

AMENDED IN ASSEMBLY JANUARY 29, 2014

AMENDED IN ASSEMBLY JANUARY 17, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 919

Introduced by Assembly Member Williams

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing sales and use tax laws impose 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, 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, 2016, 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~~ 809 of the 2009–10 Regular Session), which
5 became operative on April 1, 2010, there was considerable
6 uncertainty among honorably discharged veterans with respect to
7 their responsibilities under California’s Sales and Use Tax Law.
8 These veterans relied upon Section 16102 of the Business and
9 Professions ~~Code that Code~~, which exempts honorably discharged
10 veterans from payment of any license, tax or fee, whatsoever, for
11 their sales of goods, wares, or merchandise owned by them (except
12 alcoholic beverages), and as a result, failed to pay sales tax or to
13 collect sales tax reimbursement 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~~ *one hundred dollars*

1 (\$100) or less, excluding alcoholic beverages, it is the intent of
2 the Legislature that the sales tax, interest, and any penalties paid
3 by these veterans on those sales during the period on and after
4 April 1, 2002, and before April 1, 2010, for which there was no
5 sales tax reimbursement collected from customers, be repaid in
6 accordance with the provisions of this act.

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

9 6018.2. (a) A qualified veteran may receive from the state, ~~a~~
10 a qualified repayment if all provisions of this section are satisfied.

11 (b) The procedures set forth in this section shall be the procedure
12 and remedy for the claims for a repayment of taxes, interest, or
13 penalties paid by a qualified veteran under the Sales and Use Tax
14 Law (Part 1 (commencing with Section 6001)), Section 35 of
15 Article XIII of the California Constitution, local sales tax imposed
16 in accordance with the Bradley-Burns Uniform Local Sales and
17 Use Tax Law (Part 1.5 (commencing with Section 7200)), and
18 local transactions and use taxes imposed in accordance with the
19 Transactions and Use Tax Law (Part 1.6 (commencing with Section
20 7251)) during the eight-year period beginning on and after April
21 1, 2002, and before April 1, 2010.

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

24 (A) The person met the requirements of a qualified itinerant
25 vendor as set forth in Section 6018.3 during the period in which
26 the sales were made.

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

38 (2) “Qualified repayment” means an amount equal to the amount
39 described in subparagraph (B) of paragraph (1), less any ~~amount~~
40 ~~previously refunded to a qualified veteran through administrative~~

1 ~~refund actions, including administrative settlement, and any~~
2 ~~amounts received in judgment or settlement of refund through a~~
3 ~~court of competent jurisdiction~~ *amounts previously refunded,*
4 *credited, or paid to a qualified veteran through any means*
5 *whatsoever.*

6 (d) (1) Before January 1, 2016, a qualified veteran may file a
7 claim for a qualified repayment with the board.

8 (2) The claim shall be in writing, and shall be completed in
9 accordance with any instructions or regulations as the board may
10 prescribe, including, but not limited to, proof of payment of the
11 tax, interest, or penalties described in subparagraph (B) of
12 paragraph (1) of subdivision (c).

13 (3) On or before March 1, 2016, the board shall certify to the
14 Controller the amount of qualified repayments to be made to each
15 qualified veteran pursuant to this section. The total amount of
16 money available to make qualified ~~repayment~~ *repayments* shall
17 not exceed fifty thousand dollars (\$50,000). If the total amount of
18 claims filed ~~exceed~~ *exceeds* fifty thousand dollars (\$50,000), the
19 board shall determine the pro rata share due to each qualified
20 veteran based on the proportion each claim bears to the total
21 amount of claims and shall report that amount for certification.

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

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

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