STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	**04/05/10**	Bill No:	**AB 1777**
Tax:	**Sales and Use**	Author:	**Portantino, et al**
Related Bills:			

BILL SUMMARY

This bill would require a transfer of 20 percent of the state's General Fund sales and use tax revenues at the 4.75 percent rate derived from taxpayers engaged in certain lines of business into the Creative Industries and Community Economic Revitalization Fund, as specified.

Summary of Amendments

Since the previous analysis, this bill was amended to add coauthors and legislative findings related to nonprofit art organizations.

ANALYSIS

CURRENT LAW

Existing law imposes a sales or use tax on the sale or purchase of tangible personal property in this state, unless specifically exempted or excluded from tax by statute.

The statewide sales and use tax rate (8.25 percent) imposed on taxable sales and purchases of tangible personal property is made up of the following components, and the proceeds are allocated in the specific funds identified (additional district taxes are levied among various local jurisdictions and are not reflected in this chart):

Rate	Jurisdiction	Purpose/Authority
4.75% 0.25% 1.00%	State (General Fund)	Dedicated for state general purposes Sections 6051, 6201 of the Revenue and Taxation Code (RTC) Sections 6051.3, 6201.3 Sections 6051.7, 6201.7 (expire July 1, 2011)
0.25%	State (Fiscal Recovery Fund)	Dedicated to the repayment of the Economic Recovery Bonds (Sections 6051.5 and 6201.5, operative 7/1/04)
0.50%	State (Local Revenue Fund)	Dedicated to local governments to fund health and welfare programs (Sections 6051.2 and 6201)
0.50%	State (Local Public Safety Fund)	Dedicated to local governments to fund public safety services (Section 35 of Article XIII of the California Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	Dedicated to city and county general operations (Section 7203.1, operative 7/1/04); Dedicated to county transportation purposes
8.25%	Total Statewide Rate	

PROPOSED LAW

This bill would, among other things, add Section 7101.2 to the RTC to require 20 percent of all revenues, less refunds, derived from the taxes imposed pursuant to Sections 6051 (sales tax) and 6201 (use tax) and remitted to the Board by taxpayers identified in the Board's records as engaged in those lines of business described in Codes 11 and 15 of the Board's business classification coding system or Codes 451100, 453920, and 453998 of the North American Industry Classification System (NAICS), provided that the Board has fully implemented use of that system, to be deposited in the State Treasury to be allocated to the Creative Industries and Community Economic Revitalization Fund for use as specified.

The bill would become effective January 1, 2011.

BACKGROUND

This bill is identical to last year's AB 700 (Krekorian, et al.), as amended March 26, 2009. That bill was held in the Assembly Appropriations Committee. During the 2007-08 Legislative Session, both AB 1365 (Karnette) and AB 2728 (Karnette) contained provisions similar to this bill and both bills were also held in the Assembly Appropriations Committee.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the California Arts Advocates to restore full funding for the California Arts Council. The bill is intended to provide a stable source of funding for state grants in the long-term, and would offer much-needed help to arts organizations seeking to retain artists and administrators in order to maintain their programming through the economic crisis.
2. **The April 5, 2010** amendments add coauthors and legislative findings related to the contribution that nonprofit art organizations make to the field of education and the amount of state and local taxes these organizations contribute to California's economy.
3. **Only the state's General Fund sales and use tax revenues at the 4.75 percent rate would be transferred under the provisions of this bill**. Although an additional component of the state's General Fund sales and use tax rate of 1.25 percent applies to taxable sales (which includes the one percent increase beginning April 1, 2009), this bill would only transfer the state sales and use tax revenues derived from the specified establishments at the 4.75 percent rate. If the author intends to include the entire 6 percent state General Fund rate, Sections 6051.3, 6201.3, 6051.7, and 6201.7 would be the appropriate statutes to reference in the bill (in addition to Sections 6051 and 6201 currently referenced).
4. **What are these classification systems referenced in the bill?** The NAICS is the industry classification system of the United States, developed by the Economic Classification Policy Committee on behalf of the Office of Management and Budget. It is currently used by the United States, Canada and Mexico's federal governments, state agencies and private industries to identify a business' principal activity within the retail, wholesale and service categories.

   In early 2007, the Board began the process of converting its former business classification coding system, which used broad based business codes to categorize and identify a taxpayer's primary business activity, to the NAICS classification system. This conversion to the NAICS coding system for active accounts has been implemented. Therefore, based on the references to the specific codes in the bill, revenues from the following establishments would be transferred in accordance with the measure:

451100 – Sporting goods, hobby, and musical instrument stores

453920 – Art dealers

453998 – All other miscellaneous store retailers (except tobacco stores), including art supply stores, candle shops, closet organizer stores, flower shops, janitorial equipment and supply stores, trophy shops, and a variety of other specialized retail stores.

5. **The bill would not be problematic to administer.** The bill would not cause administrative concerns as currently written. However, it should be noted that the first transfer of funds would occur on or around the six month following the effective date of the bill (projected to be January 1, 2011). This is so, because once enacted, the due date of the first quarterly returns and payments would be April 30, and, once the returns are filed and payments are made, the average processing time necessary to review the return, input the data into our computer system, and identify the funds by specific business codes is around 60 days. Thereafter, transfers would occur quarterly.

COST ESTIMATE

Some minor costs would be incurred in accounting for the revenues to be transferred. These costs are expected to be absorbable.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

For purposes of this estimate, the most recent annual sales and use tax revenue data available is from sales and use tax returns filed for the calendar year 2008. Since the Board's conversion to the NAICS system was not in effect at that time, we are unable to provide accurate figures using the NAICS codes referenced in the bill. However, using the Board's old classification system codes for 2008 return data, the taxable sales for codes 11 and 15 were $2.8 billion. Using the General Fund rate of 4.75%, the total revenue to the State's General Fund from estimated 2009 taxable sales for these codes would amount to $111.8 million ($2,769 million x 4.75%= $131.5 million, less an estimated 15% for decline in taxable sales = $111.8 million for the year 2009). In 2010, taxable sales are expected to increase by 2% over 2009 amounts to an estimated $114.0 million in General Fund revenue. This bill would transfer 20% of these General Fund tax receipts to the Creative Industries and Community Economic Revitalization Fund in the amount of $22.8 million ($114.0 million x 20%).

REVENUE SUMMARY

This bill would transfer approximately $22.8 million, which would otherwise be deposited into the State's General Fund, to the Creative industries and Community Economic Revitalization Fund, thus creating a State General Fund revenue loss by that same amount for calendar year 2010.

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