

[Senate Bill 680](#) (Wieckowski)

Date: 02/27/15

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6388.6

Effective: Immediately

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Summary: Exempts from sales tax any qualified new motor vehicle and qualified accessories sold to a person for permanent use outside this state under specified conditions.

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

Fiscal Impact Summary: Pending.

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 from facilities operated by the retailer, or when the retailer delivers the property to 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.

This regulation also specifies that sales tax does not apply to delivery 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.

Proposed Law: This bill exempts from sales tax the sale of any qualified new motor 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.

¹ Revenue and Taxation Code Section 6396.

- 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 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 motor vehicle” means a motor vehicle as described in Vehicle Code Section 415(a) 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. Reference to Vehicle Code Section 415(a) allows broad application.** This statute defines “motor vehicle” to mean any self-propelled vehicle, and includes such items as bulldozers, tractors, buses, go-carts and recreational vehicles. It is the BOE’s understanding that this bill is intended to apply only to passenger vehicles. Accordingly, the author may wish to define the term consistent with the bill’s intent in order to avoid unanticipated revenue losses.
- 3. Bill could create an unintended loophole.** The bill only requires the vehicle retailer to obtain a DMV-issued one-trip permit and an exemption certificate to validly claim the proposed exemption. Since these documents do not verify that the purchaser is an out-of-state resident and that the vehicle was not purchased for use in California, an unintended opportunity for some California purchasers to benefit from the exemption may be created. The BOE experienced similar tax avoidance opportunities with vehicles, aircrafts, and boats when the law’s rebuttable presumption provided that a vehicle purchased outside this state and brought into this state within 90 days was purchased for use in this state. Essentially, this provision only required the vehicle to remain outside of California more than 90 days to avoid use tax liability (a 2004 measure² strengthened this provision and, among other things, requires the vehicle to be outside the state more than 12 months). In order to minimize opportunities for California purchasers to claim an exemption, BOE suggests that the bill require that the purchaser be an out-of-state resident and that the purchasers’ out-of-state driver’s license number be provided on the exemption certificate.
- 4. 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.

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

Revenue Impact: Pending.

² SB 1100 (Ch. 226, Stats. 2004).