



Proposed State Sales and Use Tax Changes

SECTION 1. Section 6051 of the Revenue and Taxation Code is amended to read:

6051. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 2 1/2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 percent thereafter, and at the rate of 2 1/2 percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3 3/4 percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4 3/4 percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3 3/4 percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4 3/4 percent thereafter. on and after April 1, 1974, and to and including December 31, 2011, and at the rate of 3 3/4 percent on and after January 1, 2012, and to and including December 31, 2012, and at the rate of 2 3/4 percent on and after January 1, 2013, and to and including December 31, 2013, and at the rate of 1 3/4 percent on and after January 1, 2014, and to and including December 31, 2014, and at the rate of 3/4 percent on and after January 1, 2015, and to and including December 31, 2015.

This section shall remain in effect only until January 1, 2016, and as of that date is repealed.

SEC.2. Section 6051 is added to the Revenue and Taxation Code to read:

6051. For the privilege of selling tangible personal property at retail, this article imposes a tax upon all retailers measured by the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

This section shall become operative on January 1, 2016.

SEC.3. Section 6051.1 of the Revenue and Taxation Code is repealed.

~~6051.1. (a) Notwithstanding Section 6051, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 5 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after the operative date of this~~

subdivision.

~~—(b) Subdivision (a) shall become operative on December 1, 1989, and shall cease to be operative on January 1, 1991.~~

~~—(c) The rate prescribed by Section 6051 shall be applicable on and after the first day following the date subdivision (a) ceases to be operative pursuant to subdivision (b).~~

SEC.4. Section 6051.2 of the Revenue and Taxation Code is amended to read:

6051.2. (a) In addition to the taxes imposed by ~~Section 6051 and any other provision~~ of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/2 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991.

(b) All revenues received pursuant to this section shall be deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.

(c) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 that are deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC. 5. Section 6051.3 of the Revenue and Taxation Code is amended to read:

6051.3. In addition to the taxes imposed by Sections 6051, 6051.2, 6051.5, and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991, and ~~during any period in which this section is operative pursuant to Section 6051.4.~~ to and including December 31, 2015.

SEC. 6. Section 6051.4 of the Revenue and Taxation Code is repealed.

~~6051.4. (a) Section 6051.3 shall be operative with respect to the sale of all tangible personal property sold at retail in this state on or after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).~~

~~—(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:~~

~~—(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.~~

~~—(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6051.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.~~

~~—(c) Section 6051.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.~~

~~—(d) Section 6051.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6051.3 is operative and the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.~~

~~—(e) Section 6051.3 shall become operative on and after January 1 following any November 1 in which Section 6051.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.~~

SEC. 7. Section 6051.45 of the Revenue and Taxation Code is repealed.

~~6051.45. Notwithstanding 6051.4 or any other provision of law, the state sales tax rate in Section 6051.3 shall not be operative in any calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:~~

~~(a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the 1/4 cent sales and use tax rate.~~

~~(b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.~~

~~The Director of Finance shall make the determination on or before November 1 of each year.~~

~~The 1/4 cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.~~

SEC.8. Section 6051.5 of the Revenue and Taxation Code is amended to read:

6051.5. (a) In addition to the taxes imposed by Section 6051 and

~~any other provision~~ of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as established pursuant to Section 99008 of the Government Code.

(c) Revenues received pursuant to this section accruing to the Fiscal Recovery Fund shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2004, and shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SEC.9. Section 6051.7 of the Revenue and Taxation Code is repealed.

~~6051.7. (a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state, on and after April 1, 2009.~~

~~(b) This section shall cease to be operative on July 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.~~

SEC.10. Section 6201 of the Revenue and Taxation Code is amended to read:

6201. An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this state at the rate of 3 percent of the sales price of the property, and at the rate of 2 1/2 percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of 3 3/4 percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of 4 3/4 percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of 3 3/4 percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of 4 3/4 percent thereafter. on and after April 1, 1974, and to and including December 31, 2011, and at the rate of 3 3/4 percent on and after January 1, 2012, and to and including December 31, 2012, and at the rate of 2 3/4 percent on and

after January 1, 2013, and to and including December 31, 2013, and at the rate of 1 3/4 percent on and after January 1, 2014, and to and including December 31, 2014, and at the rate of 3/4 percent on and after January 1, 2015, and to and including December 31, 2015.

