

ASSEMBLY BILL

No. 676

**Introduced by Assembly Member Jeffries
(Coauthor: Assembly Member Galgiani)**

February 25, 2009

An act to add Section 6018.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 676, as introduced, Jeffries. Sales and use taxes: consumer: destination management company.

The Sales and Use Tax Law imposes a tax 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. That law, with certain exceptions, defines a retailer as a seller who makes any retail sale of tangible personal property and as a person who makes more than 2 retail sales of tangible personal property during any 12-month period, and defines a retail sale as a sale of tangible personal property for any purpose other than resale in the regular course of business.

This bill would provide that a qualified destination management company is a consumer, and not a retailer, of tangible personal property it provides to its clients pursuant to a qualified contract for destination management services, so that the sale of the tangible personal property to the destination management company is the retail sale subject to tax. This bill would state the intent of the Legislature that this act is declaratory of existing law.

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 the Transactions and Use Tax Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 6018.9 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6018.9. (a) A qualified destination management company is
- 4 a consumer of, and shall not be considered a retailer of, the tangible
- 5 personal property it provides to its client pursuant to a qualified
- 6 contract for destination management services.
- 7 (b) For the purposes of this section:
- 8 (1) "Destination management services" means the provision of
- 9 four or more of the following services:
- 10 (A) Transportation.
- 11 (B) Entertainment.
- 12 (C) Meals.
- 13 (D) Recreational activities.
- 14 (E) Tours.
- 15 (F) Registration.
- 16 (G) Staffing.
- 17 (2) "Qualified destination management company" means an
- 18 corporation that meets all of the following:
- 19 (A) Is substantially engaged in the business of providing
- 20 destination management services. For purposes of this
- 21 subparagraph, "substantially" means that 80 percent or more of

1 the gross sales are derived from the business of providing
2 destination management services.

3 (B) Is not doing business as a caterer.

4 (C) Maintains a permanent nonresidential office in California
5 which the destination management services are provided.

6 (D) Has three or more full-time employees.

7 (E) Expends 1 to 3 percent of its gross revenue annually to
8 market California and local destinations for tourism.

9 (F) Does not own any equipment used to provide destination
10 management services, including, but not limited to, dance floors,
11 decorative props, lighting, podiums, sound or video systems, stages,
12 or equipment for catered meals. This condition shall not apply to
13 office equipment used in the conduct of the destination
14 management company's business.

15 (G) Does not provide services for weddings.

16 (3) "Qualified contract" means a contract between a qualified
17 destination management company and its client for destination
18 management services that meets all of the following conditions:

19 (A) The client is a corporation, partnership, limited liability
20 company, trade association, or other business entity principally
21 located outside of the county in which the destination management
22 services are provided. The client is not an individual, social club,
23 or fraternal organization.

24 (B) The client is responsible for paying the qualified destination
25 management company for all the destination management services
26 provided to the client.

27 (C) The qualified destination management company is
28 responsible for paying all the vendors that sell or lease tangible
29 personal property to the qualified destination management company
30 for the contract services, including vendors' charges for sales tax
31 reimbursement or collection of use tax.

32 (D) The destination management services occur in part, or all,
33 of two or more consecutive days.

34 SEC. 2. Notwithstanding Section 2230 of the Revenue and
35 Taxation Code, no appropriation is made by this act and the state
36 shall not reimburse any local agency for any sales and use tax
37 revenues lost by it under this act.

38 SEC. 3. It is the intent of the Legislature that this act is
39 declaratory of existing law.

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

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