Bradley-Burns tax went into effect for the first time between July 1, 1959, through and until July 1, 1960.

Bradley-Burns law was enacted in 1955. By 1961, all 58 counties had elected to opt into the Bradley-Burns system. Section 7208 was enacted in 1959 and took effect September 18, 1959. At that time, eight counties (Alpine, Amador, Fresno, Plumas, San Mateo, Santa Barbara, Siskiyou, and Tehema) did not have a Bradley-Burns tax in effect. However, three counties (Amador,

Fresno, and Tehema) had adopted a Bradley-Burns tax which became operative on October 1, 1959.

As previously stated, all counties adopted the Bradley-Burns tax by 1961. Therefore, the provisions of Section 7208 are no longer applicable and the statute should be deleted.

- **Section 7251.2** was enacted in 1990 (Assembly Bill (AB) 3736, Ch. 1490, Stats. 1990) to specify that if two local district tax measures submitted to the voters of Los Angeles County at the November 6, 1990 general election were approved, that the rate of each tax would be limited to 0.25 percent. Both of these measures were to impose a district tax at a rate of 0.50 percent each. However, if both measures would have passed, Los Angeles County would have exceeded the combined district rate limitation of 1 percent (rate limitation in effect in 1990). The enactment of Section 7251.2 resolved this issue by specifying that if both measures pass, then each ordinance would impose only a 0.25 percent tax rate, instead of a 0.50 percent.

Known as the “Los Angeles County Transportation Commission 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition” and the “Local Communities Safety Act – Los Angeles County Regional Justice Facilities Financing Agency,” the Los Angeles Transportation Commission tax passed and became operative on April 1, 1991, and the Los Angeles County Regional Justice Facilities Financing Agency failed.

Since Section 7251.2 applies only to the two district tax measures that were submitted to the voters of Los Angeles County at the November 6, 1990 general election, it seems that the statute is no longer needed, and, therefore should be repealed.

- **Section 7271.05**, added by SB 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provides that, beginning July 1, 1992, and for each year through and until July 1, 1997, the Board shall reduce district taxes transmitted to the Santa Cruz Metropolitan Transit District by an amount to recover 1/5 of the amount transmitted to the district pursuant to Section 7271.03, plus interest. Section 7271.03, also added by SB 30 (Ch. 37, Stats. 1990 First Extraordinary Session), provided the procedures whereby the district could make a request to the Controller to receive an amount representing reductions in district tax revenues directly attributable to the October 17, 1989 earthquake (known as The Loma Prieta Earthquake). Section 7271.03 was repealed effective January 1, 1992.

Since the requirements of Section 7271.05 have been accomplished, it appears that the statute is no longer needed, and, therefore should be repealed.

### **This Proposal**

This proposal would repeal Sections 7204.02, 7204.5, and 7208 of the Bradley-Burns law and Sections 7251.2 and 7271.05 of the District tax law that have become obsolete. These statutes were enacted to serve a specific purpose and that purpose has been accomplished. As such, these statutes are no longer used and, therefore, should be repealed.

*Section 7204.02 of the Revenue and Taxation Code is repealed:*

~~7204.02. (a) On or before March 1, 1992, the Controller shall calculate the total amount that has been transmitted to each city, county, and city and county pursuant to Section 7204.01, and shall provide those calculations to the State Board of Equalization.~~

~~(b) Beginning on July 1, 1992, and for each year thereafter to July 1, 1997, inclusive, the State Board of Equalization shall reduce the amounts that would otherwise be transmitted to each affected city, county, and city and county pursuant to Section 7204 by an amount sufficient to recover one-fifth of the amount transmitted to the city, county, or city and county pursuant to subdivision (c) of Section 7204.01, plus interest after January 1, 1992, or the other applicable date, at the annual rate of 3 1/2 percent. The board shall distribute the reductions in transmittals over the fiscal year in the manner it determines to be least disruptive to each affected city, county, and city and county.~~

~~(c) The board shall transmit the amounts withheld from each affected city, county, and city and county, and the interest amounts pursuant to subdivision (b) to the Special Fund for Economic Uncertainties.~~

*Section 7204.5 of the Revenue and Taxation Code is repealed:*

~~7204.5. (a) For purposes of this section:~~

~~(1) "City" means any city located within the County of Napa.~~

~~(2) "County" means the County of Napa.~~

~~(3) "Quarterly taxes" means the total amount of sales and use taxes transmitted by the board to a city or the county for a calendar quarter.~~

~~(4) "Refund" means the amount of sales and use taxes deducted by the board from a city's or the county's quarterly taxes in order to pay the city's or county's share of a sales and use tax refund due as a result of overpayments of sales or use tax on the sale or purchase of oak barrels purchased for the purpose of physically incorporating oak into wine to be sold.~~

~~(5) "Offset portion" means that portion of the refund which exceeds fifty thousand dollars (\$50,000) in a calendar quarter.~~

~~(6) For purposes of calculating the "offset portion" the total refunds issued or to be issued shall be aggregated each quarterly period and shall be offset~~

by an amount which exceeds fifty thousand dollars (\$50,000) for that quarterly period.

