

**Amend Revenue and Taxation Code Section 6363.3 of the Sales and Use Tax Law to extend the sunset date, from January 1, 2012 to January 1, 2017, of the sales and use tax exemption for thrift stores that benefit individuals with HIV or AIDS.**

**Source: Honorable John Chiang and Honorable Betty T. Yee**

### **Existing Law**

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property (including second hand property) in this state, unless specifically exempted by law. Under existing law, Section 6363.3 of the Revenue and Taxation Code, as added by AB 3187 (Stats. 1996, Ch. 781, Martinez), provides a sales and use tax exemption for sales of used clothing, household items, and other retail items sold by thrift stores operated by a nonprofit organization. To qualify, the purpose of the thrift store must be to obtain revenue for the funding of medical, hospice, and social services to individuals with HIV disease or AIDS, and at least 75 percent of those revenues must actually be expended for that purpose. In addition, the thrift store must be a nonprofit organization exempt from state income tax under Revenue and Taxation Code Section 23701d.

In 2001, AB 180 (Ch. 383, Stats. 2001, Cedillo) amended Section 6363.3 to extend the January 1, 2002 sunset date to January 1, 2007. That section was amended again in 2006 by SB 1341 (Ch. 373, Stats. 2006, Cedillo), which extended the January 1, 2007 sunset date to the current January 1, 2012.

Current law also provides an exemption for sales by other charitable organizations. Under Section 6375, sales (including thrift store sales) by charitable organizations are exempt from sales and use tax under the following conditions:

1. The organization must be formed and operated for charitable purposes and must qualify for the "welfare exemption" from property taxation provided by Section 214 of the Revenue and Taxation Code.
2. The organization must be engaged in the relief of poverty and distress.
3. The organization's sales must be made principally as a matter of assistance to purchasers in distressed financial condition.
4. The property sold must have been made, prepared, and assembled or manufactured by the organization.

Merchandise sold through thrift stores operated by Goodwill Industries, the Salvation Army, and St. Vincent de Paul, for example, qualify for the exemption under Section 6375.

### **This Proposal**

This proposal would amend Section 6363.3 of the Sales and Use Tax Law to extend the sunset date from January 1, 2012 to January 1, 2017.

**Fiscal Impact.** Currently, there are several nonprofit organizations operating thrift stores that qualify for this exemption and for which the BOE has issued letters of eligibility. These organizations hold seller's permits, file tax returns, and claim exempt sales pursuant to Section 6363.3.

Based on returns filed by the qualified organizations for the calendar year 2009, claimed exempt sales for these organizations under Section 6363.3 totaled \$12.5 million.

Exempting \$12.5 million from the sales and use tax would result in the following annual revenue loss:

	<u>Revenue Effect</u>
State General Fund (5.0%)	\$ 625,000
State Fiscal Recovery Fund (0.25%)	31,300
Local Revenue Fund (0.50%)	62,500
Local Public Safety Fund (0.50%)	62,500
Bradley-Burns Uniform Local Tax (0.50%)	125,000
District Tax (0.86%)	<u>107,500</u>
Total Revenue Loss	<u>\$ 1,013,800</u>

*Section 6363.3 of the Revenue and Taxation Code is amended to read:*

6363.3. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, used pieces of clothing, household items, or other retail items sold by thrift stores operated by a nonprofit organization if the purpose of that thrift store is to obtain revenue for the funding of medical, hospice, or social services to chronically ill individuals, and at least 75 percent of those net revenues are actually expended for the purpose of providing medical, hospice, or social services to the chronically ill. For purposes of this section, "nonprofit organization" means an organization that provides medical, hospice, or social services to individuals with a chronic, life-threatening illness, as defined in subdivision (c) of Section 1568.01 of the Health and Safety Code, and is exempt from taxation under Section 23701d.

(b) This section shall cease to be operative on January 1, ~~2012~~2017, and as of that date is repealed.