

[Assembly Bill 1562](#) (Kim)

Date: 05/16/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6380.2

Effective: Upon enactment, but operative October 14, 2017

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Summary: Provides a state (6%) sales and use tax exemption for qualified disaster preparedness products purchased or sold on Saturday, October 14, 2017.

Summary of Amendments: Since the previous analysis, this bill was amended to reduce the sales tax holiday period to one day, and exclude the 1.25% Bradley-Burns local taxes and any applicable district taxes from the exemption.

Purpose: To provide California residents a more affordable method to prepare for emergencies and natural disasters, such as storms or earthquakes.

Fiscal Impact Summary: One-time state (6%) revenue loss of \$522,000.

Existing Law: Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law¹ 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.

Current law imposes the sales or use tax on disaster preparedness products such as batteries, first aid kits, flashlights, food storage coolers, portable generators, and radios, to the same extent as it imposes the tax on any other tangible personal property sales not otherwise statutorily exempted or excluded from tax.

California's sales and use tax rates. Effective January 1, 2017, California's statewide sales and use tax rate will be 7.25%.² The table shows California's various sales and use tax rate components, that will apply as of January 1, 2017 (the table excludes voter-approved city and county district taxes):

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, 6201.3)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
1.25%	Local (City/County) 1.00% City and County 0.25% County	(RTC Sections 7202 and 7203); City and county general operations Dedicated to county transportation purposes
7.25%	Total Statewide Rate	

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

² The 0.25% tax imposed under Section 36 of Article XIII of the State Constitution (Proposition 30, The Schools and Local Public Safety Protection Act of 2012) will sunset December 31, 2016.

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Proposed Law: This bill exempts from the state sales and use tax (6%), qualified disaster preparedness products, as defined, sold or purchased beginning at 12:01 a.m. on Saturday, October 14, 2017, and ending at 12:00 midnight that day. The bill defines “qualified disaster preparedness products” as:

- Portable self-powered light sources, for a retail price of \$30 or less;
- Portable self-powered radios, two-way radios, or weather-band radios, for a retail price of \$60 or less;
- Preassembled first-aid kits, for a retail price of \$30 or less;
- Gas or diesel fuel tanks, for a retail price of \$25 or less;
- Batteries in sizes AA-cell, C-cell, D-cell, 6-volt or 9-volt, for a price is \$30 or less;
- Nonelectric food storage coolers, for a retail price of \$30 or less;
- Portable generators used to provide light or communications or preserve food in the event of a power outage, for a retail price of \$750 or less;
- Water purification systems, for a retail price of \$40 or less;
- Battery-operated emergency beacons, for a retail price of \$50 or less; and
- Emergency flares, for a retail price of \$20 or less.

The exemption also applies to:

- 1) Layaway agreements entered into during the tax holiday period for which the purchaser has made a deposit of at least 10% of the sales price of the item;
- 2) Qualifying items sold or purchased using a raincheck issued for the item during the tax holiday period. Retailers are not required to issue rainchecks; and
- 3) Orders placed and paid for in full during the tax holiday period, for qualifying items not already existing or identified, even if identification or delivery takes place after the tax holiday period.

The exemption would *not* apply to any tax levied by a city, county, or district pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law.

As a tax levy, the bill takes effect immediately, but becomes operative on October 14, 2017.

Legislative History: Two disaster preparedness products exemption bills were considered during the 2005-06 and 2007-08 Legislative Session, but failed passage:

- AB 1120 (Tran, 2008) would have provided a state and local tax exemption for the sale of “qualified disaster preparedness products,” as specified, during a seven-day period in October of each year until January 1, 2012.
- AB 2089 (Tran, 2006) would have provided a state tax exemption for the sale of “qualified disaster preparedness products,” as specified, during a nine-day period in October of each year until January 1, 2010.

Commentary:

1. **The May 16, 2016 amendments** (1) reduce the sales tax holiday period to one Saturday in October 2017, and (2) provide that the exemption will not apply to the 1.25% Bradley-Burns local sales and use taxes, and any applicable district taxes.
2. **Effect of the bill.** The tax holiday period begins at 12:01 a.m. on Saturday, October 14, 2017, and ends at midnight that day. On that day, the sale of qualifying disaster preparedness items would be exempt from the 6% state sale and use tax. Eligible items would be subject to the 1.25% Bradley-Burns local sales and use taxes, and any applicable district taxes. Eligible items must be purchased for a specified sales price amount or less.

