



*California State Board of Equalization,
Legislative and Research Division*

LEGISLATIVE BULLETIN



State Capitol Building (from the East) c.1945
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SALES TAX LEGISLATION 2014

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Assembly Bill 919 (Williams) Chapter 643
Qualified Veterans: Repayment

Effective January 1, 2015. Adds Section 6018.2 to the Revenue and Taxation Code.

BILL SUMMARY

This bill enables qualified itinerant veteran vendors to receive repayment of sales tax paid to the Board of Equalization (BOE) during the eight-year period beginning on and after April 1, 2002, and before April 1, 2010, as specified.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Existing law¹ imposes the sales tax on the retail sale of tangible personal property in this state. Existing law also imposes the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The sales or use tax is computed on the retailer's gross receipts or the sales price, respectively, unless the law provides a specific exemption or exclusion.

Generally, persons engaged in the business of selling tangible personal property must obtain a seller's permit. These persons must also report the tax on a BOE prescribed return. However, California's Sales and Use Tax Law places a variety of retailers on a "consumer" reporting status. Under a "consumer" reporting status, the law eliminates the need for the retailer to obtain a seller's permit and report the tax on his or her sales. Rather, these retailers are regarded as consumers, and they must pay tax on their purchases of taxable products they intend to sell.

This "consumer" reporting status extends to various classes of retailers, such as qualified itinerant veterans when they sell particular goods. Until January 1, 2022, the law² regards these "qualified itinerant vendors" as consumers of tangible personal property they own and sell, except alcoholic beverages and any sale over \$100.

The law defines "qualified itinerant vendor" as a person that:

- Was a United States Armed Forces member who received an honorable discharge or a release from active duty under honorable conditions,
- Is unable to obtain a livelihood by manual labor due to a service-connected disability,
- Is a sole proprietor with no employees, and
- Has no in-state permanent place of business.

The law defines "permanent place of business" as any building or other permanently affixed structure, including a residence, used to sell, take orders, and arrange for shipment of, tangible personal property. The definition excludes any building or other permanently affixed structure, including a residence, used for any of the following:

- 1) Tangible personal property storage.

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

²RTC §6018.3 of the Sales and Use Tax Law.

- 2) The cleaning or storage of property used in connection with the manufacture or sale of tangible personal property.

AMENDMENT

This bill states legislative findings and declarations, and states the bill's public purpose.

The bill states the Legislature's intent that the sales tax, interest, and any penalties paid by qualified veterans on sales for \$100 or less (excluding alcoholic beverages) during the period April 1, 2002 but before April 1, 2010 be repaid in accordance with this bill.

The bill's repayment provisions do the following:

- Permit a qualified veteran to receive from the state a qualified repayment if the repayment provisions are satisfied.
- Specify the bill's procedures shall be the procedure and remedy for the claims for a repayment of state, local and district tax, interest or penalties paid by a qualified veteran.
- Define a "qualified veteran" as a person who
 - (1) met the requirements of a qualified itinerant vendor as set forth in law,³ during the period in which the sales were made,
 - (2) Paid to the BOE, state, local, and district taxes, and any associated interest and penalties for which the qualified veteran collected no sales tax reimbursement from customers.
- Define "qualified repayment" as an amount equal to the state, local, and district taxes for which the qualified veteran collected no sales tax reimbursement from customers, and any associated interest or penalties, less any amount previously refunded, credited, or paid, as specified.
- Before January 1, 2016, authorize a qualified veteran to file a claim with the BOE.
- On or before March 1, 2016, require the BOE to certify to the Controller the qualified repayment amount to be made, and appropriate \$50,000 to the BOE for the amount available for these repayments.
- Allow for a proration if claims exceed \$50,000.
- Prohibit the payment of interest on any qualified repayment.
- By May 1, 2016, require the BOE to report to the Legislature the names of qualified veterans that received a repayment and the repayment amount.

Legislative History

In 2009, the BOE sponsored legislation⁴ that made these veterans consumers. Subsequent legislation⁵ extended the January 1, 2012 sunset date to January 1, 2022. For several years prior to these legislative acts, several veterans had argued that state law, which exempts honorably discharged veterans from locally-imposed license taxes and fees, also exempts itinerant veteran vendors from any state-imposed tax. Specifically,

³ RTC §6018.3 of the Sales and Use Tax Law.

⁴ SB 809, (Stats. 2009, Ch. 621, Comm. on Veteran Affairs), operative April 1, 2010 to January 1, 2012.

⁵ SB 805 (Stats. 2011, Ch. 246, Comm. on Veteran Affairs).

they argued that the law⁶ exempts honorably discharged veterans from payment of the sales and use tax on mobile food cart sales of food products and carbonated beverages. This provision reads in its entirety as follows:

“Every soldier, sailor or Marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise owned by him, except spirituous, malt, vinous or other intoxicating liquor, without payment of any license, tax or fee whatsoever, whether municipal, county or State, and the board of supervisors shall issue to such soldier, sailor or Marine, without cost, a license therefore.”

In 1893, this provision was added to law. The chaptered bill was described as “An act to establish a uniform system of county and township government.” In its present form (which has remained unchanged since 1941), Section 16102 falls within Chapter 2 of Part 1 of Division 7 of the Business and Professions Code, entitled *Licensing by Counties*.

In 1999, the BOE held that this Business and Professions Code provision does not apply to California’s Sales and Use Tax Law. A veteran vendor unsuccessfully challenged the BOE’s decision in Los Angeles Superior Court (No. BC 210257). The BOE’s decision is also consistent with that of the Office of Legislative Counsel. That Office rendered two opinions specific to this issue in 1998 and 2006. The Office of Legislative Counsel concluded that the Business and Professions Code exemption only applies to county license tax and license fees, and does not apply to sales and use taxes.

COMMENTS

1. **Purpose.** Upon unanimous vote of all Members, the BOE sponsored this bill to recognize qualified veterans’ military service and address the confusion in law unique to veterans’ tax obligations.

