



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

DRAFT

Date:	04/08/13	Bill No:	Assembly Bill 143
Tax Program:	Sales & Use Tax	Authors:	Holden, Chávez, and Fox
Sponsor:	Author	Section:	RTC 6412
BOE Position:	Support	Effective:	Immediately upon enactment

BILL SUMMARY

This bill exempts U.S. Armed Forces members, U.S. Armed Forces and National Guard active duty reserves, their spouses, and registered domestic partners from use tax on purchases of tangible personal property. The exemption applies to purchases of tangible personal property made outside California prior to the report date on official transfer orders transferring him or her to this state. This exemption specifically excludes vehicles, vessels and aircraft and sunsets on January 1, 2019.

Summary of Amendments

Since the previous analysis, the bill was amended to expand the exemption to include the registered domestic partners of qualified service members. The bill also added a January 1, 2019 sunset date.

ANALYSIS

CURRENT LAW

Existing California law¹ imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed at the same rate as the sales tax. Purchasers are liable for the use tax. They must pay the tax to the state unless they have a receipt proving that they paid the tax to a retailer registered to collect the California use tax. Retailers engaged in business in California and/or registered to collect the California use tax must collect the use tax from the purchaser at the time of purchase and remit the tax to the state.

When a California consumer or business purchases tangible items for their own use from an out-of-state retailer that is not registered with the Board of Equalization (BOE) to collect the California use tax, the purchaser must remit the use tax to the BOE. Generally, purchasers must remit the use tax to the BOE on or before the last day of the month following the quarterly period in which they made the purchase. As an alternative to reporting the use tax directly to the BOE, existing law allows purchasers to report use tax on their state personal income tax returns or their state corporation franchise or income tax returns.

California law regards property purchased outside of California as purchased for use in this state if the first functional use of the property is in California. When property is first functionally used outside California, existing California law nevertheless presumes that it is purchased for use in this state if it is brought into California within 90 days of purchase unless the purchaser uses or stores the property outside California one-half or more of the time during the six-month period immediately following its entry into this state.

¹ Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code

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 BOE's formal position.

Revenue and Taxation Code Section 6406 allows a credit against, but not exceeding, the use tax to the extent that the person has paid a retail sales or use tax on the property in another state, political subdivision thereof, or the District of Columbia prior to the property’s storage, use or other consumption in California.

PROPOSED LAW

This bill adds and repeals Revenue and Taxation Code Section 6412 of the Sales and Use Tax Law to exempt from use tax tangible personal property purchased by qualified service members or their spouse or registered domestic partner if they purchased the property:

1. When they were outside the state; and
2. prior to the report date on official orders transferring them to this state.

The bill defines the following terms such:

“Qualified service member” means a member of the Armed Forces on active duty or a member of a reserve component of the Armed Forces of the United States, or a member of the National Guard on active duty.

“Qualified tangible personal property” means tangible personal property other than a vehicle, vessel, or aircraft.

As a tax levy, this bill will go into immediate effect. However, the provisions will become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date. This new section will sunset on January 1, 2019.

COMMENTS

1. **Sponsor and Purpose.** The author sponsored this bill to relieve active duty military service members of unexpected use tax they may incur when the military requires them to relocate to serve our country.
2. **The April 8, 2013 amendments** added the January 1, 2019 sunset date, definitions of key terms, and reference to domestic partners.
3. **Vehicles.** Currently, active duty armed services members need not pay the use tax on vehicle purchases when (1) the service member purchases the vehicle outside California, and (2) the services member’s intent to use the vehicle in California results from official transfer orders to California and not from the service member’s own independent determination.
4. **Administration.** BOE staff does not anticipate any administrative complications from this measure.

COST ESTIMATE

The BOE administrative costs associated with this law change would be minor.

REVENUE ESTIMATE

The revenue impact associated with this proposal would be insignificant.

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