

ASSEMBLY BILL

No. 1687

Introduced by Assembly Member Jeffries

January 26, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1687, 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 that makes any retail sale of tangible personal property and as a person that 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, until January 1, 2016, that a qualified destination management company, as defined, is a consumer, and not a retailer, of tangible personal property it provides to its clients pursuant to a qualified contract, as defined, 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.

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, but its operative date would depend on its effective date.

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 a
- 18 corporation that meets all of the following conditions:
- 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
- 22 the gross sales are derived from the business of providing
- 23 destination management services.

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

2 (C) Maintains a permanent nonresidential office in California
3 from which the destination management services are provided.

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

5 (E) Expends at least 1 percent of its gross revenue annually to
6 market California and local destinations for tourism.

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

13 (G) Does not provide services for weddings.

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

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

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

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

30 (D) The destination management services occur on two or more
31 consecutive days.

32 (c) This section shall remain in effect only until January 1, 2016,
33 and as of that date is repealed.

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. This act provides for a tax levy within the meaning of
39 Article IV of the Constitution and shall go into immediate effect.
40 However, the provisions of this act shall become operative on the

- 1 first day of the first calendar quarter commencing more than 90
- 2 days after the effective date of this act.

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