

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 279

Introduced by Assembly Member Garrick

February 8, 2011

An act to add Section 6012.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 279, as amended, Garrick. Sales and use taxes: wireless communication devices: bundled transactions.

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. Under existing sales and use tax regulations, gross receipts from a retail sale of a wireless telecommunication device sold in a bundled transaction with wireless telecommunication service ~~is~~ *are* generally equal to the amount of the unbundled sales price of the wireless telecommunication device.

This bill would, instead, limit the gross receipts from a retail sale of a wireless telecommunication device sold in a bundled transaction with wireless telecommunication service to the bundled sales price of the wireless telecommunication device.

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 existing law authorizes districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which conforms to the Sales and

Use Tax Law. Amendments to state sales and use taxes are incorporated into these laws.

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 any 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.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 6012.4 is added to the Revenue and
2 Taxation Code, to read:

3 6012.4. (a) Notwithstanding Sections 6011 and 6012, “gross
4 receipts” and “sales price” from the retail sale of a wireless
5 communication device shall be limited to the amount charged for
6 the sale of the wireless telecommunication device when that device
7 is sold in a bundled transaction.

8 (b) “Bundled transaction” means a retail sale of a wireless
9 telecommunication device that contractually requires the retailer’s
10 customer to activate or contract with a wireless telecommunications
11 service provider for utility service for a period greater than one
12 month as a condition of that sale.

13 (c) “Wireless telecommunication device” means a portable
14 communication device, such as a wireless telephone or pager,
15 requiring activation by a wireless telecommunications service
16 provider or seller of utility services in order to send, receive, or
17 send and receive transmissions via a network of wireless
18 transmitters throughout multiple service areas, or otherwise. The
19 term includes devices based on analog technology and devices
20 based on digital technology.

21 (d) “Wireless telecommunications service provider” means a
22 utility regulated by the Public Utilities Commission or Federal
23 Communication Commission and that offers or provides wireless
24 communication or paging services.

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

5 SEC. 3. This act provides for a tax levy within the meaning of
6 Article IV of the Constitution and shall go into immediate effect.
7 *However, the provisions of this act shall become operative on the*
8 *first day of the first calendar quarter commencing more than 90*
9 *days after the effective date of this act.*