

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 18, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2688

**Introduced by Committee on Revenue and Taxation (Perea (Chair),
Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)**

March 12, 2012

An act to amend Sections 1154, 6055, and 6203.5, ~~7261, and 7262~~ of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2688, as amended, Committee on Revenue and Taxation. Property ~~taxes and transaction and use taxes.~~ *taxes: sales and use taxes.*

Existing law requires the personal property of an air carrier to be taxed at its fair market value, and the California Constitution requires property subject to ad valorem property taxation to be assessed in the county in which it is situated. Existing law requires air taxis which are operated in scheduled air taxi operations to be assessed pursuant to a specified formula, and requires all other air taxis to be assessed in the same manner as personal property, as provided. Existing law defines "air taxi" for purposes of these provisions to mean an aircraft used by an air carrier which does not utilize aircraft having a maximum passenger capacity, as provided, and which does not hold a specified certificate or other economic authority, as provided.

The bill would revise the definition of "air taxi," as provided.

Existing sales and use tax laws authorize a deduction or refund of tax in the case of worthless and written-off accounts held by a retailer or

lender under specified circumstances, which include establishing a proper election by filing an election with the State Board of Equalization before claiming the deduction or refund.

This bill would instead require the proper election to be established by the retailer and lender preparing and retaining an election form that would not need to be prepared or retained prior to claiming any deduction or refund.

~~Existing laws authorize districts, as specified, to levy, increase, or extend a transactions and use tax in accordance with the Transactions and Use Tax Law. The Transactions and Use Tax Law requires that the ordinance proposing the tax include certain provisions, including a provision imposing a transactions and use tax at a rate of 0.25%, or a multiple thereof.~~

~~This bill would instead authorize the levy, increase, or extension of a transactions and use tax at a rate of 0.125%, or a multiple thereof.~~

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

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

1 SECTION 1. Section 1154 of the Revenue and Taxation Code
2 is amended to read:

3 1154. (a) As used in this section, “air taxi” means aircraft used
4 by an air carrier which does not utilize aircraft having a maximum
5 passenger capacity of more than 60 seats or a maximum payload
6 capacity of more than 18,000 pounds in air transportation and
7 which holds a certificate of public convenience and necessity or
8 other economic authority issued by the United States Department
9 of Transportation, or its successor.

10 (b) Air taxis which are operated in scheduled air taxi operations
11 are not subject to the provisions of Part 10 (commencing with
12 Section 5301) of this division and shall be assessed in accordance
13 with the allocation formula set forth in Section 1152.

14 (c) All other air taxis shall be assessed in the county where the
15 aircraft is habitually situated in the same manner and at the same
16 ratio as other personal property in the county subject to general
17 property taxation. Such aircraft shall be taxed at the same rate and
18 in the same manner as all other property on the unsecured roll.

19 SEC. 2. Section 6055 of the Revenue and Taxation Code is
20 amended to read:

1 6055. (a) A retailer is relieved from liability for sales tax that
2 became due and payable, insofar as the measure of the tax is
3 represented by accounts that have been found to be worthless and
4 charged off for income tax purposes by the retailer or, if the retailer
5 is not required to file income tax returns, charged off in accordance
6 with generally accepted accounting principles. A retailer that has
7 previously paid the tax may, under rules and regulations prescribed
8 by the board, take as a deduction the amount found worthless and
9 charged off by the retailer. If these accounts are thereafter in whole
10 or in part collected by the retailer, the amount collected shall be
11 included in the first return filed after the collection and the tax
12 shall be paid with the return. For purposes of this subdivision, the
13 term “retailer” shall include any entity affiliated with the retailer
14 under Section 1504 of Title 26 of the United States Code.

15 (b) (1) In the case of accounts held by a lender, a retailer or
16 lender that makes a proper election under paragraph (4) shall be
17 entitled to a deduction or refund of the tax that the retailer has
18 previously reported and paid if all of the following conditions are
19 met:

20 (A) A deduction was not previously claimed or allowed on any
21 portion of the accounts.

22 (B) The accounts have been found worthless and written off by
23 the lender in accordance with the requirements of subdivision (a).

24 (C) The contract between the retailer and the lender contains
25 an irrevocable relinquishment of all rights to the account from the
26 retailer to the lender.

27 (D) The retailer remitted the tax on or after January 1, 2000.

28 (E) The party electing to claim the deduction or refund under
29 paragraph (4) files a claim in a manner prescribed by the board.

