

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 560

Introduced by Senator Anderson

February 22, 2013

An act to add Sections 6357.9, 17137, and 24311 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 560, as amended, Anderson. Disaster relief: sales and use tax: exemption: income taxes: gross income: exclusion.

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. Those laws provide various exemptions from those taxes.

This bill would exempt from those taxes, on and after January 1, ~~2014~~, *2015*, the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased during a disaster period for use by a qualified person to be used primarily for the performance of disaster- or emergency-related work in this state, as provided. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on taxpayers measured by the amount of the taxpayer's taxable income for the taxable year, but exclude certain items of income from the computation of tax.

This bill would, under both laws, for taxable years beginning on and after January 1, ~~2014~~, 2015, exclude from income amounts received by a qualified person, as defined, for the performance of disaster- or emergency-related work in this state that is performed during the disaster period, as provided.

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 act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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. The Legislature finds and declares all of the
- 2 following:
- 3 (a) During times of storm, flood, fire, earthquake, hurricane, or
- 4 other disaster or emergency, many companies bring in resources
- 5 and personnel from other states throughout the United States on a
- 6 temporary basis to expedite the often enormous and overwhelming
- 7 task of cleaning up, restoring and repairing damaged buildings,
- 8 equipment, and property, or even deploying or building new
- 9 replacement facilities in the state.
- 10 (b) This may involve the need for out-of-state companies,
- 11 including out-of-state affiliates of companies based in the state to
- 12 bring in resources, property or personnel that previously have had
- 13 no connection to the state, to perform activity in the state including,
- 14 but not limited to, repairing, renovating, installing, building,

1 rendering services, or other business activities and for which
2 personnel may be located in the state for extended periods of time
3 to perform such activities.

4 (c) During such time of operating in the state on a temporary
5 basis solely for purposes of helping the state recover from the
6 disaster or emergency, these companies and individual employees
7 should not be burdened by any requirements for income taxes as
8 a result of such activities in the state for a temporary period.

9 (d) The state’s nexus thresholds are intended for businesses in
10 the state as part of the conduct of regular business operations and
11 should not be directed at companies coming into the state on a
12 temporary basis to provide help and assistance in response to a
13 declared state disaster or emergency.

14 (e) To ensure that companies may focus on quick response to
15 the needs of the state and its citizens during a declared state disaster
16 or emergency it is appropriate for the Legislature to deem that such
17 activity for a reasonable period of time during and after the disaster
18 or emergency for repairing and restoration of the often devastating
19 damage to property and infrastructure in the state shall not establish
20 doing business in the state for purposes of state income taxes.

21 SEC. 2. Section 6357.9 is added to the Revenue and Taxation
22 Code, to read:

23 6357.9. (a) On and after January 1, ~~2014~~, 2015, there are
24 exempted from the taxes imposed by this part the gross receipts
25 from the sale of, and the storage, use, or other consumption of,
26 tangible personal property purchased during a disaster period for
27 use by a qualified person to be used primarily for the performance
28 of disaster- or emergency-related work in this state.

29 (b) For purposes of this section, all of the following shall apply:

30 (1) “Declared state disaster or emergency” means a disaster or
31 emergency event for which the Governor has proclaimed a state
32 of emergency or a major disaster or emergency for which the
33 President of the United States has declared to exist in this state.

34 (2) “Disaster- or emergency-related work” means repairing,
35 renovating, installing, building, or rendering services or other
36 business activities that relate to infrastructure that has been
37 damaged, impaired, or destroyed as a result of a declared state
38 disaster or emergency.

39 (3) “Disaster period” means the period of time that begins no
40 later than 10 days following the Governor’s proclamation of a state

1 of emergency or the President’s declaration of a major disaster or
2 emergency in this state, whichever occurs first, and that extends
3 for a period of 60 calendar days following the termination of the
4 declared disaster or emergency as proclaimed by the Governor or
5 by concurrent resolution by the Legislature pursuant to Section
6 8629 of the *Government Code* or the President of the United States,
7 whichever occurs first.

