

## Senate Bill No. 1210

### CHAPTER 758

An act to amend Section 6364 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 7, 1999. Filed  
with Secretary of State October 10, 1999.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1210, Baca. Sales and use taxes: exemptions: returnable and nonreturnable containers.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for returnable and nonreturnable containers under specified conditions.

This bill would add an exemption for containers when sold or leased to persons who place food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and whether the food products are remanufactured or repackaged prior to sale.

This bill would state the Legislature's intent in enacting the bill.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

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 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.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The California Constitution exempts food products for human consumption from sales or use tax.

(b) California's agricultural food production and processing industries are experiencing significant adversities caused by extreme



freezing temperatures and extreme weather patterns, as El Niño and La Niña.

(c) Nineteen other states exempt food containers from sales tax, placing California growers and food processors at a competitive disadvantage.

(d) Food containers originating from foreign countries are exempt from sales tax, placing California growers and food processors at a competitive disadvantage.

(e) Much of California's food production is seasonal.

(f) Advances in food container technology and business practices have made food containers more recyclable.

(g) By encouraging the use of reusable food containers, the environment will benefit through increased use of recyclable food containers and waste reduction.

(h) In order to ensure that food containers are clearly treated the same as food for sales tax purposes, during the upcoming spring and summer seasons, it is necessary that this revision be made in the Sales and Use Tax Law.

SEC. 2. Section 6364 of the Revenue and Taxation Code is amended to read:

6364. There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of and the storage, use, or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(d) Containers, when sold or leased without the contents to persons who place food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and whether the food products are remanufactured or repackaged prior to sale.

(e) For purposes of this section, "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

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

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.



However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

O

