

Amend Revenue and Taxation Code Section 6018.6 to provide that specified garment cleaning establishments shall be regarded as consumers, rather than retailers, of tangible personal property they sell, provided those sales do not exceed one-half of one percent of their total gross receipts for the preceding calendar year.

Source: Honorable Betty Yee

Existing Law

Under California's Sales and Use Tax Law (Part 1, Division 2 of the Revenue and Taxation Code, commencing with Section 6001), except where specifically exempted by statute, sales tax is imposed on all retailers for the privilege of selling tangible personal property at retail in this state.

Under the law, sales of services are generally exempt from the sales or use tax unless, among other reasons, the services relate to the fabrication of tangible personal property. A service relating to the fabrication of tangible personal property would include such activities as alterations to new clothing.

With respect to garment cleaning establishments, Section 6018.6 of the Sales and Use Tax Law contains special provisions relating to their charges for alterations. Unlike other garment-alteration establishments, the law provides that cleaners who provide garment alterations to their customers (whether the alterations are to new or used garments) are providing nontaxable services and, therefore, are the consumers of items furnished or used in altering the garments as long as the alteration activities represent a small percentage, as specified by law, of their business. When meeting this condition, cleaners are generally not required to hold seller's permits under existing law.

Section 6018.6 defines cleaners as those who (1) operate a location or locations as a pickup and delivery point for garment cleaning; or (2) provide spotting and pressing services on the premises but not garment cleaning; or (3) operate a garment cleaning or dyeing plant on the premises.

Cleaners that meet one of the three provisions above must also satisfy both of the following conditions for the exclusion to apply.

- 75 percent or more of the cleaner's total gross receipts must come from their clothes cleaning or dyeing services.
- 20 percent or less of the cleaner's total gross receipts during the prior calendar year came from the alteration of new and used garments.

For purposes of the calculation, total gross receipts include all charges made by cleaners, including the cleaner's charges for cleaning or dyeing customer items, charges for altering garments, charges for altering other personal and household items, charges for creating new items such as wearing apparel, and the cleaner's sales of miscellaneous products (e.g., lint brushes, abandoned clothing, or ties).

This Proposal

This proposal would provide that these garment cleaning establishments shall be regarded as consumers and not retailers of other tangible personal property they sell, provided such sales are less than one half of one percent of their total gross receipts.

This proposal stems from the Board's education outreach efforts wherein staff contacted operators of dry-cleaning establishments to verify that the operators held a California seller's permit when their clothes cleaning and alteration operations were such that a permit was required. In response, representatives from the industry expressed their understanding that dry cleaners are not required to hold seller's permits because they provide services and are consumers of products they use in their clothes cleaning and alteration activities. Consequently, even though a small percentage of these establishments make infrequent sales of inexpensive items, such as lint brushes and collar stays as a matter of convenience to customers with little markup, some of the establishments were unaware of their tax reporting obligations.

Since the cost of maintaining records and filing sales tax returns for these minor sales would be burdensome on these establishments, this proposal would exempt dry cleaners from retailer status when the cleaner's sales of tangible personal property are a minimal amount (less than one half of one percent of their total gross receipts).

Section 6018.6 of the Revenue and Taxation Code is amended to read:

(a) Any person who receives no more than 20 percent of his or her total gross receipts from the alteration of garments during the preceding calendar year or who receives no more than one half of one percent of his or her total gross receipts from the sale of any other tangible personal property during the preceding calendar year is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, property used or furnished by that person in altering new or used clothing or those sales of tangible personal property, provided both of the following apply:

(1) That person operates a location or locations as a pickup and delivery point for garment cleaning, or provides spotting and pressing services on the premises but not garment cleaning, or operates a garment cleaning or dyeing plant on the premises.

(2) Seventy-five percent or more of that person's total gross receipts represent charges for garment cleaning or dyeing services.

(b) Sales tax shall not apply to the charges for alterations or other sales of tangible personal property specified in subdivision (a) when those charges or sales do not exceed the limitations provided therein. However, ~~if that person is a retailer~~ person's sales of any other tangible personal property sold to consumers in the regular course of business exceed one half of one percent or more of his or her total gross receipts during the

preceding calendar year, that person is a retailer of the tangible personal property and sales tax shall apply to the gross receipts from those sales.

(c) For the purpose of this section:

(1) "Cleaning" means wet cleaning and drycleaning.

(2) "Wet cleaning" means the process of cleaning a garment by immersion in water, or by applying manually or by any mechanical device, water, or any detergent and water, or by spraying or brushing the garment with water or water and any detergent, or water vapor, or steam, and includes self-service or coin-operated equipment in whole or in part.

(3) "Drycleaning" means the process of cleaning or renovating wearing apparel, feathers, furs, hats, fabrics, household items, or textiles by immersion and agitation, spraying, vaporization, or immersion only, in a volatile, commercially moisture-free solvent or by the use of a volatile or inflammable product, applied either manually or by means of a mechanical appliance and including self-service or coin-operated equipment in whole or in part.

(4) "Dyeing" means the process of coloring wearing apparel, feathers, furs, hats, fabrics, or textiles by the use of aniline dyes, mordants, or acids, with or without steam, excluding, however, the use of any dye or combination of dyes which is directly soluble or dispersible in water and which does not require chemical alteration of its structure for application, where that dye or combination of dyes is applied to cotton, viscose rayon, or cuprammonium rayon other than wearing apparel.

(5) "Spotting" means the process of removing spots or stains or localized areas of soil from a garment, either before or after, and with or without drycleaning or wet cleaning, by brushing, spraying, or other means of manual or mechanical application, other than immersion, with water, detergents, and volatile or inflammable solvents, chemicals, or any, or all of them.

(6) "Pressing" means the process of restoring the garment to the original shape, dimensions or contour thereof, or to those in which the same was received from the customer, or as directed by the customer, and the removal of wrinkles, stresses, bulges, and impressions, imprint marks and shine, from a garment by the application of pressure, heat, moisture, water vapor or steam, or all of them, whether applied manually, or by any mechanical means.