



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	04/04/06	Bill No:	AB 2239
Tax:	Sales and Use	Author:	Emmerson
Related Bills:			

BILL SUMMARY

This bill would require the Department of Motor Vehicles (DMV) to provide information to a person applying for registration of a vehicle purchased outside the state and brought into the state within the first 12 months of the purchase date, that the applicant may not be liable for the tax on the purchase and use of a vehicle pursuant to subdivision (b) of Section 6248 of the Revenue and Taxation Code if there is supporting documentary evidence demonstrating that the applicant did not intend to bring the vehicle into the state at the time of the purchase. The bill would require the DMV to direct the applicant to contact the Board’s office or the Board’s Internet web site for further information.

ANALYSIS

Current Law

Under existing law, Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code, a use tax is imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax and is required to be remitted to the Board, or in the case of a vehicle or vessel, to the Department of Motor Vehicles.

Under existing law, Section 6248 of the Sales and Use Tax Law has a rebuttable presumption regarding vehicles, vessels, or aircraft purchased outside this state. Specifically, this section provides that, for the period October 2, 2004 through July 1, 2006, it shall be rebuttably presumed that a vehicle, vessel, or aircraft bought outside this state and brought into this state during the first 12 months from the date of purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

- (a) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.
- (b) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.
- (c) In the case of a vessel or aircraft, the vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.
- (d) The vehicle, vessel, or aircraft was used or stored in this state more than one-half of the time during the first 12 months of ownership.

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.

Section 6248 further provides that this presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership, that shall include, but not be limited to, evidence of registration of that vehicle, vessel, or aircraft with the proper authority outside of this state. In addition, Section 6248 specifies that the provisions do not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the Board.

And, finally, this section specifies that an aircraft or vessel shall not be deemed to be purchased for use in this state if that aircraft or vessel is brought into this state for the purpose of repair, retrofit, or modification of the aircraft or vessel, provided that no more than 25 hours of airtime or sailing time are logged for that purpose, as specified.

Proposed Law

This bill would amend Section 4150 of the Vehicle Code to require DMV to provide information to a person applying for registration of a vehicle purchased outside the state and brought into the state within the first 12 months of the purchase date, that the applicant may not be liable for the tax on the vehicle pursuant to subdivision (b) of Section 6248 of the Revenue and Taxation Code if there is supporting documentary evidence demonstrating that the applicant did not intend to bring the vehicle into the state at the time of the purchase. The bill would require the DMV to direct the applicant to contact the Board's office or the Board's Internet Web site for further information.

The bill would become effective January 1, 2007.

Background

Section 6248 was added to the Sales and Use Tax Law in 1963 and provided a rebuttable presumption that a vehicle bought outside this state that is brought into California within 90 days from the purchase date was purchased for use in this state, and therefore, subject to California's use tax. In 2004, Section 6248 was amended as it reads today by SB 1100 (Chapter 226). This change to Section 6248 was apparently prompted by a *Sacramento Bee* article concerning a perceived tax loophole with respect to the "90-day" law. The article cited instances in which California purchasers of yachts from California yacht retailers were arranging delivery of the yachts outside the territorial waters of California, leaving them in Mexico for the 90-day period, and bringing them into California and escaping the California sales or use tax. SB 1100 was intended to close this loophole.

In General

Section 6248 creates a rebuttable presumption that the vehicle, vessel or aircraft purchased outside this state is presumed to have been purchased for use in California if it is brought into California within 12 months of the purchase date. However, if, at the time of purchase, the purchaser did not know the vehicle, vessel or aircraft would be used in California, the transaction may not be subject to tax.

For example, a person serving in the U.S. military who receives transfer orders to California right after buying a car may not be required to pay use tax if it can be shown that the date the reassignment occurred was after the vehicle's purchase date. The same applies if a person received a promotion or job offer in California. Documentation must be provided, however, to verify that the purchaser did not know at the time of purchase that the vehicle would enter or be used in California within the first 12 months of ownership.

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If a person believes the use tax is not due on his or her purchase of a vehicle or vessel, the person may request a certificate of tax clearance from the Board so that the registration of the vehicle or vessel may be completed with the DMV without the payment of use tax at that time.

Comments

1. **Sponsor and purpose.** The author is the sponsor of this measure. This bill has been introduced in an attempt to provide a simple means to alert persons that they may not owe California use tax on their out-of-state vehicle purchase when they are applying for registration of that vehicle with DMV.
2. **The April 4, 2006 amendments** incorporate the provisions requiring DMV to provide information to vehicle registration applicants. The earlier version of this measure was a spot bill, making a nonsubstantive change to Section 6248.
3. **There are over a half of a million such applicants.** According to DMV's Registration Operations Division, the number of applicants that applied for registration for their out-of-state purchases of vehicles (including trucks, trailers and motorcycles) amounted to 540,050 for fiscal year 2004/05. We do not have information on the number of these applicants that may have brought the vehicle into the state within 12 months of the purchase date.
4. **The current provisions of Section 6248 will sunset on July 1, 2006.** On that date, the law reverts to the "90-day" rule. Since this bill requires DMV to notify purchasers of the current provisions of Section 6248, the bill also should either extend or eliminate the sunset date of Section 6248.

COST ESTIMATE

Enactment of this bill would likely increase the Board's workload attributable to responding to a significant number of inquiries from vehicle registration applicants and reviewing applications for use tax exemptions. An estimate of these costs is pending.

REVENUE ESTIMATE

This measure would assist in providing a safeguard to prevent taxpayers from paying an amount of tax in excess of what is legally due. In that regard, the State's contemplated revenues should be unaffected.

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