In 2009, the Legislature unanimously voted to specify that honorably discharged veterans with service-related disabilities who have no permanent place of business are consumers, not retailers, of certain goods they sell. As a result, these veterans are no longer responsible for sales tax on goods sold for less than \$100 per item (except alcohol beverages). The purpose of that legislation was to ease the economic burdens of veterans who have served our nation and sustained permanent injuries in foreign conflicts. Due to a variety of statutes, some itinerant veterans in need of this relief have acted in good faith on the belief they could make sales of small items without responsibility for the tax. These itinerant veterans lack substantial assets and many experienced forced collection action when the BOE ultimately collected the tax. The BOE Members believe the circumstances warranting this treatment apply to periods before the effective date of the 2009 legislation, and a small number of itinerant veterans are in need of this relief for these prior periods.

This measure provides modest relief only to some of our veterans who have been required to remit sales tax, interest, and penalties to the BOE, in those unfortunate situations in which they failed to collect the sales tax reimbursement from their customers.

⁶ Business and Professions Code §16102.

2. **Amendments.** The **August 4, 2014** amendments appropriated \$50,000 to the BOE, rather than the Controller in order to streamline the repayment process within the Controller's office, and made related conforming changes. The **June 24, 2014** amendments appropriated \$50,000 to the Controller for repayments, and required the BOE to report to the Legislature the names of each qualified veteran issued a repayment and the repayment amount. The **May 23, 2014** amendment rearranged a comma to mirror the Business and Professions Code provision explained previously. The **January 29, 2014** amendments made technical corrections and clarified that the repayment amount does not include amounts previously refunded, credited, or paid to a qualified veteran, through any means whatsoever. The **January 17, 2014** amendments clarified that the repayment amount does not include any amount previously refunded to a qualified veteran through administrative refund actions, including amounts received in judgment or settlement, as specified. The **January 6, 2014** amendments made clarifying and technical changes to specify that sales tax paid *during* the period April 1, 2002 but before April 1, 2010 is subject to repayment. The amendments also revised the date in which claims must be filed and the date in which the BOE must initiate the refunds.
3. **The BOE records are adequate to process refund claims.** The BOE has retained computer files and taxpayer payment histories sufficiently far back to track payments attributable to any claims for repayment that may be filed under the bill.
4. **How many veterans will claim a refund?** The BOE is aware of a small number of veterans that have filed appeals on the issue related to the Business and Professions Code explained previously. We do not know how many other qualified veterans this bill may reach. However, we expect that the number will be minimal.
5. **Current Sales and Use Tax Law has broader disclosure requirements in certain instances.** The bill requires the BOE to notify only the *Legislature* of the veterans' names that receive repayments under the bill and the associated repayment amounts. The law currently has provisions that require the BOE's *public* disclosure of taxpayers' names and amounts. For example, for tax dispute settlements,⁷ the law requires the BOE to make a public record of the taxpayers' names and liability reduction amounts, if the reduction exceeds \$500. For approved refunds over \$50,000 and denied refund claims over \$100,000,⁸ the BOE publicly discloses refund claimants' names and the associated refunded or denied amounts.

⁷ RTC §7093.5 of the Sales and Use Tax Law.

⁸ 18 Cal. Code Regs. §5237, Board Approval Required for Refunds over \$100,000.

Assembly Bill 1324 (Skinner) Chapter 795
Transaction and Use Tax: City of El Cerrito

Effective January 1, 2015. Adds and repeals Chapter 3.8 (commencing with Section 7293) to Part 1.7 of Division 2 of the Revenue and Taxation Code.

BILL SUMMARY

This bill authorizes the City of El Cerrito to impose a general purpose transactions and use tax (district tax) that, in combination with all district taxes imposed, may exceed the existing 2% rate limitation.

Sponsor: City of El Cerrito

LAW PRIOR TO AMENDMENT

The BOE administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law. By law, cities and counties contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**⁹ authorizes cities and counties to impose local sales and use tax. This tax rate is fixed at 1% of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Of this 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes, but restricted to road maintenance or the operation of transit systems. The counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. In California, all cities and counties impose Bradley-Burns local taxes at the uniform rate of 1%.

The **Transactions and Use Tax Law**¹⁰ and the statutes imposing additional local taxes¹¹ authorize cities and counties to impose district taxes under specified conditions. Counties may impose district taxes for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose district taxes for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. Under these laws, the combined district tax rate imposed within any local jurisdiction cannot exceed 2%¹² (with the exception of the counties of Alameda, Contra Costa, and Los Angeles¹³).

⁹ Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code (RTC).

¹⁰ Part 1.6 (commencing with Section 7251) of Division 2 of the RTC.

¹¹ Part 1.7 (commencing with Section 7280) of Division 2 of the RTC.

¹² RTC §7251.1.

¹³ Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

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In addition, Section 7291,¹⁴ extends Alameda County's authority, and grants Contra Costa County the authority, to impose a district tax for countywide transportation programs at a capped rate of 0.50%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- (1) the county adopts an ordinance proposing the district tax by any applicable voting requirements;
- (2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
- (3) the district tax conforms to the Transactions and Use Tax Law.

If the ordinance is not approved by the electorate by December 31, 2020, Section 7291 will be repealed as of that same date.

AMENDMENT

This bill authorizes the City of El Cerrito to impose a general-purpose district tax at a rate capped at 0.5% that, in combination with all district taxes imposed, would exceed the 2% limitation established in Section 7251.1, if all of the following requirements are met:

- The city adopts an ordinance proposing a district tax by any applicable voting approval requirement.
- The city ordinance proposing the district tax is submitted to the electorate of the adopting city, as applicable, and is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution. The election on the ordinance proposing the district tax may occur on or after November 4, 2014.
- The district tax conforms to the Transactions and Use Tax Law, Part 1.6, other than Section 7251.1. The bill also specifies that the tax rate authorized by this bill shall not be included in the calculation of the 2% rate limitation established in Section 7251.1.
- The district tax is imposed on or after January 1, 2015.
- Notwithstanding the above-mentioned requirement, the ordinance proposing the district tax shall become operative as provided in RTC Section 7265, which provides that a district tax ordinance shall be operative on the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance.

This bill takes effect on January 1, 2015. If the proposed district tax ordinance is not approved by the electorate by January 1, 2022, the bill's provisions will be repealed as of that same date.

