

Assembly Bill No. 1486

Passed the Assembly August 31, 2009

Chief Clerk of the Assembly

Passed the Senate August 27, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 6018.9 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, Furutani. Sales and use taxes: consumer: nonprofit membership organizations.

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. That law, with certain exceptions, defines a retailer as a seller who makes any retail sale of tangible personal property and as a person who makes more than 2 retail sales of tangible personal property during any 12-month period, and defines a retail sale as a sale of tangible personal property for any purpose other than resale in the regular course of business.

This bill would, until January 1, 2015, provide that a membership organization, as described in Section 501(c) of the Internal Revenue Code, is the consumer, and not a retailer, of tangible personal property meeting certain requirements that it provides to its members, so that the retail sale subject to tax is the sale of tangible personal property to the membership organization.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and the Transactions and Use Tax Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these taxes. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the

state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

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

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

SECTION 1. Section 6018.9 is added to the Revenue and Taxation Code, to read:

6018.9. (a) An organization described in Section 501(c) of the Internal Revenue Code is a consumer of, and shall not be considered a retailer within the provisions of this part for purposes of any transfer of, tangible personal property to its members, as defined in Section 5056 of the Corporations Code, if the following requirements are met:

(1) The tangible personal property bears a logo or other identifying mark of the organization and is a promotional item or other item commonly associated with use by a member to demonstrate the member's association with, or membership in, the organization.

(2) The cost to the member of the organization for the acquisition of the tangible personal property is not more than the cost to the nonprofit organization to obtain and transfer to the member the tangible personal property, including any applicable sales or use tax paid by the nonprofit organization.

(3) Reasonable steps are taken by the organization to ensure that no member is allowed to acquire more than 30 identical items of tangible personal property or to resell the items to another person.

(4) The tangible personal property is not distributed for purposes of organized political campaigning or issue advocacy.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. 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.

Approved _____, 2009

Governor