30 (2) If the retailer or the lender thereafter collects in whole or in
31 part any accounts, one of the following shall apply:

32 (A) If the retailer is entitled to the deduction or refund under
33 the election specified in paragraph (4), the retailer shall include
34 the amount collected in its first return filed after the collection and
35 pay tax on that amount with the return.

36 (B) If the lender is entitled to the deduction or refund under the
37 election specified in paragraph (4), the lender shall pay the tax to
38 the board in accordance with Section 6451.

39 (3) For purposes of this subdivision, the term “lender” means
40 any of the following:

1 (A) Any person that holds a retail account which that person
2 purchased directly from a retailer who reported the tax.

3 (B) Any person that holds a retail account pursuant to that
4 person’s contract directly with the retailer that reported the tax.

5 (C) Any person that is either an affiliated entity, under Section
6 1504 of Title 26 of the United States Code, of a person described
7 in subparagraph (A) or (B), or an assignee of a person described
8 in subparagraph (A) or (B).

9 (4) For purposes of this section, a “proper election” shall be
10 established when the retailer that reported the tax and the lender
11 prepare and retain an election form, signed by both parties,
12 designating which party is entitled to claim the deduction or refund.
13 This election may not be amended or revoked unless a new
14 election, signed by both parties, is prepared and retained by the
15 retailer and the lender.

16 SEC. 3. Section 6203.5 of the Revenue and Taxation Code is
17 amended to read:

18 6203.5. (a) A retailer is relieved from liability to collect use
19 tax that became due and payable, insofar as the measure of the tax
20 is represented by accounts that have been found to be worthless
21 and charged off for income tax purposes by the retailer or, if the
22 retailer is not required to file income tax returns, charged off in
23 accordance with generally accepted accounting principles. A
24 retailer that has previously paid the amount of the tax may, under
25 rules and regulations prescribed by the board, take as a deduction
26 the amount found worthless and charged off by the retailer. If these
27 accounts are thereafter in whole or in part collected by the retailer,
28 the amount collected shall be included in the first return filed after
29 the collection and the amount of the tax shall be paid with the
30 return. For purposes of this subdivision, the term “retailer” shall
31 include any entity affiliated with the retailer under Section 1504
32 of Title 26 of the United States Code.

33 (b) (1) In the case of accounts held by a lender, a retailer or
34 lender that makes a proper election under paragraph (4) shall be
35 entitled to a deduction or refund of the tax that the retailer has
36 previously reported and paid if all of the following conditions are
37 met:

38 (A) A deduction was not previously claimed or allowed on any
39 portion of the accounts.

1 (B) The accounts have been found worthless and written off by
2 the lender in accordance with the requirements of subdivision (a).

3 (C) The contract between the retailer and the lender contains
4 an irrevocable relinquishment of all rights to the account from the
5 retailer to the lender.

6 (D) The retailer remitted the tax on or after January 1, 2000.

7 (E) The party electing to claim the deduction or refund under
8 paragraph (4) files a claim in a manner prescribed by the board.

9 (2) If the retailer or the lender thereafter collects in whole or in
10 part any accounts, one of the following shall apply:

11 (A) If the retailer is entitled to the deduction or refund under
12 the election specified in paragraph (4), the retailer shall include
13 the amount collected in its first return filed after the collection and
14 pay tax on that amount with the return.

15 (B) If the lender is entitled to the deduction or refund under the
16 election specified in paragraph (4), the lender shall pay the tax to
17 the board in accordance with Section 6451.

18 (3) For purposes of this subdivision, the term “lender” means
19 any of the following:

20 (A) Any person that holds a retail account which that person
21 purchased directly from a retailer who reported the tax.

22 (B) Any person that holds a retail account pursuant to that
23 person’s contract directly with the retailer that reported the tax.

24 (C) Any person that is either an affiliated entity, under Section
25 1504 of Title 26 of the United States Code, of a person described
26 in subparagraph (A) or (B), or an assignee of a person described
27 in subparagraph (A) or (B).

28 (4) For purposes of this section, a “proper election” shall be
29 established when the retailer that reported the tax and the lender
30 prepare and retain an election form, signed by both parties,
31 designating which party is entitled to claim the deduction or refund.
32 This election may not be amended or revoked unless a new
33 election, signed by both parties, is prepared and retained by the
34 retailer and the lender.

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All matter omitted in this version of the bill appears in the bill as amended in the Senate, June 26, 2012. (JR11)

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