District Taxes Currently Administered by the BOE

As of April 1, 2014, 178 local jurisdictions (city, county, and special purpose entity) impose a district tax for general or specific purposes. Of the 178 jurisdictions,¹⁵ 44 are county-imposed taxes and 134 are city-imposed taxes.

¹⁴ AB 210 (Ch. 194, Stats. 2013, Wieckowski).

¹⁵ Currently, all district taxes are levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties, and the Sonoma-Marín Rail Transit District). For purposes of calculating the 178 jurisdictions, the Bay Area Rapid Transit District and the Sonoma-Marín Rail Transit District are counted as one jurisdiction, even though each jurisdiction is comprised of three counties and two counties, respectively.

District taxes increase the tax rate within a city or county because the district tax rate is added to the combined state and local (Bradley-Burns local tax) tax rate of 7.5%. As stated above, subject to certain exceptions the maximum combined rate of all district taxes imposed in any county is capped at 2%. The city district taxes count against the 2% maximum. Accordingly, if a city imposes a 0.5% district tax, the county in which it is located can impose district taxes capped at a combined rate of 1.5%.

Currently, the district tax rates vary from 0.10%¹⁶ to 1%. The combined state, local, and district tax rates range from 7.5% to 10%, ranging from jurisdictions with no district taxes to the cities of La Mirada, Pico Rivera, and South Gate located in Los Angeles County which are subject to the specific exception discussed above. A listing of the district taxes, rates, and effective dates is available on the BOE's website: www.boe.ca.gov/sutax/pdf/districtatelist.pdf.

COMMENTS

- 1. Purpose.** The City of El Cerrito is sponsoring this bill in an effort to provide additional funding for essential services, such as police, fire, and other city services. The City of El Cerrito levies two district taxes each at a rate of 0.5% for general purpose and for street improvements, respectively. Two countywide district taxes are levied within Contra Costa County, each at a rate of 0.5%. Thus, the total combined rate in the City of El Cerrito in Contra Costa County is 2%.
- 2. Amendments.** The **August 7, 2014 amendments** removed the language which would have also authorized Contra Costa County to exceed the 2% rate limitation. **The June 30, 2014 amendments** corrected a cross reference to Section 7294 to reflect the changes made to Section 7293. Specifically, the cross-reference to subdivision (b) was changed to subdivision (a)(2). **The June 11, 2014 amendments** specified that the tax rate authorized by this bill shall not be considered for purposes of calculating the 2% rate limitation in current law.
- 3. The counties of Alameda, Contra Costa, and Los Angeles successfully sought an exception to the 2% limitation.** The City of El Cerrito is the first city to request such authorization.
- 4. Related legislation.** [AB 2119](#) (Ch. 148, Stats. 2014, Stone) authorizes an unincorporated area of a county to levy, increase, or extend a transactions and use tax within its boundaries if approved by the required number of voters voting within those boundaries.

¹⁶ SB 1187 (Ch. 285, Stats. 2001, Costa) specifically authorizes Fresno County to impose a 0.10% district tax for zoological purposes.

Assembly Bill 1839 (Gatto) Chapter 413
Motion Picture Tax Credit

Tax levy; effective September 18, 2014. Among its provisions, repeals and amends Section 6902.5 of the Revenue and Taxation Code.

BILL SUMMARY

This bill extends, expands, and makes technical changes to the qualified motion picture tax credit allocated by the California Film Commission (CFC) and administered by the Franchise Tax Board (FTB). It makes conforming changes to the Sales and Use Tax Law that allows a credit against qualified state sales and use taxes, as specified.

Sponsor: Assemblymember Gatto

LAW PRIOR TO AMENDMENT

Existing law¹⁷ allows a credit to a “qualified taxpayer” against the personal income tax or the corporation franchise tax in an amount equal to:

- 20% of the “qualified expenditures” attributable to a California-produced qualified motion picture, or
- 25% of the qualified expenditures attributable to a television series production that relocated to California, or an independent film, as defined.

The law requires the CFC to determine and designate who is a qualified taxpayer and to establish criteria for allocating the credits.

A “qualified expenditure” means an amount paid or incurred to purchase or lease tangible personal property used within this state in a qualified motion picture production and payments, including “qualified wages,” for services performed within this state in a qualified motion picture production.

“Qualified wages” means all of the following:

- Any wages required to be reported¹⁸ that were paid or incurred by any taxpayer involved in the qualified motion picture production.
- The portion of any fringe benefits paid or incurred by any taxpayer involved in a qualified motion picture production.
- Any payments made to a qualified entity for services performed in this state by a qualified individual who performs services during the production period related to the qualified motion picture production.
- Remuneration paid to an independent contractor who is a qualified individual for services performed within this state by that qualified individual.

“Qualified motion picture,” means, among other things and subject to certain conditions, a feature with a minimum \$1 million budget and a maximum \$75 million budget. The law excludes productions, such as commercials, music videos, news programs, talk shows, game shows, awards shows, and private noncommercial productions (e.g., weddings or graduations).

¹⁷ RTC §§17053.85 and 23685.

¹⁸ Pursuant to Unemployment Insurance Code Section 13050.

Existing law¹⁹ allows qualified taxpayers, or affiliates to whom the qualified taxpayers assigned credit amounts, to either claim a refund of qualified sales and use tax paid, or a credit against qualified sales or use taxes imposed on the qualified taxpayer or affiliate that is equal to the credit amount that would otherwise be allowed under these credit provisions. This credit or refund is in lieu of claiming the franchise or income tax credit.

“Qualified sales and use taxes” means any state sales and use taxes imposed by Part 1 (commencing with Section 6001) of the Sales and Use Tax Law, but excludes taxes imposed by Section 6051.2 and 6201.2 (Local Revenue Fund), 6051.5 and 6201.5 (Fiscal Recovery Fund), Part 1.5 (Bradley-Burns Uniform Local Sales and Use Tax Law), Part 1.6 (Transactions and Use Tax Law), or Section 35 of Article XIII of the California Constitution (Local Public Safety Fund).

