

ASSEMBLY BILL

No. 1774

Introduced by Assembly Member Mansoor

February 17, 2012

An act to add Title 3 (commencing with Section 3460) to Part 2 of Division 4 of the Civil Code, and to amend Sections 6354 and 6355 of, and to add Sections 18154.2 and 24996 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1774, as introduced, Mansoor. Sales and use tax: exemption: gold and silver coins: income and corporation taxes: capital gains.

(1) Federal law provides that United States coins and currency are legal tender for all debts, public charges, taxes, and dues. Existing law further provides that a person may pay a debt in gold coin or legal-tender notes of the United States unless otherwise provided in the obligation out of which the debt arises.

This bill would provide that gold and silver coin issued by the federal government is legal tender in California and that a person may not compel another person to tender or accept gold and silver coin that is issued by the federal government, except when otherwise provided in the obligation out of which the debt arises.

(2) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property 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 provides various exemptions from those taxes, including an exemption for the sale in bulk of bullion and

numismatic coins, and the storage, use, or other consumption of, those bullion and coins, as provided.

This bill would additionally exempt from those taxes, the gross receipts from the sale of, and the storage, use, or other consumption in this state of, gold and silver coins issued by the federal government.

The Bradley-Burns Uniform Local Sales and Use Tax 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 to impose transactions and use taxes in accordance with the Transactions and Use Tax Law which conforms to the Sales and Use Tax Law. Exemptions from 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 local agencies for sales and use tax revenues lost by them pursuant to this bill.

(3) The Personal Income Tax Law and the Corporation Tax Law provide that a gain or loss upon the disposition of a capital asset is determined by reference to the specified adjusted basis of that asset.

This bill would provide, under both laws, that the gross income of a taxpayer does not include any gain from the sale or exchange of gold and silver coins issued by the federal government.

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. Title 3 (commencing with Section 3460) is added
2 to Part 2 of Division 4 of the Civil Code, to read:

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4

TITLE 3. LEGAL TENDER

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6 3460. (a) Gold and silver coin issued by the federal government
7 is legal tender in the state.

8 (b) A person may not compel any other person to tender or
9 accept gold and silver coin that is issued by the federal government,
10 except when otherwise provided in the obligation out of which the
11 debt arises.

1 SEC. 2. Section 6354 of the Revenue and Taxation Code is
2 amended to read:

3 6354. (a) There are exempted from the taxes imposed by this
4 part, the gross receipts from the sales of commemorative
5 “California Gold” medallions produced and sold in accordance
6 with Chapter 25 (commencing with Section 7551) of Division 7
7 of Title 1 of the Government Code, and the storage, use, or other
8 consumption in this state of commemorative “California Gold”
9 medallions so produced and sold.

10 (b) *There are exempted from the taxes imposed by this part, the*
11 *gross receipts from the sales of gold and silver coins issued by the*
12 *federal government, and the storage, use, or other consumption*
13 *in this state of gold and silver coins issued by the federal*
14 *government.*

15 SEC. 3. Section 6355 of the Revenue and Taxation Code is
16 amended to read:

17 6355. (a) There are exempted from the taxes imposed by this
18 part the gross receipts from the sale in bulk of monetized bullion,
19 nonmonetized gold or silver bullion, and numismatic coins that
20 are substantially equivalent to transactions in securities or
21 commodities through a national securities or commodities exchange
22 and the storage, use, or other consumption in this state of monetized
23 bullion, nonmonetized gold or silver bullion, and numismatic coins
24 so sold.

25 (b) (1) A sale in bulk, for purposes of this section, shall be
26 deemed to have occurred if the amount of monetized bullion,
27 nonmonetized gold or silver bullion, and numismatic coins sold
28 in the transaction totals, in market value, the sum of one thousand
29 dollars (\$1,000) or more, or its equivalent.

30 (2) The board shall adjust the one thousand dollar (\$1,000)
31 amount specified in paragraph (1) as follows:

32 (A) On or before September 1, 1994, and on or before each
33 September 1 of each year thereafter, the board shall multiply the
34 amount applicable for the current calendar year by the inflation
35 factor adjustment determined by the Franchise Tax Board pursuant
36 to subdivision (h) of Section 17041, the resulting amount to be the
37 applicable amount for the succeeding calendar year. The applicable
38 amount shall be operative as an adjustment of the amount specified
39 in paragraph (1) only when the applicable amount computed is

1 equal to or exceeds a new operative threshold, as defined in
2 subparagraph (C).

3 (B) When the applicable amount equals or exceeds an operative
4 threshold specified in subparagraph (C), the resulting applicable
5 amount, rounded to the nearest multiple of five hundred dollars
6 (\$500), shall be operative for purposes of paragraph (1) beginning
7 January 1 of the succeeding calendar year.

8 (C) For purposes of this paragraph, “operative threshold” means
9 an amount that exceeds by at least five hundred dollars (\$500), the
10 greater of either the amount specified in paragraph (1) or the
11 amount computed pursuant to subparagraphs (A) and (B) as the
12 operative adjustment to the amount specified in paragraph (1).

13 (c) (1) “Monetized bullion,” for purposes of this section, means
14 coins or other forms of money manufactured of gold, silver, or
15 other metal and heretofore, now, or hereafter used as a medium of
16 exchange under the laws of this state, the United States, or any
17 foreign nation. “Monetized bullion,” for purposes of this section,
18 also means gold medallions struck under authority of the American
19 Arts Gold Medallion Act (Title IV of Public Law 95-630).

20 (2) “*Monetized bullion*,” “*nonmonetized gold or silver bullion*,”
21 and “*numismatic coins*,” for purposes of this section, shall not
22 include gold and silver coins issued by the federal government.

23 (d) A sale of monetized bullion, nonmonetized gold or silver
24 bullion, or numismatic coins, for purposes of this section, shall be
25 deemed to be substantially equivalent to a transaction in securities
26 or commodities through a national securities or commodities
27 exchange, if the sale is by or through a person registered pursuant
28 to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not
29 required to be registered under the Commodity Exchange Act.

30 SEC. 4. Section 18154.2 is added to the Revenue and Taxation
31 Code, to read:

32 18154.2. (a) For each taxable year beginning on or after
33 January 1, 2012, gross income shall not include any gain from the
34 sale or exchange of any qualified capital assets.

35 (b) For purposes of this section, “qualified capital assets” means
36 gold and silver coins issued by the federal government.

37 SEC. 5. Section 24996 is added to the Revenue and Taxation
38 Code, to read:

1 24996. (a) For each taxable year beginning on or after January
2 1, 2012, gross income shall not include any gain from the sale or
3 exchange of any qualified capital assets.

4 (b) For purposes of this section, “qualified capital assets” means
5 gold and silver coins issued by the federal government.

6 SEC. 6. The provisions of this act are severable. If any
7 provision of this act or its application is held invalid, that invalidity
8 shall not affect other provisions or applications that can be given
9 effect without the invalid provision or application.

10 SEC. 7. Notwithstanding Section 2230 of the Revenue and
11 Taxation Code, no appropriation is made by this act and the state
12 shall not reimburse any local agency for any sales and use revenues
13 lost by it under this act.