

[Assembly Bill 1683](#) (Eggman)

Date: 03/08/16

Program: Sales and Use Tax

Sponsor: Author

Public Resources Code Section 26011.8

Effective: Upon enactment

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***This analysis is limited to the bill's effect on the BOE-related tax programs***

**Summary:** Increases the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA) sales and use tax exclusion from \$100 million to \$200 million for projects that process or utilize recycled feedstock, until January 1, 2021.

**Purpose:** According to the author, the purpose of this bill is to attract and retain green California-based jobs.

**Fiscal Impact Summary:** Annual \$100 million cap increase.

**Existing Law:** 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 until January 1, 2021, 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 was enacted<sup>4</sup> to authorize CAEATFA until July 1, 2016, to approve sales and use tax exclusions related to advanced manufacturing projects. The law<sup>5</sup> provides a \$100 million cap on sales and use tax loss for these exclusions.

In 2015, legislation<sup>6</sup> amended the term “project” for purposes of CAEATFA’s authority to approve sales and use tax exclusions for tangible personal property if at least 50% of its use is either to process recycled feedstock that is intended to be reused to produce another product or to use recycled feedstock to produce another product or soil amendment. The law specifically excludes from the term “project” tangible personal property that processes or uses recycled feedstock in a manner that constitutes disposal, as defined.

CAEATFA’s approval of these exclusions is based on whether the project results in a net fiscal or environmental benefit to the State.

**Proposed Law:** Until January 1, 2021, this bill increases the annual sales and use tax exclusion from \$100 million to \$200 million. Additionally, any unallocated amount in one calendar year may be transferred to the following calendar year. However, the funding shall not roll over more than one calendar year.

As a tax levy, the provisions are effective upon enactment.

**Background:** All applicants that apply for the sales and use tax exemption are subject to an application and evaluation process. According to the author’s office, CAEATFA evaluates all applicants to determine whether the benefits received by the state will outweigh forgone revenue, and can only allocate exemptions to projects that produce net fiscal and environmental benefits for the state.

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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> AB 199 (Ch. 768, Stats. 2015, effective October 11, 2015)

**Commentary:**

1. **Effect of the bill.** The bill expands CAEATFA's current sales and use tax exclusion cap from \$100 million to \$200 million.
2. **The sales and use tax exclusion's administration falls primarily under the CAEATFA.** As a result, this bill will have a minimal effect on BOE's administrative duties.

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

**Revenue Impact:** This bill limits the allowable sales and use tax exclusion for all projects approved by CAEATFA to \$200 million each year, with a rollover of the unused portion for one calendar year. Between November 2010 and January 1, 2016, CAEATFA has approved tax exclusions of about \$455 million, but only \$92 million in tax has actually been claimed<sup>7</sup>.

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<sup>7</sup> California State Treasurer. (2016, January 1). Retrieved March 8, 2016, from <http://www.treasurer.ca.gov/caeatfa/ste/applicants/considered.pdf>