AMENDMENT

This bill extends for five years the requirement that the CFC annually allocate tax credits to qualified taxpayers, as specified, continuing through July 1, 2019. In addition, this bill, among other things, does the following:

- Removes the \$75 million cap on the budget for a qualified motion picture and instead places a cap on the credit amounts a qualified motion picture is eligible to receive, as specified.
- For television, extends the credit to include all television series, as defined, regardless of broadcast media (currently, the credit applies only to television series broadcast through cable-TV).
- Provides a new incentive for productions located outside of the Los Angeles zone, as specified.
- Authorizes a 20% credit of the qualified expenditures attributable to a California-produced qualified motion picture for, including, but not limited to:
 - a) A feature, up to \$100 million, or;
 - b) A television series in its second or subsequent years of receiving a tax credit allocation under these provisions.
- Authorizes a 25% credit of the qualified expenditures attributable to the production of either:
 - a) A television series that relocated to California in its first year of receiving a tax credit allocation; or,
 - b) An independent film, up to \$10 million.
- Defines a "qualified motion picture" to mean a motion picture that is produced for general public distribution, regardless of medium, that is one of the following:
 - a) A feature with a \$1 million minimum production budget.
 - b) A movie of the week or miniseries with a minimum \$500,000 production budget.

¹⁹ RTC §6902.5.

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- c) A new California-produced one-hour television series of episodes with running time longer than 40 minutes each, excluding commercials, with a \$1 million per episode minimum production budget.
 - d) An independent film.
 - e) A television series that relocated to California, as defined.
 - f) A pilot for a new California-produced television series that is longer than 40 minutes of running time, excluding commercials, with a \$1 million minimum production budget.
- Requires the CFC to increase the applicable percentage by 5%, not to exceed 25%, if the qualified motion picture incurred or paid the qualified expenditures relating to original photography outside the Los Angeles zone.
 - Restructures and increases the allocation from 20% to 25% of the qualified expenditures relating to music scoring and music editing attributable to the qualified California motion picture production.
 - Requires the CFC to set aside no more than \$10 million of tax credits each fiscal year for independent films, as specified.
 - By July 1, 2019, requires the LAO to provide to the Legislature a report evaluating the economic effects and administration of the tax credit and authorizes the LAO to request and receive specified information from the BOE, the FTB, and the CFC.

As a tax levy, the bill became effective September 18, 2014, but allows the CFC to allocate the tax credits beginning July 1, 2015.

Background

In 2009, Governor Schwarzenegger signed into law²⁰ the California Film and Television Tax Credit Program as part of the 2009 Budget plan to promote film production and create and retain jobs in California. To date, the BOE has received and approved several claims for refund, but from only one qualified taxpayer.

COMMENTS

1. **Purpose.** The author is sponsoring this bill to create a more robust and better targeted incentive program that will help keep more feature and television production in the state, and guarantee thousands of well-paid, highly-skilled jobs in our local economies.
2. **Amendments.** The **August 22, 2014 amendments** (1) authorized an additional \$100 million in allocations under the current tax credit program, but reduced the new program's authorization by an equal amount in fiscal year 2015-16; (2) replaced the bill's adjustable credit percentages with a fixed percentage of 20% or 25%; (3) made specific that the CFC increase the credit percentage to 25% for qualified expenditures relating to original photography outside the Los Angeles zone during the credit certification process; (4) specified when CFC must revoke the credit and establish other criteria for authorizing the tax credits; (5) added double jointing language to AB 2754; and (6) made technical and conforming changes. **The July 2, 2014 amendments** required (1) the CFC to provide specified information to California cities and counties, and (2) the Legislative Analyst's Office (LAO) to provide to the

²⁰ SBx3 15, Ch. 17, Stats. 2009 and ABx3 15, Ch. 10, Stats. 2009.

Legislature a report evaluating the economic effects and administration of the tax credit. These amendments also authorized the LAO to request and receive specified information from the BOE, the FTB, and the CFC pertaining to the credit. **The June 17, 2014 amendments** were not applicable to the BOE. Among other things, the bill changed CFC allocation provisions related to television series that relocate to California.

3. **Bill does not significantly impact the BOE's administrative functions.** The BOE relies on FTB data to review and approve appropriate refund amounts.

Assembly Bill 2031 (Dahle) Chapter 810
Lumber Products Assessment: Retailer Threshold

Effective January 1, 2015. Amends Section 4629.5 of the Public Resources Code.

BILL SUMMARY

This BOE-sponsored bill establishes a threshold of annual sales of \$25,000 in qualifying lumber products, under which a retailer is not required to collect and report the lumber products assessment (LPA).

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Beginning on January 1, 2013, the Legislature enacted Assembly Bill 1492,²¹ imposing a 1% assessment on a person who purchases lumber products and engineered wood products to be collected by the retailer at the time of sale.

Currently, the statute does not provide any type of exclusion for otherwise qualified businesses that have few to no sales of wood products subject to the LPA. These businesses must file zero or small dollar returns.

Beginning October 23, 2012, the BOE adopted emergency regulations to determine the retailer reimbursement amount.²² After additional revisions and consideration, the BOE adopted Regulation 2001 on September 10, 2013. Regulation 2001 allows a retailer required to collect the LPA to retain \$485 per location, in addition to the \$250 allowed by Regulation 2000, as reimbursement for startup costs. The total authorized retailer reimbursement amount is \$735. Regulation 2001 was effective January 1, 2014.²³

AMENDMENT

This bill amends PRC Section 4629.5 to define a “retailer” as one who has sales of qualified lumber products and engineered wood products of \$25,000 or more during the previous calendar year. This bill also requires retailers that are not required to collect the LPA, to notify purchasers of their responsibility to report the LPA to the BOE.

Background

All retailers that may make sales of lumber products or engineered wood products are required to register with the BOE and report the LPA on those sales, regardless of the amount of sales. During calendar year 2013, approximately 29,600 businesses accounts, with approximately 39,600 retail locations were registered to collect the LPA. To date, the BOE closed the accounts of over 33,000 retail locations because they were filing zero returns and/or were not making sales of wood products subject to the LPA.

