

[Senate Bill 898](#) (Nguyen, et al)

Date: 05/31/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6358.6

Effective January 1, 2017

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Summary: Exempts from sales and use tax sales and purchases of animal whole blood, plasma, blood products, and blood derivatives by a nonprofit California Department of Food and Agriculture (CDFA)-licensed establishment, as specified. Also, among other things, requires the Board of Equalization (BOE) to cancel any notice of determination with respect to these sales.

Summary of Amendments: Since the previous analysis, the bill was amended to limit its provisions to a nonprofit animal blood banking business.

Purpose: According to the author, the purpose is "to prevent undue hardship on licensed animal blood banks that offer the vital life service of providing critically needed blood products to animals."

Fiscal Impact Summary: Annual state and local sales and use tax revenue loss of \$78,980.¹

Existing Law: Except where specifically exempted by statute, California's Sales and Use Tax Law² 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. The law³ defines "tangible personal property" to mean personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses. Animal blood is regarded as tangible personal property, the retail sales of which are subject to sales or use tax to the same extent as any other retail sale of tangible personal property not otherwise exempted or excluded from the tax.

Although animal blood retail sales are subject to tax, Revenue and Taxation Code Section 33 specifies that human whole blood, plasma, blood products, and blood derivatives, or any human body parts held in a bank for medical purposes, shall be exempt from taxation for any purpose. Therefore, sales and use tax does not apply to sales of human blood products.

Existing law⁴ prohibits the offering for sale or use of any animal blood and blood component product unless it is produced in an establishment licensed by the CDFA. CDFA requires a license for each establishment that produces animal blood and blood products to market or sell for the use in the cure, mitigation, treatment or prevention of injury or disease in animals. The law requires the registration of each blood and blood product being produced and sold.

Proposed Law: This bill exempts from sales and use tax sales and purchases of animal whole blood, plasma, blood products, and blood derivatives by a CDFA-licensed establishment that is a nonprofit animal blood bank business for the use in the cure, mitigation, treatment or prevention of injury or disease in animals.

In addition, the bill finds and declares that animals have emergencies and illnesses presenting a critical need for blood products, and that in enacting this act, it is in the public interest to relieve from liability those nonprofit animal blood banking businesses that have not paid sales tax or collected tax reimbursement on their animal blood product sales. Further, the bill requires the BOE to cancel any notice of determination and any related penalties and interest. It also prohibits the BOE from issuing any notice of determination with respect to these sales.

¹ This amount does not include any unpaid liabilities that this bill requires the BOE to relieve.

² Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (RTC).

³ Revenue and Taxation Code Section 6016.

⁴ Chapter 1.5 (commencing with Section 9201) of Part 1 of Division 5 of the Food and Agricultural Code.

Background: According to the CDFA, two animal blood bank establishments hold licenses in California to produce, market, and sell animal blood and blood products. One current licensee is a nonprofit business. These facilities provide whole blood, plasma, platelets, and clotting factors to veterinary hospitals and clinics. The blood used to make these products is collected from one of the animal "blood donors" housed permanently or semi-permanently at the blood bank. California law does not allow pet owners to volunteer their animals as donors to these commercial blood banks.

Commentary:

- 1. Effect of the bill.** Nonprofit licensed animal blood banks will not be required to report sales or use tax on their sales of animal blood products when those sales are for the cure, mitigation, treatment or prevention of injury or disease in animals. In addition, they will be relieved of liability for any unpaid sales and use tax related to these sales.
- 2. The May 31, 2016 amendments** limit the bill's provisions to a nonprofit animal blood bank business. The **April 25, 2016 amendments** made a non-substantive change and added 5 coauthors.
- 3. "Nonprofit animal blood banking business" should be defined.** California currently has one nonprofit licensee; however, for purposes of clarity, the bill should define "nonprofit." For example, an appropriate definition, such as "an organization that qualifies for tax-exempt status under section 501(c)(3) of the Internal Revenue Code" would suffice.
- 4. This bill does not materially impact the BOE's tax audit or administrative functions.** Since this bill applies to one nonprofit licensed animal blood bank that currently exists in California, this bill would not materially impact the BOE's administrative responsibilities.

Costs: The BOE would incur some absorbable costs related to notification, regulation changes, and publication updates.

Revenue Impact: Background, Methodology, and Assumptions. Taxpayers' information contained in the BOE's files and records is confidential.⁵ Therefore, for purposes of this estimate, staff relied upon published Internal Revenue Service data. Based on this information, annual nonprofit animal blood product sales in the state are estimated to be \$962,000.

Revenue Summary. The proposed sales and use tax exemption for a nonprofit licensed animal blood banks' blood product sales would result in an estimated annual sales and use tax loss of \$78,980. In addition, any unpaid sales and use tax liabilities for past years related to these sales would be waived, which would increase the revenue loss. Due to the confidentiality statutes, staff is unable to provide information regarding such amounts.

The following is a breakdown of the annual loss:

Fund	Rate	Revenue Loss
State General Fund	3.9375%	\$37,879
Local Revenue 2011	1.0625%	\$10,221
Local Revenue 1991	0.50%	\$4,810
Public Safety Fund	0.50%	\$4,810
Bradley Burns	1.25%	\$12,025
Special District	0.96%	\$9,235
Statewide Average Rate	8.21%	\$78,980

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

⁵ Information Practices Act (Civ. Code § 1798 et seq.), Government Code Section 15619, and Revenue and Taxation Code Section 7056.

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.