

AMENDED IN SENATE SEPTEMBER 8, 1999

AMENDED IN SENATE JULY 14, 1999

AMENDED IN ASSEMBLY MAY 28, 1999

AMENDED IN ASSEMBLY MAY 18, 1999

AMENDED IN ASSEMBLY MAY 3, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 599

Introduced by Assembly Member Lowenthal

February 19, 1999

An act to amend Sections 6055 and 6203.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 599, as amended, Lowenthal. Sales and use taxes: worthless accounts.

The Sales and Use Tax Law provides that a retailer is relieved from liability for sales or use tax where the measure of the tax is represented by accounts that have been found to be worthless and charged off, as specified. Existing law also provides that a retailer may take as a deduction the amount found to be worthless and charged off, if the retailer has previously paid the tax.

This bill would provide ~~that a retailer who assigns debt to an assignee would be entitled to a deduction of the sales or use tax previously reported and paid by the retailer if certain conditions are met,~~ *in the case of accounts held by a lender,*

that a retailer or lender would be entitled to a deduction or refund of the sales or use tax previously reported and paid by the retailer if certain conditions are met.

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 6055 of the Revenue and~~
 2 *SECTION 1. Section 6055 of the Revenue and*
 3 *Taxation Code is amended to read:*
 4 6055. (a) A retailer is relieved from liability for sales
 5 tax ~~which that~~ became due and payable ~~subsequent to~~
 6 ~~September 30, 1957~~, insofar as the measure of the tax is
 7 represented by accounts ~~which that~~ have been found to
 8 be worthless and charged off for income tax purposes *by*
 9 *the retailer* or, if the retailer is not required to file income
 10 tax returns, charged off in accordance with generally
 11 accepted accounting principles. ~~If the~~ A retailer *that* has
 12 previously paid the tax, ~~he~~ may, under rules and
 13 regulations prescribed by the board, take as a deduction
 14 the amount found worthless and charged off *by the*
 15 *retailer*. ~~If any such~~ these accounts are thereafter in whole
 16 or in part collected by the retailer, the amount ~~so~~
 17 collected shall be included in the first return filed after
 18 ~~such~~ the collection and the tax *shall be* paid with the
 19 return. *For purposes of this subdivision, the term*
 20 *“retailer” shall include any entity affiliated with the*
 21 *retailer under Section 1504 of Title 26 of the United States*
 22 *Code.*
 23 (b) (1) *In the case of accounts held by a lender, a*
 24 *retailer or lender who makes a proper election under*
 25 *paragraph (4) shall be entitled to a deduction or refund*
 26 *of the tax that the retailer has previously reported and*
 27 *paid if all of the following conditions are met:*
 28 (A) *No deduction was previously claimed or allowed*
 29 *on any portion of the accounts.*
 30 (B) *The accounts have been found worthless and*
 31 *written off by the lender in accordance with the*
 32 *requirements of subdivision (a).*



1 (C) *The contract between the retailer and the lender*
2 *contains an irrevocable relinquishment of all rights to the*
3 *account from the retailer to the lender.*

4 (D) *The retailer remitted the tax on or after January*
5 *1, 1999.*

6 (E) *The party electing to claim the deduction or*
7 *refund under paragraph (4) files a claim in a manner*
8 *prescribed by the board.*

9 (2) *If the retailer or the lender thereafter collects in*
10 *whole or in part any accounts, one of the following shall*
11 *apply:*

12 (A) *If the retailer is entitled to the deduction or refund*
13 *under the election specified in paragraph (4), the retailer*
14 *shall include the amount collected in its first return filed*
15 *after the collection and pay tax on that amount with the*
16 *return.*

17 (B) *If the lender is entitled to the deduction or refund*
18 *under the election specified in paragraph (4), the lender*
19 *shall pay the tax to the board in accordance with Section*
20 *6451.*

21 (3) *For purposes of this subdivision, the term “lender”*
22 *means any of the following:*

23 (A) *Any person who holds a retail account which that*
24 *person purchased directly from a retailer who reported*
25 *the tax.*

26 (B) *Any person who holds a retail account pursuant to*
27 *that person’s contract directly with the retailer who*
28 *reported the tax.*

29 (C) *Any person who is either an affiliated entity,*
30 *under Section 1504 of Title 26 of the United States Code,*
31 *of a person described in subparagraph (A) or (B), or an*
32 *assignee of a person described in subparagraph (A) or*
33 *(B).*

34 (4) *Prior to claiming any deduction or refund under*
35 *this subdivision, the retailer who reported the tax and the*
36 *lender shall file an election with the board, signed by both*
37 *parties, designating which party is entitled to claim the*
38 *deduction or refund. This election may not be amended*
39 *or revoked unless a new election, signed by both parties,*
40 *is filed with the board.*