²¹ Article 9.5 (commencing with Section 4629) Chapter 8 of Part 2 of Division 4 of the Public Resources Code (PRC) [Assembly Bill 1492, Chapter 289, Statutes 2012].

²² Regulation 2000 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

²³ Regulation 2001 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

Of the remaining registered accounts, approximately 995 retail locations reported LPA sales of less than \$25,000 for calendar year 2013.

COMMENTS

1. **Purpose.** The BOE is sponsoring this bill to ease the burden for qualifying, small sellers of wood products by eliminating the expense of collecting and reporting the LPA.
2. **Amendments.** The **August 14, 2014 amendments** incorporated amendments to PRC 4629.5 by SB 861 (Ch. 35, Stats. 2014). SB 861, in part, codified the amount of retailer reimbursement as determined and adopted by the BOE in California Code of Regulations 2000 and 2001. **The May 6, 2014 amendments** (1) increased the small seller threshold from \$5,000 to \$25,000 in annual sales of qualified wood products and (2) required sellers of qualified wood products to notify purchasers of their responsibility to report the LPA directly to the BOE. **The April 21, 2014 amendments** (1) removed the bad debt deduction provisions from the bill and (2) reduced the small seller threshold from \$25,000 to \$5,000 in annual sales of qualified wood products
3. **Product Tracking.** If the small seller threshold provision is enacted, retailers must still continue to track their sales of qualifying wood products and engineered wood products to determine if they fall under the threshold.
4. **Zero Returns.** The BOE deregistered accounts that reported zero sales of lumber products subject to the LPA during calendar year 2013.

Assembly Bill 2119 (Stone) Chapter 148
Transactions and Use Tax: Unincorporated County

Effective January 1, 2015. Amends Sections 7285 and 7285.5 of the Revenue and Taxation Code.

BILL SUMMARY

This bill authorizes an unincorporated area of a county to levy, increase, or extend a transactions and use tax within its boundaries if approved by the required number of voters within those boundaries.

Sponsor: Assemblymember Stone

LAW PRIOR TO AMENDMENT

The BOE administers locally-imposed sales and use taxes under the Bradley-Burns Uniform Local Sales and Use Tax Law and under the Transactions and Use Tax Law, which are provided in separate parts of the Revenue and Taxation Code. By law, cities and counties contract with the BOE to administer the ordinances imposing the local and district taxes.

The **Bradley-Burns Uniform Local Sales and Use Tax Law**²⁴ authorizes cities and counties to impose local sales and use tax. This tax rate is fixed at 1% of the sales price of tangible personal property sold at retail in the local jurisdiction, or purchased outside the jurisdiction for use within the jurisdiction. Of this 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes, but restricted to road maintenance or the operation of transit systems. The counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. In California, all cities and counties impose Bradley-Burns local taxes at the uniform rate of 1%.

The **Transactions and Use Tax Law**²⁵ and the statutes imposing additional local taxes²⁶ authorize cities and counties to impose transactions and use (district) taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. Under these laws, the combined district tax rate imposed within any local jurisdiction is capped at 2%²⁷ (with the exception of the counties of Alameda, Contra Costa, and Los Angeles²⁸).

²⁴ Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code (RTC).

²⁵ Part 1.6 (commencing with Section 7251) of Division 2 of the RTC.

²⁶ Part 1.7 (commencing with Section 7280) of Division 2 of the RTC.

²⁷ RTC §7251.1.

²⁸ Exceptions authorized through AB 210 (Ch. 194, 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Chapter 785, 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

Counties can also establish a transportation authority to impose district taxes under the Public Utilities Code (PUC). Various statutes under the PUC authorize a county board of supervisors to create an authority within the county or designate a transportation-planning agency to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law, including the requirement to contract with the BOE to perform all functions related to the administration and operation of the ordinance.

Currently, all district tax ordinances administered by the BOE have boundaries coterminous with city or county lines.

AMENDMENT

This bill authorizes a county board of supervisors to levy, increase, or extend a district tax within the unincorporated area of the county for general or special purposes, if the ordinance proposing that tax is approved by the required percentage of voters within the unincorporated area of the county. The tax revenues must be used for general or special purposes, as applicable, solely within the unincorporated area of the county that approved the tax.

This bill takes effect on January 1, 2015.

In General – District Taxes

California voters have approved new district taxes in their cities or counties. These district taxes are levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties, and the Sonoma-Marín Area Rail Transit District). Cities and counties that levy a tax within their borders are referred to as “districts.”

District transactions (sales) taxes are imposed on the sale of tangible personal property in a district. If a retailer is located in a district, his or her sales are generally subject to district sales tax, either when the purchaser receives the property at the retailer’s place of business or when the retailer delivers the property to the purchaser in the district. Retailers located within a district selling and delivering outside the district, generally are not liable for district sales tax in their district; however, they may be required to collect district use tax in the district of delivery (if applicable) on the transaction.

District use tax is imposed on the storage, use, or other consumption of tangible personal property in a district. Retailers generally must report district use tax if they are “engaged in business” within a district. The most common scenarios when retailers are considered “engaged in business” in a district are when:

- The retailer maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any type of office, sales room, warehouse, or other place of business in the district.
- The retailer has any kind of representative operating in the district for the purposes of making sales or deliveries, installing or assembling tangible personal property, or taking orders.
- The retailer receives rentals from a lease of tangible personal property located in the district.

- The retailer is a retailer of vehicles or undocumented vessels which will be registered, or aircraft which will be licensed, in a district.

A retailer “engaged in business” in a district generally is required to collect and report district use tax on a sale when it ships or delivers the property into the district or participates in making the sale of the property within the district. The following example illustrates when retailers should collect and report district use tax:

A retailer in Sacramento County makes a taxable sale of property that it delivers to the purchaser in the City of Concord in Contra Costa County, who will use the property there. Even though the sale is subject to the state sales tax, the sale is not subject to the Sacramento County district sales tax because the property was required to be delivered pursuant to the contract of sale outside the county. However, use of the property in Concord makes the sale subject to the applicable district use tax in Concord and Contra Costa County. If the retailer is “engaged in business” in Concord and ships or delivers the property to the Concord location, he or she is responsible for collecting and reporting district use taxes applicable in the City of Concord and in Contra Costa County. Conversely, if the retailer is not engaged in business anywhere in Contra Costa County, the retailer is not responsible for collecting any district use tax.

