



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	01/27/03	Bill No:	AB 189
Tax:	Sales and Use	Author:	Cogdill
Board Position:		Related Bills:	

BILL SUMMARY

This bill would provide a sales and use tax exemption for sales of meals and food products furnished or served by any nonprofit veteran's organization for purposes of fundraising, as specified.

ANALYSIS

Current Law

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property in this state, unless specifically exempted by law. Existing law provides no statutory exemptions from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax statutes or income tax statutes. However, existing law provides specific exemptions or different tax treatment to certain nonprofit or religious organizations under specified circumstances. For example, under Section 6363.5 of the Sales and Use Tax Law, sales of meals and food products furnished or served by any religious organization at a social or other gathering for fundraising purposes are exempt from sales and use tax.

Current law contains a few exemptions specifically related to veterans and prisoners of war. For example, Section 6359.3 provides that any nonprofit veteran's organization is a consumer with respect to United States flags which it sells where the profits are used solely for furtherance of the purposes of the organization. As a consumer, the organization is only required to pay tax on its purchase price of the flags and their subsequent sales of the flags are exempt from tax. Section 6360 provides similar tax treatment to charitable organizations making sales of bracelets commemorating American prisoners of war. These organizations are also regarded as consumers of those bracelets, and tax only applies to the organization's purchase price of those bracelets. In addition, Section 6360.1 provides a sales and use tax exemption for the sale and purchase of "Buddy Poppies" or similar symbolic lapel pins that memorialize United States military veterans, as specified.

Background

This bill is similar to Senate Bill 1297 (Monteith) introduced during the 2002 Legislative Session. SB 1297 failed passage in the Senate Revenue and Taxation Committee.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

COMMENTS

- 1. Sponsor and purpose.** This bill is sponsored by the author and is intended to exempt the sales of meals and food products by nonprofit veteran's organizations. The author's office notes that some of these entities are not aware of their tax reporting obligations and have been billed for sales tax liabilities by the Board on their sales of meals served at fundraising events.
- 2. These entities would continue to be liable for tax on any charges for alcoholic beverages or carbonated beverages.** It should be noted that any charges for alcoholic beverages and carbonated beverages served by these organizations at the fundraising events or any other event would continue to be subject to sales tax.
- 3. Provisions would not be problematic to administer.** Enactment of this measure would not materially affect the Board's administration of the Sales and Use Tax Law.

COST ESTIMATE

Some minimal costs to notify affected organizations and revise the Board's applicable regulation would be incurred. These costs are expected to be absorbable.

REVENUE ESTIMATE

California has several nonprofit veteran's organizations. The largest of these organizations are the Veterans of Foreign Wars, American Legion, Ladies American Legion Auxiliary, Sons of the American Veterans, and the Vietnam Veterans of American. Together, they have over 234,000 members.

Based on a survey of these organizations, we estimate that 10% of these members were served once every month for breakfast (at an average of \$4), lunch (at an average of \$6) and dinner (at an average of \$10). We estimate the annual gross meal receipts to be \$ 5.6 million. This estimate was calculated as follows:

23,400 per month X \$20 X 12 months = \$ 5.6 million

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Revenue Summary

The annual revenue loss from exempting the \$5.6 million from the sales and use tax would be as follows:

State loss (5%)	\$ 280,000
Local loss (2.25%)	126,000
Special District loss (0.67%)	<u>38,000</u>
Total	<u>\$ 444,000</u>

Analysis prepared by:	Bradley Miller	445-6662	02/19/03
Revenue estimate by:	Dave Hayes	445-0840	
Contact:	Margaret S. Shedd	322-2376	

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