8 (4) “Infrastructure” means property and equipment owned or
9 used by communication networks, gas and electric distribution
10 systems, water pipelines, and public roads and bridges, and related
11 support facilities that service multiple customers or citizens,
12 including, but not limited to, real and personal property, including
13 buildings, offices, power lines, poles, pipes, structures, and
14 equipment.

15 (5) “Local agency” means a local agency as defined in Section
16 8680.2 of the *Government Code*.

17 (6) “Primarily” means 50 percent or more of the time.

18 (7) “Qualified person” means a person, as defined in Section
19 6005, but excluding an individual, that meets all of the following:

20 (A) Prior to the commencement date of the declared state
21 disaster or emergency, as specified in the Governor’s proclamation
22 of a state of emergency or the President’s declaration of a major
23 disaster or emergency in this state, was not doing business in this
24 state as defined in Section 23101.

25 (B) Is doing business in this state as defined in Section 23101
26 after the commencement date of the declared state disaster or
27 emergency, as specified in the Governor’s proclamation of a state
28 of emergency or the President’s declaration of a major disaster or
29 emergency in this state, upon the request of a registered business
30 or by a state agency or a local agency, for the purpose of
31 performing ~~of~~ disaster- or emergency-related work.

32 (8) “Registered business” means a business entity that is
33 registered to do business in this state prior to the commencement
34 date of the declared state disaster or emergency, as specified in
35 the Governor’s proclamation of a state of emergency or the
36 President’s declaration of a major disaster or emergency in this
37 state.

38 (9) “State agency” means a state agency as defined in Section
39 8680.8 of the *Government Code*.

1 (c) An exemption shall not be allowed under this section unless
2 the purchaser furnishes the retailer with an exemption certificate,
3 completed in accordance with any instructions or regulations as
4 the board may prescribe, and the retailer retains the exemption
5 certificate in its records and furnishes the exemption certificate to
6 the board upon request. The exemption certificate shall contain
7 the sales price of the qualified tangible personal property.

8 SEC. 3. Section 17137 is added to the Revenue and Taxation
9 Code, to read:

10 17137. (a) For taxable years beginning on and after January
11 1, ~~2014~~, 2015, gross income shall not include any amount received
12 by a qualified person for the performance of disaster- or
13 emergency-related work in this state that is performed during the
14 disaster period.

15 (b) For purposes of this section, all of the following shall apply:

16 (1) “Declared state disaster or emergency” means a disaster or
17 emergency event for which the Governor has proclaimed a state
18 of emergency or a major disaster or emergency for which the
19 President of the United States has declared to exist in this state.

20 (2) “Disaster- or emergency-related work” means repairing,
21 renovating, installing, building, or rendering services or other
22 business activities that relate to infrastructure that has been
23 damaged, impaired, or destroyed as a result of a declared state
24 disaster or emergency.

25 (3) “Disaster period” means the period of time that begins no
26 later than 10 days following the Governor’s proclamation of a state
27 of emergency or the President’s declaration of a major disaster or
28 emergency in this state, whichever occurs first, and that extends
29 for a period of 60 calendar days following the termination of the
30 declared disaster or emergency as proclaimed by the Governor or
31 by concurrent resolution by the Legislature pursuant to Section
32 8629 of the *Government Code* or the President of the United States,
33 whichever occurs first.

34 (4) “Infrastructure” means property and equipment owned or
35 used by communication networks, gas and electric distribution
36 systems, water pipelines, and public roads and bridges, and related
37 support facilities that service multiple customers or citizens,
38 including, but not limited to, real and personal property, including
39 buildings, offices, power lines, poles, pipes, structures, and
40 equipment.

1 (5) “Local agency” means a local agency as defined in Section
2 8680.2 of the Government Code.

3 (6) “Qualified person” means a limited partnership, limited
4 liability partnership, and limited liability company that meets both
5 of the following:

6 (A) Prior to the commencement date of the declared state
7 disaster or emergency, as specified in the Governor’s proclamation
8 of a state of emergency or the President’s declaration of a major
9 disaster or emergency in this state, was not doing business in this
10 state as defined in Section 23101.

