

Senate Bill No. 1933

CHAPTER 619

An act to add and repeal Part 18.3 (commencing with Section 38061) of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 23, 2000. Filed
with Secretary of State September 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1933, Vasconcellos. Taxation and the new economy.

Existing law provides for various taxes.

This bill would establish, until 2004, the California Commission on Tax Policy in the New Economy. The commission would examine the impact of Internet and other forms of electronic technology on various types of taxes. The commission would be required to submit a report to the Governor and the Legislature on its findings.

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

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

(a) With the rapid development of the Internet and electronic commerce, policymakers at all levels of government are confronted with the challenge of finding ways to encourage this new technology and its impact on our economy continuing to develop prosperously, while addressing the needs for tax equity and assurance that governments at all levels have sufficient revenue to continue providing essential services critical to our economy's continuing growth.

(b) The current national debate on Internet taxation has focused almost entirely on the collection of sales tax on remote sales of tangible products and has produced a myriad of proposals for immediate action that have ranged from allowing states to collect sales taxes on all transactions to imposing a permanent moratorium on any taxes on the Internet.

(c) The Advisory Commission on Electronic Commerce, created by federal law in 1998 to develop "tax and technologically neutral" recommendations, thus far has failed to achieve a two-thirds majority vote on a recommendation that it can send to Congress for a national solution that would apply in all states. Furthermore, the commission's charter did not lead it to examine the critical interrelated policy issues of tax equity and government sustenance.

(d) A roundtable of tax and technology experts that convened recently at the University of California Berkeley School of Information Management and Systems cautioned that “critical decisions about e-commerce taxation should not be made without further neutral and unbiased research.” Its report specified several areas for detailed study that relate, not only to sales tax issues, but to technology and consumer behavior in the new economy, as well.

(e) The Legislative Analyst, in a January 2000 report titled “California Tax Policy and the Internet,” recommended that the Legislature undertake a comprehensive review of the sales and use tax, as well as telecommunications taxes and the corporate income tax, in relation to e-commerce activity and its impact on tax administration, tax equity, and overall state revenue.

(f) California’s current tax structure is largely based on a 20th century industrial economy that produced most of its wealth from manufacturing and agriculture. California’s 21st century technology-dependent economy is already based largely on information and services, part of a new global economy that is built on the rapid development of ideas and the exchange of information using multiple communications media. It is characterized by rapid restructuring of business-to-business and business-to-customer relationships in the state and across the world and a shift from production and consumption of tangible goods to use of intangible goods and services.

(g) Numerous reports, including the California Economic Strategy Panel’s “Collaborating to Compete in the New Economy” have identified the characteristics of our state’s economic transformation at the end of the last century. That report concluded that the state’s developing economy is one that is “fast, flexible, global, networked, and knowledge-based.” There is a need to reevaluate our entire system of tax policies and collection mechanisms in light of this new economy. California should lead the way for all states in designing a 21st century tax system.

(h) State and local revenues are generally performing well, based on the state’s strong economic performance. This situation provides an opportunity to assure that the tax system performs as well as possible during periods of weaker economic performance, and altogether to assure that sufficient revenues are available for governments to continue providing the services essential for an economy to expand and prosper, by: (1) removing inconsistencies and inefficiencies, (2) addressing equity and fairness concerns, (3) improving administration, and (4) considering base-broadening measures.

(i) Our tax policies must continue to be formulated in ways that recognize the need for government to provide resources for investment in the infrastructure necessary for economic growth, as



well as to provide for the legitimate health, public assistance, and safety needs of our citizens.

(j) It is the purpose of this act to create an open, public, fair, and balanced participatory process for the development of a long-term strategy for revising state and local tax structure for California that eliminates needless complexity and nurtures and expands the state's global leadership in key emerging industries and for businesses that are repositioning to take advantage of the new economy. That policy must balance tax restructuring with the generation of sufficient resources to continuously improve California's educational system, its physical and information infrastructure, its quality of life, and promote shared prosperity.

