

[Senate Bill 680](#) (Wieckowski)

Date: 01/26/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6388.6

Effective: Immediately

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Summary: Until January 1, 2020, exempts from sales or use tax any qualified new passenger vehicle and qualified accessories sold to a non-California resident for permanent use outside this state under specified conditions.

Summary of Amendments: The amendments since the previous analysis, among other things, limit the proposed exemption to passenger vehicles, as defined, sold to purchasers who are not California residents, and add a sunset date.

Purpose: To allow non-California residents to take possession of their new vehicles in California without having to pay California sales or use tax.

Fiscal Impact Summary: Unknown.

Existing Law: Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

Existing law¹ provides an exemption from sales tax for a California retailer's sale of tangible personal property delivered outside this state. To be exempt, the law specifies that pursuant to the retailer's sale contract, the property is required to be shipped and is shipped to a point outside this state by facilities operated by the retailer or by a common or contract carrier, customs broker, or forwarding agent.

Regulation 1620, *Interstate and Foreign Commerce*, provides that sales tax applies when the property is delivered to the purchaser or the purchaser's representative in this state, whether or not the purchaser's disclosed or undisclosed intention is to transport the property to a point outside this state, and whether or not the property is actually so transported.

Regulation 1610, *Special Provisions Affecting Vehicles, Vessels, and Aircraft*, also specifies that tax does not apply to the sale or use in this state of a new, noncommercial motor vehicle manufactured in the United States and sold to a resident of a foreign country who arranges for the purchase through an authorized vehicle dealer in the foreign country prior to arriving in the United States, if:

1. The purchaser is issued an in-transit permit by the California Department of Motor Vehicles pursuant to Vehicle Code Section 6700.1, and
2. Prior to or at the end of 30 consecutive days from the first date of operation under the in-transit permit, the motor vehicle is delivered or shipped to a point outside the United States by the retailer, by means of:
 - Facilities operated by the retailer, or
 - A carrier, forwarding agent, export packer, customs broker or other person engaged in the business of preparing property for export, or arranging for its export.

¹ Revenue and Taxation Code Section 6396.

Proposed Law: Until January 1, 2020, this bill exempts from sales or use tax the sale or use of any qualified new passenger vehicle (“vehicle”) and qualified accessories sold to a person for permanent use outside this state when all of the following conditions apply:

- Within 30 days after the purchase, the vehicle is moved to an out-of-state point.
- A one-trip permit is obtained, as specified.
- At the time of purchase, the purchaser provides the retailer with an exemption certificate, as specified.
- The purchaser is not a California resident, as defined.

The bill defines the following terms:

(1) “Permanent use outside this state” means the vehicle is licensed, registered, and used outside this state, and the vehicle and qualified accessories do not return to this state within 12 months from the purchase date.

(2) “Qualified accessories” means tangible personal property that is affixed or attached to, or sold with, the vehicle, a power source, or other accessories commonly sold with a new motor vehicle that are sold together with vehicle.

(3) “Qualified new passenger vehicle” means a passenger vehicle as described in Vehicle Code Section 465, except as specified, that has not previously been sold.

Commentary:

- 1. Effect of the bill.** Enables vehicle manufacturers to sell their new vehicles without tax to out-of-state purchasers that take delivery in California.
- 2. The January 26, 2016 amendments** (1) limit the proposed exemption to passenger vehicles, as defined, sold to purchasers who are not California residents, (2) require the exemption certificate to identify the purchaser’s out-of-state driver’s license or permit number, (3) specify that purchasers of qualifying vehicles are ineligible for certain rebates and incentives, (4) define “qualified new passenger vehicle,” and (5) add a January 1, 2020 sunset date.
- 3. The amendments adequately minimize unintended opportunities.** The BOE’s previous analysis noted that the bill could have provided an unintended opportunity for some California purchasers to benefit from the exemption, as the bill’s previous language appeared to allow the exemption as long as any person who obtains the one-trip permit presents an out-of-state driver’s license. The January 26, 2016 amendments adequately address this issue by specifying that the purchaser must *not* be a California resident, and that the exemption certificate contain the purchaser’s out-of-state driver’s license or permit number.
- 4. Reference to Vehicle Code Section 465 narrows the bill’s application.** In the bill’s prior version, “motor vehicle” was defined to mean any self-propelled vehicle, which would have included such items as bulldozers, tractors, buses, go-carts and recreational vehicles. As amended, the bill now adequately addresses this issue by its reference to a Vehicle Code provision specific to passenger vehicles, with noted exceptions.
- 5. The bill limits the proposed exemption to a vehicle “that has not previously been sold.”** Since new car manufacturers (other than Tesla) generally sell their vehicles to new car dealers, who resell the cars to consumers, the proposed exemption would not apply to new car dealers. This bill only applies to vehicle manufacturers who also sell at retail. Tesla would likely be the only affected car retailer. However, this bill would apply to other California vehicle (under the broad definition) manufacturers who also sell at retail.

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.

Administrative Costs: Some absorbable administrative costs would be incurred related to vehicle retailer notifications, publication and regulation revisions, and taxpayer inquiry responses.

Revenue Impact: To estimate the potential revenue loss associated with this bill, any California motor vehicle manufacturers who also sell at retail must be identified. In addition, the extent to which these manufacturers/retailers make sales to out-of-state purchasers who take delivery of the motor vehicles in California must be determined. The BOE's records do not have this level of detail. To the extent any out-of-state purchasers take possession of vehicles in California from manufacturers, a revenue loss of an unknown amount would occur.