



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	<b>04/02/09</b>	Bill No:	<b><u>AB 1474</u></b>
Tax:	<b>Sales and Use</b>	Author:	<b>Cook</b>
Related Bills:	<b>AB 1523 (Calderon)</b>		

**BILL SUMMARY**

This bill would exempt from the 1% statewide sales and use tax increase, sales of new mobile homes, as specified, occurring on or after April 1, 2009, if the purchasers' contracts were entered into on or before February 20, 2009.

**ANALYSIS**

**CURRENT LAW**

Under existing law, sales or use tax applies to all sales or purchases of tangible personal property, unless otherwise exempted or excluded from the computation of sales or use tax. In general, sales of new mobile homes are subject to sales or use tax to the same extent as sales of any other tangible personal property. However, special provisions apply to a sale of a new mobile home sold for occupancy as a residence.

Under the law, Revenue and Taxation Code Sections 6012.8 and 6012.9 provide that a sale of a new mobile home that is sold for installation for occupancy as a residence is subject to tax based on 75 percent of the selling price of the mobile home *to the retailer*. In cases where a new mobile home is sold by a manufacturer directly to the purchaser under similar circumstances, the tax is measured by an amount equal to 75 percent of the sales price at which a similar mobile home ready for installation would be sold by the manufacturer to a California dealer.

Under these provisions, the law considers a mobile home dealer a "retailer-consumer" of any new mobile home sold to a customer for occupancy as a residence. As a dealer who is a retailer-consumer of a mobile home, the imposition of the use tax is upon the dealer, and sales tax does not apply to the amount the dealer charges the customer for the mobile home or any integral items the dealer attaches to it such as carpeting, wall paneling, room partitions, and built-in appliances. As a retailer-consumer, the mobile home dealer may not collect an amount for tax reimbursement from his or her customer; however, the dealer may issue a resale certificate to his or her vendor when the dealer acquires the mobile home, which would entitle the dealer to purchase the home without payment of the tax.

When the dealer acquires the mobile home without payment of tax, the dealer owes the use tax as of the date he or she sells the mobile home. Generally, the date the dealer transfers title (ownership) to the purchaser is regarded as the date of sale, and tax is required to be remitted to the Board during the quarterly period in which that sale was made.

Operative April 1, 2009 the sales and use tax rate increased by one percent through enactment of AB 3, Third Extraordinary Session of 2009, Chapter 18, signed by the Governor on February 20, 2009. Therefore, beginning April 1, 2009, the statewide sales and use tax rate of 8.25% is imposed on taxable sales and purchases of tangible

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personal property, and is made up of the following components (additional district taxes are levied among various local jurisdictions and are not reflected in this chart):

Rate	Jurisdiction	R & T Code
4.75% 0.25% <u>1.00%</u> 6.00%	State (General Fund)	6051, 6201, 6051.3, 6201.3 6051.7, 6201.7
0.25%	State (Fiscal Recovery Fund)	6051.5, 6201.5
0.50%	Local Revenue Fund	6051.2, 6201.2
0.50%	Local Public Safety Fund	§35 Art XIII St. Constitution
1.00%	Local (0.25% County transportation funds 0.75% City and county operations)	7203.1

#### PROPOSED LAW

This bill would add Section 6376.4 to the Sales and Use Tax Law to provide that the 1% rate of tax imposed under Sections 6051.7 and 6201.7 does not apply to the sale and purchase of a new mobile home sold or stored, used, or otherwise consumed in this state, if:

- (1) The mobile home is sold by a retailer to a purchaser under the circumstances described in Section 6012.8 or 6012.9, and
- (2) The purchaser's contract for the purchase of the new mobile home from the retailer is entered into on or before February 20, 2009, and the sale to the purchaser occurs on or after April 1, 2009.

The bill would become effective immediately.

#### COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the California Mobile Housing Institute. According to the author's office, escrow plays an important role in the purchase of a mobile home. Consequently, many mobile homes are under contract for a considerable period of time while financing is completed, the home is constructed, and ultimately, installed. For a few dozen homes in California, the sales tax rate increased and the total purchase price changed before the home was installed and the tax was due. The author's office also notes that financing is the other important component of the home purchase process and the recent sales and use tax increase impacts financing that has already been approved in this difficult market. In an effort to enable the home buyer to acquire affordable housing, this bill would allow those who purchased mobile homes under contract, on or before the enactment of the sales and use tax increase, to be granted a refund from the Board after issuance of a certificate of occupancy.

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2. **Bill addresses equity issue for the dealer; not necessarily for the customer.** As a retailer-consumer of mobile homes sold for occupancy as residences where the dealer issued a resale certificate to his or her vendor, a mobile home dealer is responsible for payment of the use tax at the time the home is sold, and the dealer *may not* collect an amount for tax reimbursement from his or her customer. As a result, for sales negotiated prior to the date the Governor signed ABx3 3 that imposed the increase on mobile homes installed after the operative date of the increase (April 1, 2009), dealers are responsible for payment of the rate increase, yet may not pass that increase on to their customers. Therefore, as a matter of equity, this bill would enable the dealer to claim a refund for the one percent use tax portion. However, that refund would not be required to be passed on to the customer (unless the dealer inappropriately collected the tax reimbursement from the customer).
3. **Bill would not cause significant administrative concerns.** Although the Board would be required to review and process refund claims as a result of this bill, we do not anticipate significant issues or concerns with this bill.
4. **Related legislation.** AB 1523 (Calderon) has been introduced to exempt from the 1% increase sales of tangible personal property pursuant to fixed price contracts entered into prior to the date of the rate increase.

## **COST ESTIMATE**

Some costs would be incurred in notifying mobile home dealers and manufacturers, processing claim for refunds and answering inquiries. The workload increase would be commensurate with the number of dealers and manufacturers claiming refunds that entered into contracts and sold homes within the times specified in the bill. These one-time costs are expected to be insignificant – less than \$10,000.

## **REVENUE ESTIMATE**

### **BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

The California Mobile Housing Institute (CHMI) reported new mobile home registrants amounted to 532 during the first three months of 2009. CHMI reported 48 singlewide registrants; 425 doublewide registrants; and 59 triple wide registrants in the first quarter of this year. Complete installation of a mobile home takes approximately 4 - 6 weeks. We estimate that prior to February 20, 2009 there were approximately 21 singlewide homes, 189 doublewide, and 26 triple wide, for a total of 236 homes, not yet completed that would be impacted by this measure. CHMI reported in the first quarter of this year, the average price of singlewide mobile homes amounted to \$49,779; the average price of doublewide amounted to \$110,041; and the average price of triple-wide amounted to \$169,534. Based information provided by CHMI, we estimate that total sales of mobile homes impacted by this measure amounted to approximately \$26.3 million  $((\$49,779 \times 21) + (\$110,041 \times 189) + (\$169,534 \times 26))$ .

According to CHMI the manufacturer's suggested retail price is derived from a markup of 35% to 40% of the wholesale invoice price. We estimate that the wholesale invoice price for the \$26.3 million sales amounts to \$19.5 million  $(\$26.3 \text{ million} / 1.35)$ . Taxable measure is equal to 75% of the cost price of the mobile home to the dealer, or \$14.6 million  $(\$19.5 \text{ million} \times 75\%)$ . The total for the 1% exemption therefore amounts to \$146,000  $(\$14.6 \text{ million} \times 1\%)$ .

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REVENUE SUMMARY

Exempting the sale of new mobile homes for purchasers' contracts entered on or before February 20, 2009, from the 1% sales and use tax increase effective April 1, 2009, would reduce General Fund revenue by \$146,000.

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