District Taxes Currently Administered by the BOE

Beginning April 1, 2014, 178 local jurisdictions (city, county, and special purpose entity) impose a district tax for general or specific purposes. Of the 178 jurisdictions, 44 are county-imposed taxes and 134 are city-imposed taxes. Of the 44 county-imposed taxes, 30 are imposed for transportation purposes.

District taxes increase the tax rate within a city or county because the district tax rate is added to the combined state and local (Bradley-Burns local tax) tax rate of 7.5%. As stated above, subject to certain exceptions the maximum combined rate of all district taxes imposed in any county is capped at 2%. The city district taxes count against the 2% maximum. Accordingly, if a city imposes a 0.5% district tax, the county in which it is located can impose district taxes capped at a combined rate of 1.5%.

Currently, district tax rates vary from 0.1%²⁹ to 1%. The combined state, local, and district tax rates range from 7.5% to 10%, ranging from jurisdictions with no district taxes to the cities of La Mirada, Pico Rivera, and South Gate located in Los Angeles County which are subject to the specific exception discussed above. A listing of the district taxes, rates, and effective dates is available on the BOE’s [website](#).

COMMENTS

- 1. Purpose.** According to the author’s office, cities have the ability to place on the ballot a district tax measure for a vote exclusively by city residents who will be affected by the measure. However, when counties place a measure on the ballot, residents within the incorporated areas (cities) as well as the unincorporated area of the county must vote on the measure.

The author further states that many counties have half or more of their county in unincorporated areas, making those counties responsible for a large amount of

²⁹ SB 1187 (Chapter 285, Stats. 2001, Costa) specifically authorizes Fresno County to impose a 0.10% district tax for zoological purposes.

infrastructure. Subject to approval exclusively by the voters in the unincorporated area of the county, the revenues derived from the tax would be spent on infrastructure projects solely in the unincorporated area of the county that approved the tax.

2. **The May 14, 2014 amendments** made BOE-suggested changes to clarify that a county-wide tax or an unincorporated area-only tax would be voted on only by the respective jurisdiction. V. Manuel Perez was also added as a coauthor.
3. **Effect of bill.** This bill allows a county board of supervisors to levy a district tax exclusively within the unincorporated area of the county and to be used solely for purposes within the unincorporated area, if the tax is approved by the required percentage of voters within the same unincorporated area. Current law authorizes a county to impose a district tax for general or specific purposes within the entire county, which includes the incorporated and unincorporated areas. Current law does **not** authorize a county to levy a district tax that is limited to the unincorporated area of the county.
4. **Retailers may struggle to determine the proper tax rate.** It is not always possible to determine the correct tax rate based solely on a mailing address or zip code. Zip codes are not necessarily assigned to areas that are contiguous with city or county borders. Additionally, a customer may reside in an area with a city name and zip code with a particular tax rate, but their mail may be routed to a post office in a neighboring area that has a different tax rate. As a result, a retailer could apply an incorrect tax rate.

Using Sacramento County as an example, the applicable district tax for the unincorporated area of Sacramento is 8%, which reflects the 7.5% statewide base rate, plus the 0.5% district tax for the entire county. However, if the retailer's customer lives in the City of Sacramento located in Sacramento County, the applicable tax rate is 8.5%. The 8.5% tax rate includes the 7.5% statewide base rate, plus the 0.5% district tax for the entire county, plus another 0.5% City of Sacramento district tax.

The following table illustrates the applicable tax rate for a retailer's customer whose residence or place of business is located in either the incorporated area (city) or unincorporated area of the county:

Customer's residence or business located in the City of Sacramento	
Statewide base rate	7.50%
City of Sacramento District Tax (General)	0.50%
Sacramento County Transportation Authority	0.50%
Total state, local and district tax rate	8.50%
Customer's residence or business located in unincorporated area of Sacramento County	
Statewide base rate	7.50%
Sacramento County Transportation Authority	0.50%
Total state, local and district tax rate	8.00%

If voters of the unincorporated area of Sacramento County approved an ordinance to impose a district tax within the unincorporated area of the county under the authority of this bill, the total applicable tax rate would also be 8.5% but allocated thus:

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Customer's residence or business located in unincorporated area of Sacramento County	
Statewide base rate	7.50%
Sacramento County unincorporated area district tax	0.50%
Sacramento County Transportation Authority	0.50%
Total state, local and district tax rate	8.50%

The retailer would be required to separately state and report these different 0.5% taxes (city or unincorporated county) on their sales and use tax returns.

Retailers currently have difficulty determining whether they are located in a city or in the unincorporated county, but the proposed law may cause these issues to arise more frequently.

5. **BOE offers tools to help retailers identify the correct tax rate.** The BOE website provides a sales and use [tax rate locator](#) that allows any person to determine tax rates based on address.

In addition, some cities offer an online address database within their jurisdiction. The BOE's website provides links to those databases to help identify specific addresses located within a city's [taxing boundaries](#).

Assembly Bill 2681 (Dababneh) Chapter 477

Sales of Counterfeit Goods

Tax levy; effective September 19, 2014. Amends Section 6007 of, and adds Section 6009.2 to, the Revenue and Taxation Code.

BILL SUMMARY

This bill specifies that any sale, storage, or use of counterfeit goods in this state constitutes a “retail sale” or “sale at retail,” under specified conditions.

Sponsor: Board of Equalization

LAW PRIOR TO AMENDMENT

Counterfeiting. California law³⁰ makes it a crime, punishable by fines and imprisonment, for any person to willfully manufacture, intentionally sell, or knowingly possess for sale any counterfeit of a mark registered with the Secretary of State or the Principal Register of the United States Patent and Trademark Office.