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

SEC.11. Section 6201 is added to the Revenue and Taxation Code to read:

6201. This article imposes an excise tax on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state, measured by the sales price of the property.

This section shall become operative on January 1, 2016.

SEC.12. Section 6201.1 of the Revenue and Taxation Code is repealed.

~~6201.1. (a) Notwithstanding Section 6201, an excise tax is hereby imposed on the storage, use, or other consumption in the state of tangible personal property purchased from any retailer on or after the operative date of this subdivision, for storage, use, or other consumption in this state at the rate of 5 percent of the sales price of the property on and after the operative date of this subdivision.~~

~~(b) Subdivision (a) shall become operative on December 1, 1989, and shall cease to be operative on January 1, 1991.~~

~~(c) The rate prescribed by Section 6201 shall be applicable on and after the first day following the date subdivision (a) ceases to be operative pursuant to subdivision (b).~~

SEC.13. Section 6201.2 of the Revenue and Taxation Code is amended to read:

6201.2. (a) In addition to the taxes imposed by ~~Section 6201 and any other provision of this part,~~ an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 15, 1991, for storage, use, or other consumption in this state at the rate of 1/2 percent of the sales price of the property.

(b) All revenues received pursuant to this section shall be deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.

(c) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6051.2 and deposited in the Local Revenue Fund are either of the following:

(1) "General Fund proceeds of taxes appropriated pursuant to

Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.

SEC.14. Section 6201.3 of the Revenue and Taxation Code is amended to read:

6201.3. In addition to the taxes imposed by Sections 6201, 6201.2, 6201.5, and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after July 15, 1991, and purchased during any period in which this section is operative pursuant to Section 6201.4 at the rate of 1/4 percent of the sales price of the property. to and including December 31, 2015.

SEC.15. Section 6201.4 of the Revenue and Taxation Code is repealed.

~~6201.4. (a) Section 6201.3 shall be operative with respect to the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).~~

~~(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:~~

~~(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.~~

~~(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6201.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.~~

~~(c) Section 6201.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.~~

~~(d) Section 6201.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6201.3 is operative and the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.~~

~~(e) Section 6201.3 shall become operative on and after January 1 following any November 1 in which Section 6201.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of~~

~~subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.~~

SEC.16. Section 6201.45 of the Revenue and Taxation Code is repealed.

~~6201.45. Notwithstanding 6201.4 or any other provision of law, the state use tax rate in Section 6201.3 shall not be operative in any calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:~~

~~(a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the 1/4 cent sales and use tax rate.~~

~~(b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.~~

~~The Director of Finance shall make the determination on or before November 1 of each year.~~

~~The 1/4 cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.~~

SEC. 17. Section 6201.5 of the Revenue and Taxation Code is amended to read:

6201.5. (a) In addition to the taxes imposed by ~~Section 6201 and any other provision~~ of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as established pursuant to Section 99008 of the Government Code.

(c) Revenues received pursuant to this section accruing to the Fiscal Recovery Fund shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2004, and shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

SEC. 18. Section 6201.7 of the Revenue and Taxation Code is repealed.

~~6201.7. (a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or~~

~~other consumption in this state, at the rate of 1 percent of the sales price of the property, on and after April 1, 2009.~~

~~(b) This section shall cease to be operative on July 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.~~

SEC.19. Section 6359.2 of the Revenue and Taxation Code is amended to read:

6359.2. (a) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1988, and ending on December 31, 1988, 77 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by ~~Section 6051~~ this part, when those food products are actually sold through a vending machine.

(b) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1989, and ending on December 31, 1989, 55 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by ~~Section 6051~~ this part, when those food products are actually sold through a vending machine.

(c) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1990, and thereafter, 33 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(d) (1) The Legislature finds that 33 percent represents the statewide average of food products sold through vending machines which are subject to the tax imposed under this part. Therefore, the Legislature establishes this average as the measure of the tax with respect to vending machine sales to simplify tax auditing procedures and to provide for uniformity in the taxation of gross receipts derived from the sale of food products through vending machines.