SEC. 2. Part 18.3 (commencing with Section 38061) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 18.3. CALIFORNIA COMMISSION ON TAX POLICY IN
THE NEW ECONOMY

38061. This part is known and may be cited as the "California Commission on Tax Policy in the New Economy."

38062. The California Commission on Tax Policy in the New Economy is hereby created.

38063. The commission shall be comprised as follows:

(a) Nine voting members of the commission, of which three members shall be public members representing business, three members shall be public members representing local government, and three members shall be at-large members who may represent various segments of the public, including, but not limited to, academia, organized labor, and public interest groups.

(1) The Governor shall appoint five members, taking into consideration the importance of bipartisan representation of public members. The Governor shall designate one of the public members as Chair of the Commission.

(2) The Senate Rules Committee shall appoint two members, including one upon recommendation of the minority party.

(3) The Speaker of the Assembly shall appoint two members, including one upon recommendation of the minority party.

(b) Ex officio nonvoting members shall include all of the following:

(1) The Executive Officer of the Franchise Tax Board, or a designee.

(2) The Chair of the State Board of Equalization, or a designee.

(3) The Director of Employment Development, or a designee.

(4) The Chair of the California Public Utilities Commission, or a designee.

(5) The Director of Finance, or a designee.

(6) The Controller, or a designee.



(7) A public member of the California Economic Strategy Panel to be appointed by the Secretary of Trade and Commerce.

(8) The Chair of the Senate Committee on Revenue and Taxation, or a designee.

(9) The Chair of the Assembly Committee on Revenue and Taxation, or a designee.

38064. The commission may form additional technical assistance workgroups, including experts from government, academia, and the private sector, and interested public stakeholders, as necessary to complete its work.

38065. The commission shall do all of the following:

(a) Identify all the key stakeholders in the new economy and invite them into the commission's process.

(b) Develop a comprehensive agenda of goals and a roadmap of all critical issues that ought to be addressed in achieving a workable, flexible, and balanced long-term solution.

(c) Undertake the process of conducting public hearings and in the correct phases address each of these critical issues and seek to arrive at a comprehensive conclusion with respect to the smartest public policy taxation of the Internet.

(d) Examine and describe all aspects of the current and future California economy, with special attention to the influence of new technologies, including, but not limited to, the use of the Internet in electronic commerce.

(e) Assess the impact of those predictions about the economy on the sources and size of projected public revenues, with special attention to the needs of local government.

(f) Study and make recommendations regarding specific elements of the California system of state and local taxes, including, but not limited to, the following:

(1) With respect to the sales and use tax, the commission shall do all of the following:

(A) Examine the impact that economic transitions have had on the sales and use tax.

(B) Determine whether uneven treatment with respect to the method of sales, the type of commodity, and the location of the buyer and the seller may occur and the extent to which they may have led to tax-generated distortions in economic decisionmaking and disadvantages for certain businesses and economic sectors.

(C) Examine the extent to which the allocation and distribution of sales and use taxes impact local decisionmaking on land use and whether alternative methods may be more appropriate.

(2) With respect to telecommunications taxes, the commission shall examine the status of the current telecommunications tax system, including state telecommunications surcharges, utility user charges, and franchise fees, in light of changes in the competitive and



technological features of the industry. This examination should focus on the complexity, consistency, and efficiency of the system.

(3) With respect to income taxes, the commission shall do both of the following:

(A) Examine recent trends in the collection of bank and corporation taxes and the impact that a transitioning economy has had on those trends.

(B) Examine the relationship between the bank and corporation tax and the personal income tax and whether trends in the new economy will have an impact on that relationship.

(4) With respect to property taxes, the commission shall do both of the following:

(A) Investigate the revenue repercussions for local government in assessment of real property, assuming changes in the trends of real property versus personal property utilization.

(B) Examine the effects of electronic commerce activity on land-based enterprises in the new economy and evaluate the impact on local economic development approaches and consider what new tools could be used.

38066. The commission shall submit an interim report to the Governor and the Legislature not later than 12 months from the date of the commission's first public meeting and a final report with recommendations not later than 24 months from the date of the commission's first public meeting.

38067. This part shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

