

[Assembly Bill 199](#) (Eggman)

Date: 01/29/15

Program: Sales and Use

Sponsor: Californians Against Waste

Public Resources Code Section 26003

Effective: Upon enactment, but operative July 1, 2016

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**Summary:** Allows a sale and use tax exclusion for projects that process or utilize recycled feedstock when the exclusion is approved by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA).

**Purpose:** To maximize California's infrastructure and investment in recycling.

**Fiscal Impact Summary:** All projects approved by CAEATFA, including the projects described in this bill, are limited to \$100 million each calendar year.

**Existing Law: CAEATFA:** Existing law<sup>1</sup> contains a specific sales and use tax exclusion<sup>2</sup> for tangible personal property purchased for certain approved manufacturing projects. In 2010, legislation<sup>3</sup> authorized the CAEATFA to approve sales and use tax exclusions for tangible personal property utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative energy source products, components or systems. In 2012, legislation<sup>4</sup> was enacted to authorize CAEATFA to approve sales and use tax exclusions related to advanced manufacturing projects until July 1, 2016. The law<sup>5</sup> provides a \$100 million cap for these exclusions.

CAEATFA's approval of these exclusions is based on whether the project results in a net benefit to the State, with consideration to both fiscal and environmental benefits.

**Sales and use tax partial exemption:** Beginning July 1, 2014, and until July 1, 2022, existing law<sup>6</sup> provides manufacturers, biotechnology and other physical, engineering, and life science researchers and developers a 4.1875% sales and use tax exemption for their purchases of qualifying tangible personal property. As an example, biofuel manufacturers produce ethanol and biodiesel fuel, and certain manufacturing equipment they buy qualifies for this partial exemption.

**California's sales and use tax rates:** Effective January 1, 2013, California imposes a statewide 7.5% sales and use tax on tangible personal property sales and purchases. The table below shows California's various sales and use tax rate components (the table excludes voter-approved city and county district taxes):

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<sup>1</sup> Revenue and Taxation Code (RTC) Section 6010.8.

<sup>2</sup> An "exclusion" means the transfer of the property is neither a "sale" nor a "purchase" and is therefore excluded from the application of the sales and use tax. An "exemption" involves a retail sale that, absent an exemption in law, would otherwise be subject to the tax.

<sup>3</sup> SB 71 (Ch. 10, Stats. 2010, effective March 24, 2010).

<sup>4</sup> SB 1128 (Ch. 677, Stats. 2011, effective January 1, 2013).

<sup>5</sup> Public Resources Code Section 26011.8.

<sup>6</sup> RTC Section 6377.1.

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, and 6201.3)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5)
0.25%	State (Education Protection Account)	Schools and community college funding (Section 36, Article XIII, State Constitution) (until 01/01/17)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	City and county general operations (RTC Section 7203.1, operative 7/1/04); Dedicated to county transportation purposes
7.50%	Total Statewide Rate	

**Proposed Law:** This bill includes within the term “project” for purposes of CAEATFA’s authority to approves sales and use tax exclusions, tangible personal property that primarily processes recycled feedstock that is intended to be reused in the production of another product or utilizes recycled feedstock in the production of another product or soil amendment.

The bill defines “recycled feedstock” as materials that would otherwise be destined for disposal, having completed its intended end use and product lifecycle.

### Commentary:

- 1. Effect of the bill.** Expands CAEATFA’s current program to authorize CAEATFA to approve sale and use tax exclusions related to projects that process and utilize recycled feedstock.
- 2. Any change to the PRC’s definition of “project” can have a direct sales and use tax implication.** Under the law, the sales and use tax exclusion is linked directly with the PRC’s defined term “project.” When that term is changed within the PRC context, the change can result in a direct state and local sales and use tax revenue impact.
- 3. The sales and use tax exclusion’s administration falls primarily under the CAEATFA.** As a result, the BOE’s administrative duties would have minimal effect.

**Administrative Costs:** The BOE would incur some absorbable costs in notifications, changes to the BOE’s website and publications, and answering inquiries.

**Revenue Impact:** Existing law limits the allowable sales and use tax exclusion for all projects approved by CAEATFA, including this bill’s described projects, to \$100 million each calendar year. Between November 2010 and February 2015, CAEATFA has approved tax exclusions of over \$283 million, but only \$75 million has actually been claimed.

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.