(2) The Legislature also finds that due to fiscal constraints, it is necessary to phase in the partial exemption for sales made through vending machines in the 1988 and 1989 calendar years.

(e) For purposes of this section, "food products" includes hot coffee, hot tea, and hot chocolate, when those hot beverages are actually sold through a vending machine for a separate price. "Food products" does not include other hot prepared food products, as defined in Section 6359.

SEC.20. Section 6480.1 of the Revenue and Taxation Code is amended to read:

6480.1. (a) At any time that motor vehicle fuel tax or diesel fuel tax is imposed or would be imposed, but for the dyed diesel fuel exemption in paragraph (1) of subdivision (a) of Section 60100, or the train operator exemption in paragraph (7) of subdivision (a) of Section 60100 or paragraph (11) of subdivision (a) of Section 7401,

or, pursuant to subdivision (f) of Section 6480, would be deemed to be imposed, on any removal, entry, or sale in this state of motor vehicle fuel, aircraft jet fuel, or diesel fuel, the supplier shall collect prepayment of retail sales tax from the person to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is sold. However, if no sale occurs at the time of imposition of motor vehicle fuel tax or diesel fuel tax, the supplier shall prepay the retail sales tax on that motor vehicle fuel, aircraft jet fuel, or diesel fuel. The prepayment required to be collected by the supplier constitutes a debt owed by the supplier to this state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a supplier or wholesaler who has consumed the fuel has paid the use tax to the board. Each supplier shall report and pay the prepayment amounts to the board, in a form as prescribed by the board, in the period in which the fuel is sold. On each subsequent sale of that fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of sale. Each supplier shall provide his or her purchaser with an invoice for, or other evidence of, the collection of the prepayment amounts which shall be separately stated thereon.

(b) (1) A wholesaler shall collect prepayment of the retail sales tax from the person to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is sold. Each wholesaler shall provide his or her purchaser with an invoice for or other evidence of the collection of the prepayment amounts, which shall be separately stated thereon.

(2) Each wholesaler shall report to the board, in a form as prescribed by the board and for the period in which the motor vehicle fuel, aircraft jet fuel, or diesel fuel was sold, all of the following:

(A) The number of gallons of fuel sold and the amount of sales tax prepayments collected by the wholesaler.

(B) The number of tax-paid gallons purchased and the amount of sales tax prepayments made by the wholesaler.

(C) In the event that the amount of sales tax prepayments collected by the wholesaler is greater than the amount of sales tax prepayments made by the wholesaler, then the excess constitutes a debt owed by the wholesaler to the state until paid to the board, or until satisfactory proof has been submitted that the retailer of the fuel has paid the tax to the board.

(c) A supplier or wholesaler who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the motor vehicle fuel, aircraft jet fuel, or diesel fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a prepayment paid by the retailer or a supplier or wholesaler who has consumed the motor vehicle fuel, aircraft jet fuel, or diesel fuel to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes

due and payable for the period in which the sale was made. Failure of the supplier or wholesaler to report prepayments or the supplier's or wholesaler's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, supplier, or wholesaler, either on a temporary or permanent basis or otherwise. To be entitled to the credit, the retailer, supplier, or wholesaler shall retain for inspection by the board any receipts, invoices, or other documents showing the amount of sales tax prepaid to his or her supplier, together with the evidence of payment.

(e) The rate of the prepayment required to be collected during the period from July 1, 1986, through March 31, 1987, shall be four cents (\$0.04) per gallon of motor vehicle fuel distributed or transferred.

(f) On April 1 of each succeeding year, the prepayment rate per gallon for motor vehicle fuel, rounded to the nearest one-half of one cent (\$0.005), of the required prepayment shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by ~~Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1~~ this part, Sections 7202 and 7203.1, and Section 35 of Article XIII of the California

Constitution on the arithmetic average selling price (excluding sales tax) as determined by the State Energy Resources Conservation and Development Commission, in its latest publication of the "Quarterly Oil Report," of all grades of gasoline sold through a self-service gasoline station. In the event the "Quarterly Oil Report" is delayed or discontinued, the board may base its determination on other sources of the arithmetic average selling price of gasoline. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate.

Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every supplier, wholesaler, and retailer of motor vehicle fuel. In the event the price of fuel decreases or increases, and the established rate results in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(g) On April 1 of each succeeding year, the prepayment rate per gallon for aircraft jet fuel, rounded to the nearest one-half of one cent (\$0.005), shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by ~~Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1~~ this part, Sections 7202 and 7203.1, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales and state excise tax) as determined by the board. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate. The rate of the prepayment required to be collected for aircraft jet fuel shall be equal to 80 percent of the arithmetic average selling price of aircraft jet fuel as specified by industry publications. Immediately upon making its determination and setting of the rate, the board shall each year, no later than

January 1, notify by mail every supplier, wholesaler, and retailer of aircraft jet fuel. In the event the price of aircraft jet fuel decreases or increases, and the established rate results in prepayments that consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(h) On April 1 of each succeeding year, the prepayment rate per gallon for diesel fuel, rounded to the nearest one-half of one cent (\$0.005), shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by ~~Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1~~ this part, Sections 7202 and 7203.1, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales and state excise tax) as determined by the board. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate. The rate of the prepayment required to be collected for diesel fuel shall be equal to 80 percent of the arithmetic average selling price of diesel fuel as specified by industry publications. Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every supplier, wholesaler, and retailer of diesel fuel. In the event the price of diesel fuel decreases or increases, and the established rate results in prepayments that consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(i) (1) Notwithstanding any other provision of this section, motor vehicle fuel sold by a supplier or wholesaler to a qualified purchaser who, pursuant to a contract with the State of California or its instrumentalities, resells that fuel to the State of California or its instrumentalities shall be exempt from the prepayment requirements.

(2) A qualified purchaser who acquires motor vehicle fuel for subsequent resale to the State of California or its instrumentalities pursuant to this subdivision shall furnish to the supplier or wholesaler from whom the fuel is acquired an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe. The supplier or wholesaler shall retain the certificate in his or her records in support of the exemption. To qualify for the prepayment exemption, both of the following conditions shall apply:

(A) The qualified purchaser does not take possession of the fuel at any time.

(B) The fuel is delivered into storage tanks owned or leased by the State of California or its instrumentalities via facilities of the supplier or wholesaler, or by common or contract carriers under contract with the supplier or wholesaler.

(3) For purposes of this subdivision, "qualified purchaser" means a wholesaler who does not have or maintain a storage facility or facilities for the purpose of selling motor vehicle fuel.

6596. (a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed by ~~Sections 6051 and 6201~~ this part and any penalty or interest added thereto.

(b) For the purpose of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to tax under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to tax, or stating the conditions under which the activity or transaction is subject to tax.

(3) In reasonable reliance on the board's written advice, the person did not do either of the following:

(A) Charge or collect from his or her customers amounts designated as sales tax reimbursement or use tax for the described activity or transaction.

(B) Pay a use tax on the storage, use, or other consumption in this state of tangible personal property.

(4) The liability for taxes applied to a particular activity or transaction which occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information which the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

SEC.22. Section 7203 of the Revenue and Taxation Code is amended to read:

7203. The use tax portion of any sales and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use or other consumption in the county of tangible personal property purchased from any retailer for storage, use or other consumption in the county. That tax shall be at the rate of 11/4 percent of the sales price of the property whose storage, use or

other consumption is subject to the tax and shall include:

(a) Provisions identical to the provisions contained in Part 1 (commencing with Section 6001), other than ~~Section 6204~~ in Article 1 (commencing with Section 6201) of Chapter 3 insofar as those provisions relate to the use tax, except that the name of the county as the taxing agency enacting the ordinance shall be substituted for that of the state (but the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203).

(b) A provision that all amendments subsequent to the date of such ordinance to the provisions of the Revenue and Taxation Code relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance.

(c) A provision that the storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with this part by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.

(d) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California upon a retailer or consumer.

(e) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States or any foreign government is exempt from 80 percent of the use tax, and on and after July 1, 2004, until the rate modifications in subdivision (a) of Section 7203.1 cease to apply, exempt from 75 percent of the use tax.

SEC.23. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.