ASSEMBLY BILL No. 546

Introduced by Assembly Member Knight

February 25, 2009

An act to add Section 6377 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

legislative counsel's digest

AB 546, as introduced, Knight. Sales and use taxes: exemption: manufacturing equipment: photovoltaic panels.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would exempt from sales and use taxes the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property, as specified, purchased for use primarily in the manufacturing of solar photovoltaic panels.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state sales and use taxes.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6377 is added to the Revenue and Taxation Code, to read:

6377. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property purchased for use primarily in any stage of the manufacturing of solar photovoltaic panels.

(b) For purposes of this section:

(1) "Manufacturing" means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for sale at retail or for use in the manufacturing of a product to be sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(2) "Tangible personal property" includes, but is not limited to, machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(c) No exemption shall be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instruction or regulation as the board may prescribe, and the retailer subsequently furnishes the board with a copy of the exemption certificate. The exemption certificate shall contain the purchase price of the machinery or equipment, the sale or storage, use, or other consumption of which is exempt from taxes pursuant to subdivision (a).

(d) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption provided by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) The exemption provided by this section shall not apply with respect to any tax levied pursuant to Sections 6051.2, 6051.5, 6201.2, and 6201.5 or pursuant to Section 35 of Article XIII of the California Constitution.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

O