

AMENDED IN ASSEMBLY MAY 18, 2016

AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY APRIL 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2518**

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**Introduced by Assembly Member Gomez**

February 19, 2016

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An act to add and repeal Section 6356.9 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2518, as amended, Gomez. Sales and use taxes: exemption: nonprofit corporation: building and construction supplies.

Existing sales and use tax laws impose taxes 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, and provides various exemptions from the taxes imposed by those laws.

This bill, until January 1, 2020, would partially exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building and construction supplies, materials, equipment, and machinery, and the parts thereof, that are purchased for a specified use by a nonprofit corporation, as provided. The bill would make the purchaser liable for the payment of sales tax if the building and construction supplies, materials, equipment, and machinery, and the parts thereof, are removed, converted, or used in a manner not qualifying for the exemption.

~~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 generally to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws.~~

~~This bill would specify that this exemption does not apply to local sales and use taxes and transactions and use taxes and specified state sales and use taxes the proceeds of which are deposited into the Local Revenue Fund, the Local Revenue Fund 2011, the Local Public Safety Fund, and the Education Protection Account.~~

*This bill would specify that this exemption does not apply to specified state sales and use taxes from which the proceeds are deposited into the Local Revenue Fund, the Local Revenue Fund 2011, the Local Public Safety Fund, and the Education Protection Account.*

*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. Exemptions 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, but its operative date would depend on its effective date.*

*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 6356.9 is added to the Revenue and
- 2 Taxation Code, to read:

6356.9. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building and construction supplies, materials, equipment, and machinery, and the parts thereof, that are purchased for use by a nonprofit corporation that is exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15, for construction and rehabilitation of properties in this state that are intended to be sold and are sold to persons and families of low income.

~~(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.~~

~~(2)~~

(b) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, Section 35 and subdivision (f) of Section 36 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(c) If a purchaser certifies in writing to the seller that the building and construction supplies, materials, equipment, and machinery, and the parts thereof, purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and within one year from the date of purchase, the purchaser (1) removes the building and construction supplies, materials, equipment, and machinery, and the parts thereof, outside California, (2) converts the building and construction supplies, materials, equipment, and machinery, and the parts thereof, for use in a manner not qualifying for the exemption, or (3) uses that building and construction supplies, materials, equipment, and machinery, and the parts thereof, in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with

1 applicable interest, as if the purchaser were a retailer making a  
2 retail sale of the building and construction supplies, materials,  
3 equipment, and machinery, and the parts thereof, at the time the  
4 building and construction supplies, materials, equipment, and  
5 machinery, and the parts thereof, are so removed, converted, or  
6 used, and the cost of the building and construction supplies,  
7 materials, equipment, and machinery, and the parts thereof, to the  
8 purchaser shall be deemed the gross receipts from that retail sale.

9 (d) For purposes of this section, “persons and families of low  
10 income” has the same meaning as that term is defined in Section  
11 50093 of the Health and Safety Code.

12 (e) This section shall become inoperative on January 1, 2020,  
13 and as of that date is repealed.

14 *SEC. 2. Notwithstanding Section 2230 of the Revenue and*  
15 *Taxation Code, no appropriation is made by this act and the state*  
16 *shall not reimburse any local agency for any sales and use tax*  
17 *revenues lost by it under this act.*

18 ~~SEC. 2.~~

19 *SEC. 3.* This act provides for a tax levy within the meaning of  
20 Article IV of the Constitution and shall go into immediate effect.  
21 However, the provisions of this act shall become operative on the  
22 first day of the first calendar quarter commencing more than 180  
23 days after the effective date of this act.