Federal law³¹ also makes it a crime, punishable by fines and imprisonment, for any person to willfully infringe a copyright, or to intentionally:

- Traffic in goods or services and knowingly use a counterfeit mark on or in connection with such goods or services,
- Traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,
- Traffic in goods or services knowing that such good or service is a counterfeit military good or service the use, malfunction, or failure of which is likely to cause serious bodily injury or death, the disclosure of classified information, impairment of combat operations, or other significant harm to a combat operation, a member of the Armed Forces, or to national security, or
- Traffic in a counterfeit drug.³²

Federal law defines “counterfeit mark” to mean a spurious mark, the use of which is likely to cause confusion, to cause mistake, or to deceive. Among other things, a “counterfeit mark” also includes a spurious mark that is

- Used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

³⁰ Penal Code §350.

³¹ Title 17 of the United States Code, Section 501 et seq., Title 18 of the United States Code, Section 2320.

³² Title 18 of the United States Code, Section 2320.

- Identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office (USPTO) and in use, whether or not the defendant knew such mark was so registered; and
- Applied to or used in connection with the goods or services for which the mark is registered with the USPTO, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the USPTO.

Sales and Use Tax Law. California law³³ imposes the sales tax on the “retail sale” or “sale at retail” (hereinafter referred to as “retail sale”) of tangible personal property in this state. California law also imposes the use tax³⁴ on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The sales or use tax is computed on the retailer’s gross receipts or the sales price, respectively, unless the law provides a specific exemption or exclusion.

The law³⁵ defines a “retail sale” as a sale for any purpose other than resale in the regular course of business. With respect to illegal sales of goods in California, the law imposes a sales or use tax on the retail sales and purchases of those goods in the same manner as legitimate sales.

Under existing law, tangible personal property sold to persons who resell the property prior to any use of that property is not subject to sales or use tax. For example, sales or use tax does not apply to a toy manufacturer’s sale of toys to a wholesaler who resells the toys before making a taxable use of the toys.

In addition, tax does not apply to tangible personal property sold to persons who purchase the property to incorporate into a manufactured item to be sold.³⁶ For example, tax does not apply to a supplier’s sale of fabric, plastic, and buttons to a doll manufacturer who incorporates these items into the manufactured doll to be resold. Also, tax does not apply to tangible personal property sold to retailers or other sellers who resell the property before they make a taxable use of the property. For example, tax does not apply when a toy manufacturer sells its finished products (toys) to a retail toy store for subsequent resale. Tax applies, however, when the retail toy store sells the toy to the consumer. The law regards that sale as a “retail sale.” The retailer is liable for the tax on the gross receipts or sales price of the toy sold to the consumer.

AMENDMENT

This bill revises the definition of “retail sale,” “sale at retail,” “use,” and “storage,” to include any sale or purchase in this state of tangible personal property by a “convicted seller” or a “convicted purchaser” with a counterfeit mark on, or in connection with, that sale, regardless of whether these sales are for resale in the regular course of business, subject to the following conditions:

- A notice of determination for any unreported tax on these sales or purchases to a convicted seller or convicted purchaser must be mailed within one year from the

³³ RTC §6007 of the Sales and Use Tax Law.

³⁴ RTC §6201, et seq. of the Sales and Use Tax Law.

³⁵ RTC §6007 of the Sales and Use Tax Law.

³⁶ BOE Regulation 1525(b).

last day of the month following the conviction date.

- Any fine imposed or restitution awarded under specified state and federal criminal provisions must be satisfied prior to the collection of tax from convicted sellers or convicted purchasers
- The unfair trade practice provisions³⁷ in law do not apply to any person other than a convicted seller once the state imposes tax under the proposed law.

The bill defines “convicted seller,” “convicted purchaser,” and “counterfeit mark.”

As a tax levy, the bill became operative on September 19, 2014.

COMMENTS

1. **Purpose.** The BOE voted unanimously to sponsor this bill and believes that California should impose a sales or use tax on *all* California sales and purchases of counterfeit goods when either the seller or purchaser is convicted of specified related crimes. Counterfeit good sales unfairly compete with the original brand, tarnish the reputation of the original brand, and cause a revenue loss. Moreover some counterfeit products potentially cause sickness or injury, such as counterfeit drugs or auto parts.

The Members of the BOE note that the bill allows the agency to impose tax on the source of the counterfeit products in California, whether it’s at the manufacturing, wholesale, or distributor level. The additional tax serves to minimize profits, and helps prevent the illegal products from entering the retail stream.

2. **What these new definitions accomplish.** When a counterfeit goods seller or purchaser is convicted under state or federal law, this bill specifies that the sales or use tax will apply to *any* sale and purchase of these items in this state, regardless of whether that sale is by the manufacturer, wholesaler, distributor, or retailer. With respect to these illegal sales, the bill does not allow for untaxed sales for resale under any circumstances. Also, this bill does not allow manufacturers, wholesalers, distributors, or retailers to claim a credit for the tax paid on their purchases of these illegal products or illegal components of the products.
3. **Offenders should not be rewarded with a tax exclusion.** The removal of the sale for resale exclusion is appropriate, considering these sales are illegal and can do significant harm to the public. It also enhances deterrence of this criminal activity.

³⁷ Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of, and Article 1 (commencing with Section 17500) of Chapter 1 of Part 3 of Division 7 of, the Business and Professions Code, and Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code.

Assembly Bill 2758 (Committee on Revenue and Taxation) Chapter 541
Use Tax Reported on State Income Tax Return: Payment Priority

Effective January 1, 2015. Amends Sections 6452.1 and 18510 of the Revenue and Taxation Code.

BILL SUMMARY

This bill specifies that an amount equal to the qualified use tax a person reported on an acceptable tax return filed with the Franchise Tax Board (FTB) shall be applied to that person's use tax liability.

Sponsor: Committee on Revenue and Taxation

LAW PRIOR TO AMENDMENT

Existing California law³⁸ imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed at the same rate as the sales tax. Purchasers are liable for the use tax. They must pay the tax to the state unless they have a receipt proving that they paid the tax to a retailer registered to collect the California use tax. Retailers engaged in business in California and/or registered to collect the California use tax must collect the use tax from the purchaser at the time of purchase and remit the tax to the state.

