

AMENDED IN ASSEMBLY MAY 7, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1021

Introduced by Assembly Member Steinorth

(Coauthors: Assembly Members Lackey, Mayes, and Obernolte)

(Coauthors: Senators Anderson and Runner)

February 26, 2015

An act to add Section ~~6012.4~~ *6012.10* to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1021, as amended, Steinorth. Sales and use taxes: smartphones: bundled transactions.

The Sales and Use Tax Law 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. Under existing sales and use tax regulations, gross receipts from a retail sale of a smartphone sold in a bundled transaction with wireless telecommunication service is generally equal to the amount of the unbundled sales price of the smartphone.

This bill would, instead, limit the gross receipts from a retail sale of a smartphone sold in a bundled transaction with wireless telecommunication service to the bundled sales price of the smartphone.

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 generally 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 bill would take effect immediately as a tax levy.

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 ~~6012.4~~ 6012.10 is added to the Revenue
- 2 and Taxation Code, to read:
- 3 ~~6012.4.~~
- 4 6012.10. (a) Notwithstanding Sections 6011 and 6012, “gross
- 5 receipts” and “sales price” from the retail sale or purchase of a
- 6 smartphone shall be limited to the amount charged for the sale of
- 7 the smartphone when that smartphone is sold in a bundled
- 8 transaction.
- 9 (b) “Bundled transaction” means a retail sale of a smartphone
- 10 that contractually requires ~~the~~ a retailer’s customer to activate or
- 11 contract with a wireless telecommunications service provider for
- 12 utility service for a period greater than one month as a condition
- 13 of that sale.
- 14 (c) (1) “Smartphone” means a cellular radio telephone or other
- 15 mobile voice communications handset device that includes all of
- 16 the following features:
- 17 (A) Utilizes a mobile operating system.
- 18 (B) Possesses the capability to utilize mobile software
- 19 applications, access and browse the Internet, utilize text messaging,
- 20 utilize digital voice service, and send and receive email.
- 21 (C) Has wireless network connectivity.
- 22 (D) Is capable of operating on a long-term evolution network
- 23 or successor wireless data network communication standards.

1 (2) A “smartphone” does not include a radio cellular telephone
2 commonly referred to as a “feature” or “messaging” telephone, a
3 laptop, a tablet device, or a device that only has electronic reading
4 capability.

5 (d) “Wireless telecommunications service provider” means a
6 utility regulated by the Public Utilities Commission or Federal
7 Communication Commission and that offers or provides wireless
8 communication or paging services.

9 SEC. 2. Notwithstanding Section 2230 of the Revenue and
10 Taxation Code, no appropriation is made by this act and the state
11 shall not reimburse any local agency for any sales and use tax
12 revenues lost by it under this act.

13 SEC. 3. This act provides for a tax levy within the meaning
14 of Article IV of the Constitution and shall go into immediate effect.