



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

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| Date Amended: | Chapter 615 | Bill No: | SB 765 |
| Tax: | Sales and Use | Author: | Dutton |
| Related Bills: | | Position: | Support as Sponsor |

BILL SUMMARY

This Board of Equalization (Board) sponsored bill would provide, until January 1, 2014, an exemption from the sales and use tax for sales of tangible personal property by thrift stores operated by a specified designated entity that provides, in partnership with the Department of Defense, financial, educational, and other assistance to members of the Armed Forces of the United States, eligible family members, and survivors when in need.

ANALYSIS

CURRENT LAW

Under existing law, the sales tax applies to the sale of tangible personal property in this state, unless specifically exempted. The Sales and Use Tax Law provides no general statutory exemption from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax statutes or income tax statutes. However, current law is sprinkled with several separate provisions designed to assist various kinds of nonprofit groups engaged in charitable activities. For example, currently under Section 6363.3 of the Revenue and Taxation Code, a sales and use tax exemption applies to sales and purchases 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 the other requirements of the exemption are met.

Current law also provides under Section 6375 an exemption for sales by charitable organizations qualifying for the property tax “welfare exemption” under Section 214 of the Revenue and Taxation Code, provided the organization is engaged in the relief of poverty and distress, and the sales are made principally as a matter of assistance to purchasers in distressed financial condition. Also, the property sold must have been made, prepared, and assembled or manufactured by the organization. Sales at thrift stores operated by Goodwill and Salvation Army, for example, are exempt from sales and use tax under the provisions of Section 6375, as the premises of these organizations’ thrift stores qualify for the “welfare exemption” under Section 214 (because of the fact these organizations rehabilitate persons on the premises of their thrift stores) and they meet the other requirements of Section 6375.

PROPOSED LAW

This bill would add Section 6363.4 to the Sales and Use Tax Law to provide an exemption until January 1, 2014 from the sales and use tax for sales of tangible personal property sold by a thrift store located on a military installation and operated by a designated entity that, in partnership with the United States Department of Defense, provides financial, educational, and other assistance to members of the Naval Service of the United States, eligible family members, and survivors when in need.

The bill would define “designated entity” as a military welfare society described in Section 1033 of Chapter 53 of Part II of Subtitle A of Title 10 of the United States Code.

The bill would take effect immediately as a tax levy.

BACKGROUND

Last year, the Board sponsored similar measures (AB 1919, Silva, and SB 1450, Dutton). However, both measures failed passage in the Assembly Appropriations Committee.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Board to provide a small but important exemption in the law for items sold by a certain military welfare society that supports service members and their families in their time of need.
2. **Key amendments.** The August 31, 2009 amendments redefined the qualifying thrift stores by reference to a specific United States Code that defines the term “designated entity” to include specified military welfare societies. The June 29, 2009 amendments added a sunset date of January 1, 2014.
3. **What nonprofit organization would benefit?** Although other branches of the Armed Forces have similar relief societies as described in the bill, this bill would essentially only apply to the sales from the thrift stores operated by the Navy-Marine Corps Relief Society, as that particular relief society is the only one that operates thrift stores. The issue had come to the Board’s attention when the Society contacted the Board expressing its belief that the sales made at its thrift stores were not subject to sales or use tax. This society is a nonprofit, charitable organization that provides financial, educational, and other assistance to members of the Naval Services of the United States, and their eligible family members and survivors, when in need. The Society, operating in partnership with the Navy and Marine Corps, also operates 25 thrift stores, seven of which are located within California at various naval or marine bases in San Diego, Ridgecrest, Port Hueneme, Camp Pendleton, Coronado and Lemoore. The Society’s thrift stores sell used clothing, uniforms, and household items to service members and their families at a nominal cost. The sales income realized from the thrift stores is returned to the Navy-Marine Corps community in the form of relief services. The Board believes that the price of the goods sold by the Society’s thrift stores should not be increased by the addition of sales tax. The Board therefore unanimously voted to support legislation to provide an exemption.

4. **Who can shop at these thrift stores?** The thrift stores, located on military bases and not open to the public, are patronized primarily by military families, but Department of Defense employees, including retirees and civilian contractors, may also patronize these shops.

COST ESTIMATE

Enactment of this bill would not materially impact the Board's administrative costs.

REVENUE ESTIMATE

According to the 2007 Annual Report of the Navy Marine Corps Relief Society, miscellaneous receipts, principally from thrift shop operations, amounted to an additional \$1.1 million. Assuming 80 percent of those miscellaneous receipts are from actual thrift store sales, total sales of all 25 thrift stores would amount to \$880,000. Since only seven of the 25 thrift stores (or 28%) are located in California, we assume total sales that would be exempted by this measure would amount to \$246,400 (28% of \$880,000).

Applying the total California sales of \$246,400 by the average sales and use tax rate (as of April 1, 2009) of 8.61% (5 thrift stores are located in 8.75% tax rate areas, and 2 are located in 8.25% areas), total state and local sales and use tax revenues would amount to approximately \$21,215 annually, as follows:

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|-----------------------------------|-----------------|
| State General Fund (6%) | \$14,784 |
| State Fiscal Recovery Fund (1/4%) | 616 |
| Local Revenue Fund (1/2%) | 1,232 |
| Local Public Safety Fund (1/2%) | 1,232 |
| Local and County (1%) | 2,464 |
| Special districts | 887 |
| Total | <u>\$21,215</u> |

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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 Board's formal position.