



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

Date Amended:	5/02/01	Bill No:	SB 1004
Tax:	Sales and Use	Author:	Knight
Board Position:		Related Bills:	

BILL SUMMARY

This bill would exempt from the sales and use tax the sale of tangible personal property to the Flight Test Historical Foundation for the purpose of donating the property to the Air Force Flight Test Center Museum.

ANALYSIS

Current Law

The sale or use of property used for display purposes in museums is generally subject to sales or use tax. The Sales and Use Tax Law does provide some specific exemptions for sales of display items to museums. Section 6365 provides an exemption for sales of original *works of art* when sold to a governmental entity or a nonprofit organization operating a museum which is open to the public.

Section 6366.3 provides an exemption for the sale or use of property purchased by a museum operated by a governmental or nonprofit organization to replace property which was physically destroyed by fire, flood, earthquake, or other calamity. The exemption provided by Section 6366.3 applies to display pieces, not just original works of art. However, the exemption does not extend to display cases, shelving, lamps, lighting fixtures, or other tangible personal property utilized in the operation of the museum.

Section 6366.4 currently exempts from the sales and use tax purchases of property by a museum, as defined, exclusively for display purposes within the museum. The exemption also includes sprung instant structures used as temporary exhibit housing. The section specifically states that the exemption does not extend to display cases, shelving, lamps, lighting fixtures, and other property used in the operation of the museum. This exemption is specifically limited to purchases by the San Diego Aero-Space Museum and the California Science Center.

Current law allows sellers to withdraw tangible personal property from resale inventory for the purpose of donating the property to any organization described in Section 170(b)(1)(A) of the Internal Revenue Code and located in California without incurring a use tax liability. A museum may be a qualifying donee, provided the museum is a nonprofit museum as described in Section 6366.4 and uses the donated property exclusively for display purposes within a museum. This exemption does not apply if the property is purchased by the donor for the specific purpose of donating the property.

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.

Current law also provides an exemption for sales of tangible personal property to the United States, its unincorporated agencies and instrumentalities and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

Proposed Law

This bill would add Section 6375.6 to the Sales and Use Tax Law to provide a sales and use tax exemption for sales of tangible personal property to the Flight Test Historical Foundation for its donation to the Air Force Flight Test Center Museum.

The bill would become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of the bill.

Background

Section 6366.4 was added by SB 1609 (Ch. 1270, Stats. 1986) to grant a specific exemption for purchases of display items by the San Diego Aero-Space Museum. The current exemption for purchases by the California Science Center was added by SB 2023 (Ch. 904, Stats. 1988).

Section 6366.4 was amended in 1992 (AB 3232, Ch. 875, effective September 23, 1992) to provide an exemption for purchases of sprung instant structures for use as temporary exhibit housing. This amendment was added because the exhibit hall for the California Museum of Science and Industry (which is now known as the California Science Center) was determined not to meet earthquake safety standards, and was forced to close. While the exhibit hall was closed, the museum erected steel-banded, tent-like structures covered in canvas which were used as temporary exhibit housing.

Two previous measures were introduced to expand the exemption provided by Section 6366.4. Assembly Bill 759 (Maddox), introduced during the 1999 Legislative Session, contained language that would have granted the exemption currently afforded to the San Diego Aero-Space Museum and the California Science Center to all non-profit museums. AB 759 was held in the Assembly Appropriations Committee. Assembly Bill 2475 (Kuehl), introduced during the 2000 Legislative Session, contained language that would have granted the same exemption to the Museum of Flying. AB 2475 was vetoed by the Governor. The Board was neutral on AB 759 and voted to support AB 2475.

COMMENTS:

- 1. Sponsor and Purpose.** According to the office of the author, who is also the sponsor, the purpose of this measure is to extend the current exemption for purchases by the Air Force Flight Test Center Museum to purchases by the Flight Test Historical Foundation for donation to the Air Force Flight Test Center Museum. The Foundation frequently purchases items on behalf of the museum but must pay sales or use tax on those purchases.

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2. **Summary of May 2 amendments.** The prior version of this bill provided a sales and use tax exemption for sales of tangible personal to the Air Force Flight Test Center Museum. Since sales to the Air Force Flight Test Center Museum are already exempt from tax, this bill was amended to provide an exemption for sales to the Flight Test Historical Foundation for the purpose of donation to the Air Force Flight Test Center Museum.
3. **What is the Air Force Flight Test Center Museum?** The Air Force Flight Test Center Museum's stated purpose is to collect, interpret, preserve, and display the significant history of Edwards Air Force Base and the Air Force Flight Test Center. Located on Edwards Air Force Base, the Air Force Flight Test Center Museum displays aircraft hardware, rocket engines, and various aircraft.
4. **The exemption afforded other museums is generally limited to display pieces.** The proposed exemption would apply to all purchases of tangible personal property by the Flight Test Historical Foundation for donation to the Air Force Flight Test Center Museum. This could include display pieces, shelving, display cabinets, general office equipment, or any other item purchased by the foundation for donation to the museum.
5. **What about other museums?** Other museums may seek similar consideration for donated property.

COST ESTIMATE

Some costs would be incurred in answering inquiries and writing appropriate regulations. These costs are expected to be absorbable.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Under current law, the purchase of tangible personal property by the Flight Test Historical Foundation that is donated to the Air Force Flight Test Center Museum is taxable. The Flight Test Historical Foundation is a non-profit organization. It purchases parts and tools so that the museum can maintain and repair aircraft that it displays. This bill would exempt from the sales and use tax tangible personal property purchased by the Flight Test Historical Foundation and donated to the Air Force Flight Test Center Museum.

According to the Flight Test Historical Foundation, expenditures on tangible personal property donated to the Air Force Flight Test Center Museum for 2001 are estimated to be \$13,400.

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Revenue Summary

The annual revenue loss from exempting \$13,400 from the sales and use tax is estimated to be \$1,062.

	Revenue Loss
State loss (5.00%)	\$ 670
Local loss (2.25%)	\$ 302
Special District loss (0.67%)	<u>\$ 90</u>
Total	<u>\$1,062</u>

* While the state tax rate is 4.75 percent for calendar year 2001, it is assumed the tax rate will return to 5.0 percent in 2002.

Qualifying Remarks

The figures used in this estimate were provided by the Flight Test Historical Foundation and are their estimates for calendar year 2001. Donations in the future could vary from this amount.

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