1 SEC. 2. Section 6203.5 of the Revenue and Taxation
2 Code is amended to read:

3 6203.5. (a) A retailer is relieved from liability to
4 collect use tax ~~which~~ *that* became due and payable
5 ~~subsequent to September 30, 1957~~, insofar as the measure
6 of the tax is represented by accounts ~~which~~ *that* have
7 been found to be worthless and charged off for income tax
8 purposes *by the retailer* or, if the retailer is not required
9 to file income tax returns, charged off in accordance with
10 generally accepted accounting principles. ~~If the~~ A
11 retailer *that* has previously paid the amount of the tax, ~~he~~
12 may, under rules and regulations prescribed by the board,
13 take as a deduction the amount found worthless and
14 charged off *by the retailer*. If ~~any such~~ *these* accounts are
15 thereafter in whole or in part collected by the retailer, the
16 amount ~~so~~ collected shall be included in the first return
17 filed after ~~such~~ *the* collection and the amount of the tax
18 ~~thereon~~ shall be paid with the return. *For purposes of this*
19 *subdivision, the term "retailer" shall include any entity*
20 *affiliated with the retailer under Section 1504 of Title 26*
21 *of the United States Code.*

22 (b) (1) *In the case of accounts held by a lender, a*
23 *retailer or lender who makes a proper election under*
24 *paragraph (4) shall be entitled to a deduction or refund*
25 *of the tax that the retailer has previously reported and*
26 *paid if all of the following conditions are met:*

27 (A) *No deduction was previously claimed or allowed*
28 *on any portion of the accounts.*

29 (B) *The accounts have been found worthless and*
30 *written off by the lender in accordance with the*
31 *requirements of subdivision (a).*

32 (C) *The contract between the retailer and the lender*
33 *contains an irrevocable relinquishment of all rights to the*
34 *account from the retailer to the lender.*

35 (D) *The retailer remitted the tax on or after January*
36 *1, 1999.*

37 (E) *The party electing to claim the deduction or*
38 *refund under paragraph (4) files a claim in a manner*
39 *prescribed by the board.*



1 (2) If the retailer or the lender thereafter collects in
2 whole or in part any accounts, one of the following shall
3 apply:

4 (A) If the retailer is entitled to the deduction or refund
5 under the election specified in paragraph (4), the retailer
6 shall include the amount collected in its first return filed
7 after the collection and pay tax on that amount with the
8 return.

9 (B) If the lender is entitled to the deduction or refund
10 under the election specified in paragraph (4), the lender
11 shall pay the tax to the board in accordance with Section
12 6451.

13 (3) For purposes of this subdivision, the term “lender”
14 means any of the following:

15 (A) Any person who holds a retail account which that
16 person purchased directly from a retailer who reported
17 the tax.

18 (B) Any person who holds a retail account pursuant to
19 that person’s contract directly with the retailer who
20 reported the tax.

21 (C) Any person who is either an affiliated entity,
22 under Section 1504 of Title 26 of the United States Code,
23 of a person described in subparagraph (A) or (B), or an
24 assignee of a person described in subparagraph (A) or
25 (B).

26 (4) Prior to claiming any deduction or refund under
27 this subdivision, the retailer who reported the tax and the
28 lender shall file an election with the board, signed by both
29 parties, designating which party is entitled to claim the
30 deduction or refund. This election may not be amended
31 or revoked unless a new election, signed by both parties,
32 is filed with the board.

33 ~~Taxation Code is amended to read:~~

34 ~~6055. (a) A retailer is relieved from liability for sales~~
35 ~~tax that became due and payable, insofar as the measure~~
36 ~~of the tax is represented by accounts that have been found~~
37 ~~to be worthless and charged off for income tax purposes~~
38 ~~or, if the retailer is not required to file income tax returns,~~
39 ~~charged off in accordance with generally accepted~~
40 ~~accounting principles. A retailer that has previously paid~~



1 the tax may, under rules and regulations prescribed by
2 the board, take as a deduction the amount found
3 worthless and charged off. If these accounts are
4 thereafter in whole or in part collected by the retailer, the
5 amount collected shall be included in the first return filed
6 after the collection and the tax shall be paid with the
7 return.

8 (b) (1) A retailer who assigns debt to an assignee shall
9 be entitled to a deduction of the tax that the retailer has
10 previously reported and paid if all of the following
11 conditions are met:

12 (A) No deduction was previously claimed or allowed
13 on any portion of the assigned accounts.

14 (B) The accounts have been found worthless and
15 written off by the assignee in accordance with the
16 requirements of subdivision (a).