~~(b) (1) Upon notification by the board that a city or the county is subject to an offset portion, the city or county may, within 30 days after the date of that notification, request the board to deduct a pro rata share of the offset portion from that city's or county's future transmittals of sales and use taxes.~~

~~(2) Except as provided in subdivision (c), if the board has deducted a refund from the city's or county's quarterly taxes which includes an offset portion, then the following provisions apply:~~

~~(A) For the 1997 calendar year, within nine months after the board deducted an offset portion, the city or county may request the board to transmit the offset portion to that city or county. After calendar year 1997, the city or county may make that request within three months after the board deducted the offset portion.~~

~~(B) As promptly as feasible after the board receives the city's or county's request, the board shall transmit to that city or county the offset portion as part of the board's periodic transmittal of sales and use taxes.~~

~~(3) The board shall thereafter deduct a pro rata share of the offset portion from future transmittals of sales and use taxes to the city or county over a period not to exceed 12 quarters until the entire amount of the offset portion has been deducted.~~

~~(c) The board shall not transmit the offset portion of the refund to the city or county if that transmittal would reduce or delay either the board's payment of the refund to the taxpayer or the board's periodic transmittals of sales and use taxes to any other city, county, city and county, or redevelopment agency in this state.~~

*Section 7208 of the Revenue and Taxation Code is repealed:*

~~7208. Every notice of determination of use tax authorized by this part shall be served within four months from the end of the quarterly period during which the storage, use or other consumption of the tangible personal property became taxable; provided, the tangible personal property was purchased from a retailer whose place of business was located in a county which did not impose a tax pursuant to this part but which county does impose such a tax for the first time to be operative on or after July 1, 1959, but not later than July 1, 1960.~~

*Section 7251.2 of the Revenue and Taxation Code is repealed:*

~~7251.2. (a) Notwithstanding any other provision of law, in the case where the local transactions and use tax measures specified in subdivision (b) are both approved by the voters of the County of Los Angeles at the November 6, 1990, general election, and both measures are otherwise valid, the rate of each tax thereby imposed shall be set, for purposes of compliance with the 1~~

~~percent limitation of Section 7251.1, at one-fourth of 1 percent. If the limitation of Section 7251.1 is increased, the amount of the increase shall, on the date the increase is operative, be equally apportioned to increase the rate of each tax imposed by the measures specified in subdivision (b), up to a rate not to exceed one-half of 1 percent for each tax.~~

~~(b) This section shall apply only to the local transactions and use tax measures, to be submitted to the voters of the County of Los Angeles at the November 6, 1990, general election and popularly known as the following:~~

~~(1) "Los Angeles County Transportation Commission 1990 Fast-Track Anti-Gridlock Transit Improvement Proposition."~~

~~(2) "Local Communities Safety Act—Los Angeles County Regional Justice Facilities Financing Agency."~~

*Section 7271.05 of the Revenue and Taxation Code is repealed:*

~~7271.05. (a) On or before March 1, 1992, the Controller shall calculate the total amount that has been transmitted to the Santa Cruz Metropolitan Transit District pursuant to Section 7271.03, and provide those calculations to the State Board of Equalization.~~

~~(b) Beginning on July 1, 1992, and for each year thereafter to July 1, 1997, inclusive, the State Board of Equalization shall reduce the amounts that would otherwise be transmitted to the Santa Cruz Metropolitan Transit District pursuant to Section 7271 by an amount sufficient to recover one-fifth of the amount transmitted to that district pursuant to subdivision (c) of Section 7271.03, plus interest after January 1, 1992, or the other applicable date, at the annual rate of 3 1/2 percent. The board shall distribute the reductions in transmittals over the fiscal year in the manner it determines to be least disruptive to the district.~~

~~(c) The board shall transmit the amounts withheld from the Santa Cruz Metropolitan Transit District and the interest amounts pursuant to subdivision (b) to the Special Fund for Economic Uncertainties.~~