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3. **The exemption applies to use tax transactions.** California consumers that order qualified disaster preparedness products from out-of-state, Internet, or mail order retailers will be entitled to the proposed partial exemption during the exemption period.
4. **Exemption applies to layaway sales and other orders placed during the specified period.** Due to the exemption only applying during a specific time period, the bill contains language to address certain transactions that may qualify for the exemption but are not completed during the specified period. The bill provides that layaway agreements entered into during the specified period, for which the purchaser has made a deposit of at least 10% of the gross receipts from the sale, would qualify for the exemption. The bill also provides that orders placed during the specified period and paid for in full, but not already existing or identified (e.g., custom-made orders) would qualify for the exemption regardless of whether they were identified or delivered after the specified period.
5. **Exemption applies to rainchecks issued during the specified period.** Eligible items purchased during the specified period using a raincheck specifically issued during the specified period would qualify for the exemption. Retailers would not be required to issue rainchecks.
6. **Other states.** Alabama, Florida, Louisiana, and Virginia will hold sales tax holidays in 2016. Eligible items include hurricane and flood preparedness and severe weather preparedness items such as batteries, bottled water, coolers, duct tape, first aid kits, fire extinguishers, flashlights, portable radios, and more. These states also place dollar limits on the amount exempt from sales tax.

Costs: BOE will incur absorbable administrative costs to reprogram the system for the partial exemption, modify and process returns, notify affected retailers, prepare a special publication, audit claimed exemptions, and answer inquiries from the general public.

Revenue Impact:

Background, Methodology, and Assumptions. This bill exempts from the sales and use tax qualified disaster preparedness products, as defined, sold or purchased beginning at 12:01 a.m. on Saturday, October 14, 2017, and ending at 12:00 midnight that day. Qualified disaster preparedness products are defined as follows:

Product	Maximum Value
Portable self-powered light source	\$30
Self-powered, two-way or weather-band radio	\$60
Preassembled first-aid kit	\$30
Gas or diesel fuel containers	\$25
Batteries (AA, C, D, 6 volt or 9 volt)	\$30
Non-electric food storage cooler	\$30
Portable generators	\$750
Water purification system	\$40
Battery-operated emergency beacon	\$50
Emergency flares	\$20

This exemption is patterned after a 9-day sales tax holiday in Florida for hurricane preparedness supplies. In the most recent legislation (House Bill 5601, 2014) signed by Governor Rick Scott of Florida, the 9-day sales tax holiday is projected to reduce state revenues by about \$2.9 million. At a sales tax rate of 6%, the total taxable sales for disaster preparedness products is estimated at \$48.3 million (\$2.9 million / 0.06). Statistics from the Hurricane Research Division of the Atlantic Oceanographic and Meteorological Laboratory states that since 1851, 40% of all U.S. hurricanes hit in Florida. Hurricane season in Florida begins on June 1st of each year, so Floridians have become accustomed to disaster

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preparedness. According to a 2010 survey by the Florida Division of Emergency Management, 68% of Floridians have 6 or more items that are on the list of qualifying items for the sales tax holiday. In comparison, a study published by the Public Policy Institute of California in 2014 states that 52% of Californians report having a disaster supplies kit.

Although the Florida sales tax holiday has been in place for more than a decade, Floridians are more aware of the persistent threat for catastrophic disasters with each hurricane season and are more likely to be prepared than Californians. This difference reflects a general lack of motivation by Californians to prepare for potential catastrophic disasters, such as earthquakes, because while we experience floods and fires on a relatively regular basis, major devastation by earthquakes is few and far between. Therefore, while Florida will be used as a basis for this estimate, a value for the difference in preparedness (16%) must be factored in. We must also factor in the current population data. As of July 1, 2015, the U.S. Census Bureau states that California’s population is 193% of Florida’s population. Furthermore, California’s proposed tax holiday period of 1 day as compared to the 9-day for the Floridian tax holiday will be used to account for the differences between the two tax holidays. Using the information above, the revenue impact will be as follows:

Florida taxable sales	\$ 48.3 million
California population adjustment	193 %
Estimated California taxable sales	\$ 93.2 million
California preparedness factor adjustment (16%)	- \$ 14.9 million
Adjusted California taxable sales	\$ 78.3 million
California tax holiday period adjustment (8/9)	- \$ 69.6 million
Total estimated California taxable sales	\$ 8.7 million

Revenue Summary. Based on exempting \$8.7 million in taxable sales, this bill would result in an estimated one-time revenue loss of \$522,000.

Jurisdiction	Rate	Revenue loss
State	3.9375%	\$342,600
Local Revenue 2011	1.0625%	\$92,400
Local Revenue 1991	0.50%	\$43,500
Public Safety Fund	0.50%	\$43,500
TOTAL	6%	\$522,000

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

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