17 (C) The contract of assignment contains an
18 irrevocable relinquishment of all rights to the account
19 from the retailer to the assignee.

20 (D) The assignment of the accounts was made on or
21 after January 1, 2000. For the purpose of this
22 subparagraph, each purchase made on a retail account
23 held pursuant to a contract described in paragraph (3)
24 shall be deemed to be a separate assignment.

25 (E) The retailer files a claim in a manner prescribed
26 by the board.

27 (2) If the retailer thereafter collects in whole or in part
28 any accounts, the retailer shall include the amount
29 collected in its first return filed after the collection and
30 pay tax on that amount with the return. If the assignee
31 thereafter collects in whole or in part any accounts, the
32 assignee shall pay the amount to the board in accordance
33 with Section 6451.

34 (3) For the purpose of this subdivision, "assignee"
35 means any person who holds a retail account pursuant to
36 that person's contract directly with the retailer who
37 reported the tax.

38 (c) Notwithstanding any provision of the
39 Bradley-Burns Uniform Local Sales and Use Tax Law
40 (Part 1.5 (commencing with Section 7200)) or the



1 ~~Transactions and Use Tax Law (Part 1.6 (commencing~~
2 ~~with Section 7251)), the deduction established by~~
3 ~~subdivision (b) does not apply with respect to any tax~~
4 ~~levied by a county, city, or district pursuant to, or in~~
5 ~~accordance with, either of these laws.~~

6 ~~SEC. 2. Section 6203.5 of the Revenue and Taxation~~
7 ~~Code is amended to read:~~

8 ~~6203.5. (a) A retailer is relieved from liability to~~
9 ~~collect use tax that became due and payable , insofar as~~
10 ~~the measure of the tax is represented by accounts that~~
11 ~~have been found to be worthless and charged off for~~
12 ~~income tax purposes or, if the retailer is not required to~~
13 ~~file income tax returns, charged off in accordance with~~
14 ~~generally accepted accounting principles. A retailer that~~
15 ~~has previously paid the amount of the tax may, under~~
16 ~~rules and regulations prescribed by the board, take as a~~
17 ~~deduction the amount found worthless and charged off.~~
18 ~~If these accounts are thereafter in whole or in part~~
19 ~~collected by the retailer, the amount collected shall be~~
20 ~~included in the first return filed after the collection and~~
21 ~~the amount of the tax shall be paid with the return.~~

22 ~~(b) (1) A retailer who assigns debt to an assignee shall~~
23 ~~be entitled to a deduction of the tax that the retailer has~~
24 ~~previously reported and paid if all of the following~~
25 ~~conditions are met:~~

26 ~~(A) No deduction was previously claimed or allowed~~
27 ~~on any portion of the assigned accounts.~~

28 ~~(B) The accounts have been found worthless and~~
29 ~~written off by the assignee in accordance with the~~
30 ~~requirements of subdivision (a).~~

31 ~~(C) The contract of assignment contains an~~
32 ~~irrevocable relinquishment of all rights to the account~~
33 ~~from the retailer to the assignee.~~

34 ~~(D) The assignment of the accounts was made on or~~
35 ~~after January 1, 2000. For the purpose of this~~
36 ~~subparagraph, each purchase made on a retail account~~
37 ~~held pursuant to a contract described in paragraph (3)~~
38 ~~shall be deemed to be a separate account.~~

39 ~~(E) The retailer files a claim in a manner prescribed~~
40 ~~by the board.~~



1 ~~(2) If the retailer thereafter collects in whole or in part~~
2 ~~any accounts, the retailer shall include the amount~~
3 ~~collected in its first return filed after the collection and~~
4 ~~pay tax on that amount with the return. If the assignee~~
5 ~~thereafter collects in whole or in part any accounts, the~~
6 ~~assignee shall pay the amount to the board in accordance~~
7 ~~with Section 6451.~~

8 ~~(3) For the purpose of this subdivision, “assignee”~~
9 ~~means any person who holds a retail account pursuant to~~
10 ~~that person’s contract directly with the retailer who~~
11 ~~reported the tax.~~

12 ~~(e) Notwithstanding any provision of the~~
13 ~~Bradley Burns Uniform Local Sales and Use Tax Law~~
14 ~~(Part 1.5 (commencing with Section 7200)) or the~~
15 ~~Transactions and Use Tax Law (Part 1.6 (commencing~~
16 ~~with Section 7251)), the deduction established by~~
17 ~~subdivision (b) does not apply with respect to any tax~~
18 ~~levied by a county, city, or district pursuant to, or in~~
19 ~~accordance with, either of these laws.~~

