

Assembly Bill No. 2533

CHAPTER 281

An act to amend Section 6365 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 2006. Filed with Secretary of State September 14, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2533, Leno. Sales and use taxes: exemption: public art.

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.

Existing law provides various exemptions from that tax, including an exemption for original works of art purchased to become part of a permanent collection, as specified, items which have value as museum pieces, as specified, and certain purchases of public art by the state or any local government entity for display to the public in public places, as specified.

This bill would expand the exemption for original works of art to include those leased from one nonprofit organization to another nonprofit organization for 35 years or more. This bill would also expand the exemption to include public art that is leased by the state or any local government from another entity for display in public places. This bill would also expand the definition of work of art to include a costume, dress, clothing, or personal adornment. This bill would also clarify that a permanent collection, as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

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. Section 6365 of the Revenue and Taxation Code is amended to read:

6365. (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, original works of art, which are:

(1) Purchased by this state or any city, county, city and county, or other local governmental entity;

(2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental entity;

(3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for one or more museums regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d;

(4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofit organization;

or

(5) Leased from one nonprofit organization to another nonprofit organization for 35 years or more, if both the lessor and lessee are nonprofit organizations as defined in either paragraph (2) or (3).

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection of any of the following:

(1) A museum.

(2) A nonprofit corporation which has qualified for exemption pursuant to Section 23701d; regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums; and is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art; provided, that the work of art for which the exemption is claimed pursuant to this section shall actually be placed on display at one or more museums in California for not less than 24 months during the three-year period commencing from the date of purchase.

(3) Any city, county, city and county, or other local governmental entity and this state which purchases, commissions, or leases from any such governmental entity public art for display to the public in buildings, parks, plazas, or other public places. These areas shall be open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year.

(c) For purposes of this section, “work of art” means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of

graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, costume, dress, clothing, personal adornment, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a “museum” shall only include:

(1) A museum which has a significant portion of its space open to the public without charge;

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

(e) For the purposes of this section, “permanent collection” as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

(f) Any public entity or nonprofit organization claiming an exemption pursuant to this section shall maintain records, in such forms as prescribed by the board, sufficient to substantiate its claim. Such records shall include, but not be limited to, the date of purchase, the purchase price, the date the property was first brought into this state, and the dates and locations the work of art was on display at a museum.

SEC. 2. 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. 3. 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.