When a California consumer or business purchases tangible items for their own use from an out-of-state retailer that is not registered with the Board of Equalization (BOE) to collect the California use tax, the purchaser must remit the use tax to the BOE. As an alternative to reporting the use tax directly to the BOE, existing law allows purchasers that aren't otherwise required to register with the BOE to report their use tax liability on their state personal income tax returns or their state corporation franchise or income tax returns filed with the FTB.

Under these provisions, the law³⁹ requires the FTB to apply use tax payments remitted with the FTB-filed return in a certain order. Specifically, FTB must apply the use tax payments first to any Personal Income Tax Corporations Tax due, including any applicable penalties and interest, and then to the person's reported use tax liability.

AMENDMENT

This bill specifies that an amount equal to the qualified use tax a person reported on an acceptable tax return filed with the FTB shall be applied to that person's use tax liability.

The bill becomes effective on January 1, 2015, and applies to returns filed for taxable years beginning on or after January 1, 2015.

COMMENTS

1. **Purpose.** This bill is intended to ensure that conscientious taxpayers, who self-report a use tax liability on their income tax return, are not faced with a late payment penalty

³⁸ Chapter 3 of Part 1 of Division 2 of the Revenue and Taxation Code (RTC), commencing with Section 6201.

³⁹ RTC §§6452.1 (h) and 18510 (b).

because their use tax payments were applied to other tax liabilities.

2. **The August 22, 2014 amendments** made technical changes and delayed the operative date by a year, so that the bill's provisions apply to purchases made on or after January 1, 2015, in taxable years beginning on or after January 1, 2015.
3. **Bill reduces taxpayer confusion and creates efficiencies.** The provision that specifies that use tax payments included with the FTB returns shall be applied first to FTB taxes, interest, and penalty was included in the original legislation that allowed for reporting of use tax on the FTB returns.⁴⁰ However, this payment order has resulted in considerable confusion in situations where a taxpayer fails to remit the proper amount when filing his or her return with the FTB.

On occasion, taxpayers make underreporting errors while preparing their income tax returns, or they file late and incur penalty and interest charges. This results in an FTB-related return payment shortage. When a shortage occurs, the law requires FTB to apply the amount paid with the return (even the amount the taxpayer designated as use tax) first to amounts owed to the FTB. When this occurs, the FTB notifies the BOE so that the BOE can send a tax shortage notice to the taxpayer, explain the issue, and request payment of the use tax and penalty. In these situations, the taxpayer usually also receives a billing from FTB, as generally, there is further outstanding liability due the FTB arising from the return filed. As a result, the taxpayer often ends up with two shortage notices - one from each tax agency. Taxpayers are frequently frustrated as to why they receive a BOE tax shortage notice for the use tax, with an added penalty for late payment, when they believed the use tax was already timely paid to the FTB.

Since the use tax liability is generally much lower than the income tax liability, requiring the payment allocation to the use tax liability first makes more sense. It minimizes the BOE's workload associated with the necessary additional correspondence and billing for the use tax and penalty, and also eliminates the confusion this law generates for taxpayers.

⁴⁰ SB 1009, Chapter 718, Statutes of 2003.

Senate Bill 861 (Committee on Budget and Fiscal Review) Chapter 35
Lumber Products Assessment: Reimbursement Rate

Effective June 20, 2014. Among its provisions, amends Section 4629.5 of the Public Resources Code.

BILL SUMMARY

Among its provisions, this bill amends the **lumber products assessment** statute to codify the BOE regulation that set the amount of the retailer reimbursement of startup costs.

Sponsor: Committee on Budget and Fiscal Review

LAW PRIOR TO AMENDMENT

Existing law⁴¹ imposes a 1% assessment on purchasers of lumber products or engineered wood products to be collected by a retailer at the time of the sale,. The law allows retailers to retain an amount equal to the amount of reimbursement for any costs associated with the collection of the assessment, as determined by the BOE pursuant to emergency regulations.⁴²

Beginning October 23, 2012, the BOE adopted emergency regulations to determine the retailer reimbursement amount.⁴³ After additional revisions and consideration, the BOE adopted Regulation 2001 on September 10, 2013.⁴⁴ Regulation 2001 allows a retailer required to collect the lumber products assessment to retain \$485 per location, in addition to the \$250 allowed by Regulation 2000, as reimbursement for startup costs. The total authorized retailer reimbursement amount is \$735. Regulation 2001 was effective January 1, 2014.

AMENDMENT

This bill amends PRC Section 4629.5 to authorize a retailer to retain a reimbursement amount pursuant to Sections 2000 and 2001 of Title 18 of the California Code of Regulations, as approved by the BOE at its September 10, 2013 meeting, for startup costs associated with the collection of the assessment.

COMMENT

This bill codifies the amount of retailer reimbursement as determined and adopted by the BOE in Regulations 2000 and 2001.

⁴¹ Article 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code (PRC).

⁴² PRC §4629.5.

⁴³ Regulation 2000 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

⁴⁴ Regulation 2001 of Chapter 4.1 (Lumber Products Assessment), of Division 2 of Title 18 of the California Code of Regulations.

TABLE OF SECTIONS AFFECTED

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§6007	Amend	AB 2681	Ch. 477	Retail sale: counterfeit goods
§6009.2	Add	AB 2681	Ch. 477	Sales of counterfeit goods
§6018.2	Add	AB 919	Ch. 643	Qualified veterans: repayment
§6452.1	Amend	AB 2758	Ch. 541	Use tax payment priority
§6902.5	Repeal Amend	AB 1839	Ch. 413	Motion picture tax credit
§7285	Amend	AB 2119	Ch. 148	Unincorporated counties authority to levy tax: general purpose
§7285.5	Amend	AB 2119	Ch. 148	Unincorporated counties authority to levy tax: specific purpose
Chapter 3.8 (commencing with §7293)	Add Repeal	AB 1324	Ch. 795	Local government finance in the City of El Cerrito
§18510	Amend	AB 2758	Ch. 541	Use tax payment priority
Public Resources Code				
§4629.5	Amend	SB 861	Ch. 35	Lumber products assessment: reimbursement rate
§4629.5	Amend	AB 2031	Ch. 810	Lumber products assessment: retailer threshold