11 (B) Is doing business in this state as defined in Section 23101
12 after the commencement date of the declared state disaster or
13 emergency, as specified in the Governor’s proclamation of a state
14 of emergency or the President’s declaration of a major disaster or
15 emergency in this state, upon the request of a registered business
16 or by a state agency or a local agency, for the purpose of
17 performing disaster- or emergency-related work.

18 (7) “Registered business” means a business entity that is
19 registered to do business in this state prior to the commencement
20 date of the declared state disaster or emergency, as specified in
21 the Governor’s proclamation of a state of emergency or the
22 President’s declaration of a major disaster or emergency in this
23 state.

24 (8) “State agency” means a state agency as defined in Section
25 8680.8 of the Government Code.

26 SEC. 4. Section 24311 is added to the Revenue and Taxation
27 Code, to read:

28 24311. (a) For taxable years beginning on and after January
29 1, ~~2014~~, 2015, gross income shall not include any amount received
30 by a qualified person for the performance of disaster- or
31 emergency-related work in this state that is performed during the
32 disaster period.

33 (b) For purposes of this section, all of the following shall apply:

34 (1) “Declared state disaster or emergency” means a disaster or
35 emergency event for which the Governor has proclaimed a state
36 of emergency or a major disaster or emergency for which the
37 President of the United States has declared to exist in this state.

38 (2) “Disaster- or emergency-related work” means repairing,
39 renovating, installing, building, or rendering services or other
40 business activities that relate to infrastructure that has been

1 damaged, impaired, or destroyed as a result of a declared state
2 disaster or emergency.

3 (3) “Disaster period” means the period of time that begins no
4 later than 10 days following the Governor’s proclamation of a state
5 of emergency or the President’s declaration of a major disaster or
6 emergency in this state, whichever occurs first, and that extends
7 for a period of 60 calendar days following the termination of the
8 declared disaster or emergency as proclaimed by the Governor or
9 by concurrent resolution by the Legislature pursuant to Section
10 8629 *of the Government Code* or the President of the United States,
11 whichever occurs first.

12 (4) “Infrastructure” means property and equipment owned or
13 used by communication networks, gas and electric distribution
14 systems, water pipelines, and public roads and bridges, and related
15 support facilities that service multiple customers or citizens,
16 including, but not limited to, real and personal property, including
17 buildings, offices, power lines, poles, pipes, structures, and
18 equipment.

19 (5) “Local agency” means a local agency as defined in Section
20 8680.2 of the Government Code.

21 (6) “Qualified person” means a corporation that meets all of the
22 following:

23 (A) Prior to the commencement date of the declared state
24 disaster or emergency, as specified in the Governor’s proclamation
25 of a state of emergency or the President’s declaration of a major
26 disaster or emergency in this state, was not doing business in this
27 state as defined in Section 23101.

28 (B) Is doing business in this state as defined in Section 23101
29 after the commencement date of the declared state disaster or
30 emergency, as specified in the Governor’s proclamation of a state
31 of emergency or the President’s declaration of a major disaster or
32 emergency in this state, upon the request of a registered business
33 or by a state agency or a local agency, for the purpose of
34 performing disaster- or emergency-related work.

35 (7) “Registered business” means a business entity that is
36 registered to do business in this state prior to the commencement
37 date of the declared state disaster or emergency, as specified in
38 the Governor’s proclamation of a state of emergency or the
39 President’s declaration of a major disaster or emergency in this
40 state.

1 (8) “State agency” means a state agency as defined in Section
2 8680.8 of the Government Code.

3 SEC. 5. Notwithstanding Section 2230 of the Revenue and
4 Taxation Code, no appropriation is made by this act and the state
5 shall not reimburse any local agency for any sales and use tax
6 revenues lost by it under this act.

7 SEC. 6. This act provides for a tax levy within the meaning of
8 Article IV of the Constitution and shall go into immediate effect.

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