

**ASSEMBLY BILL**

**No. 919**

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**Introduced by Assembly Member Williams**

February 22, 2013

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An act to add Section 6018.2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 919, as introduced, Williams. Sales and use taxes: veterans: itinerant vendors: repayment.

Existing sales and use tax laws 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, measured by sales price. 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.

Existing law, from April 1, 2010, to January 1, 2022, provides that a qualified itinerant vendor, as defined, is a consumer, and not a retailer, of tangible personal property owned and sold by the qualified itinerant vendor, except for alcoholic beverages or items sold for more than \$100, so that the retail sale subject to tax is the sale of tangible personal property to the qualified itinerant vendor and not the sale by the qualified itinerant vendor.

This bill would provide a procedure for a qualified veteran, who is a person who met specified requirements for being a qualified itinerant vendor between April 1, 2002, and April 1, 2010, to submit a claim for qualified repayments, as defined, with the State Board of Equalization, as provided. This bill would, on or before March 1, 2015, require the board to certify to the Controller the amount of qualified repayments to be made to each qualified veteran, and would require the State Controller, upon appropriation by the Legislature, to make the payments of qualified repayments. This bill would limit the total amount of money available to make qualified repayments to not more than \$50,000.

This bill would make findings regarding the public purpose served by the bill.

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. The Legislature finds and declares all of the  
2 following:

3 (a) Prior to the enactment of Chapter 621 of the Statutes of 2009  
4 (Senate Bill 805 of the 2009–10 Regular Session), which became  
5 operative on April 1, 2010, there was considerable uncertainty  
6 among honorably discharged veterans with respect to their  
7 responsibilities under California’s Sales and Use Tax Law. These  
8 veterans relied upon Section 16102 of the Business and Professions  
9 Code that exempts honorably discharged veterans from payment  
10 of certain license taxes and fees for their sales of goods, wares, or  
11 merchandise owned by them (except alcoholic beverages), and as  
12 a result, failed to pay sales tax or to collect sales tax reimbursement  
13 on their retail sales.

14 (b) This uncertainty resulted in deficiency assessments by the  
15 State Board of Equalization against these veterans and subsequent  
16 payments to the board by these veterans of the tax, interest, and  
17 penalty for amounts that the board determined to be due.

18 (c) For the public purpose of assuring equity in the payment of  
19 sales tax among qualified veterans for tangible personal property  
20 owned and sold by those veterans for \$100 or less, excluding  
21 alcoholic beverages, it is the intent of the Legislature that the sales  
22 tax, interest, and any penalties paid by these veterans on those  
23 sales for the period on and after April 1, 2002, and before April

1 1, 2010, for which there was no sales tax reimbursement collected  
2 from customers, be repaid in accordance with the provisions of  
3 this act.

4 SEC. 2. Section 6018.2 is added to the Revenue and Taxation  
5 Code, to read:

6 6018.2. (a) A qualified veteran may receive from the state, a  
7 qualified repayment if all provisions of this section are satisfied.

8 (b) The procedures set forth in this section shall be the exclusive  
9 procedure and remedy for the claims for, or action for, a repayment  
10 of taxes, interest, or penalties paid by a qualified veteran under  
11 the Sales and Use Tax Law (Part 1 (commencing with Section  
12 6001)), Section 35 of Article XIII of the California Constitution,  
13 local sales tax imposed in accordance with the Bradley-Burns  
14 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
15 with Section 7200)), and local transactions and use taxes imposed  
16 in accordance with the Transactions and Use Tax Law (Part 1.6  
17 (commencing with Section 7251)) for the eight year period  
18 beginning on and after April 1, 2002, and before April 1, 2010.

19 (c) (1) For purposes of this section, a “qualified veteran” means  
20 a person who meets all of the following requirements:

21 (A) The person met the requirements of a qualified itinerant  
22 vendor as set forth in Section 6018.3, on and after April 1, 2002  
23 and before April 1, 2010.

24 (B) The person paid to the board taxes imposed under the Sales  
25 and Use Tax Law (Part 1 (commencing with Section 6001)),  
26 Section 35 of Article XIII of the California Constitution, local  
27 sales tax imposed in accordance with the Bradley-Burns Uniform  
28 Local Sales and Use Tax Law (Part 1.5 (commencing with Section  
29 7200)), or local transactions and use taxes imposed in accordance  
30 with the Transactions and Use Tax Law (Part 1.6 (commencing  
31 with Section 7251)) for the period beginning April 1, 2002, and  
32 before April 1, 2010, for which no sales tax reimbursement was  
33 collected from customers, and also paid any interest or penalties  
34 associated with those tax liabilities.

35 (2) “Qualified repayment” means an amount equal to the amount  
36 described in subparagraph (B) of paragraph (1).

37 (d) (1) Before January 1, 2015, a qualified veteran may file a  
38 claim for a qualified repayment with the board.

39 (2) The claim shall be in writing, and shall be completed in  
40 accordance with any instructions or regulations as the board may

1 prescribe, including, but not limited to, proof of payment of the  
2 tax, interest, or penalties described in subparagraph (B) of  
3 paragraph (1) of subdivision (c).

4 (3) On or before March 1, 2015, the board shall certify to the  
5 Controller the amount of qualified repayments to be made to each  
6 qualified veteran pursuant to this section. The total amount of  
7 money available to make qualified repayment shall not exceed  
8 fifty thousand dollars (\$50,000). If the total amount of claims filed  
9 exceed fifty thousand dollars (\$50,000), the board shall determine  
10 the pro rata share due to each qualified veteran based on the  
11 proportion each claim bears to the total amount of claims and shall  
12 report that amount for certification.

13 (4) Upon appropriation by the Legislature, the Controller shall  
14 make the payments of qualified repayments to qualified veterans.

15 (5) No interest shall be paid on any qualified repayment made  
16 pursuant to this section.

17 SEC. 3. The Legislature finds and declares that the addition of  
18 Section 6018.2 of the Revenue and Taxation Code by this act  
19 serves a public purpose, as described in Section 1 of this act, and  
20 does not constitute a gift of public funds within the meaning of  
21 Section 6 of Article XVI of the California Constitution.