BILL SUMMARY
This bill would repeal the January 1, 2012 sunset date on the existing sales and use tax exemption for sales of used clothing, household items, or other retail items by thrift stores operated for purposes of raising funds to provide medical, hospice, or social services for individuals with HIV or AIDS.

ANALYSIS

CURRENT LAW

Under existing law, the sales tax or the use tax applies to the sale or use of tangible personal property (including second hand property) in this state, unless specifically exempted by law. Under existing law, Revenue and Taxation Code Section 6363.3, as added by AB 3187 (Stats. 1996, Ch. 781, Martinez), provides a sales and use tax exemption for sales of used clothing, household items, and other retail items sold by thrift stores operated by a nonprofit organization. To qualify, the purpose of the thrift store must be to obtain revenue for the funding of medical, hospice, and social services to individuals with HIV disease or AIDS, and at least 75 percent of the net income derived from operations of the thrift store must actually be expended for that purpose. In addition, the thrift store must be a nonprofit organization exempt from state income tax under Revenue and Taxation Code Section 23701d.

In 2001, AB 180 (Ch. 383, Stats. 2001, Cedillo) amended Section 6363.3 to extend the January 1, 2002 sunset date to January 1, 2007. That section was amended again in 2006 by SB 1341 (Ch. 373, Stats. 2006, Cedillo), which extended the January 1, 2007 sunset date to the current January 1, 2012.

Current law also provides an exemption for sales by other charitable organizations that relieve poverty and distress. Under Section 6375, sales (including thrift store sales) by charitable organizations are exempt from sales and use tax under the following conditions:

1. The organization must be formed and operated for charitable purposes and must qualify for the “welfare exemption” from property taxation provided by Revenue and Taxation Code Section 214.
2. The organization must be engaged in the relief of poverty and distress.
3. The organization’s sales or donations must be made principally as a matter of assistance to purchasers or donees in distressed financial condition.
4. The property sold or donated must have been made, prepared, and assembled or manufactured by the organization.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.
The welfare exemption referred to in condition (1) is available to property owned and
operated by a charitable organization under certain conditions. Among the conditions is
the requirement that the property be used in the actual operation of a charitable activity.
Property used merely to raise funds is not used in a charitable activity even though the
funds will be devoted to a charitable purpose. To qualify for the welfare exemption, a
thrift store must, among other things, conduct a rehabilitation program recognized by
the California Department of Rehabilitation or operate under a city or county
rehabilitation program. It must also sell goods processed in some manner by people
who are being rehabilitated through the program and are employed in the operation of
the store.

Merchandise sold through thrift stores operated by Goodwill Industries, the Salvation
Army, and St. Vincent de Paul, for example, qualify for the exemption under Section
6375.

PROPOSED LAW

This bill would amend Section 6363.3 to eliminate the January 1, 2012 sunset date for
the exemption for sales of used clothing, household items, or other retail items by thrift
stores operated by a nonprofit organization, if the purpose of the thrift store is to obtain
revenue for the funding of medical, hospice, or social services to individuals with HIV or
AIDS.

The bill would take effect immediately as a tax levy.

COMMENTS

1. **Sponsor and Purpose.** The author is sponsoring this bill in an effort to make
permanent the existing exemption for sales by thrift stores operated for purposes of
funding services to individuals with HIV or AIDS.

2. **Provisions would not be problematic to administer.** Since the BOE is already
administering the sales and use tax exemption for thrift stores that benefit individuals
with HIV or AIDS, eliminating the sunset date would not pose a problem.

3. **Related legislation.** At the January 27, 2011 BOE Legislative Committee meeting,
the committee voted to sponsor legislation to extend the sunset date on the sales
and use tax exemption for thrift stores that benefit individuals with HIV or AIDS, from

COST ESTIMATE

The BOE would incur some minimal, absorbable costs to notify affected retailers and
revise applicable publications.
REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

Currently, there are three nonprofit organizations operating thrift stores that qualify for this exemption and for which the BOE has issued letters of eligibility. These organizations hold seller’s permits, file tax returns, and claim exempt sales pursuant to Section 6363.3.

Based on returns filed by the qualified organizations for the calendar year 2009, claimed exempt sales for these organizations under Section 6363.3 totaled $12.5 million.

REVENUE SUMMARY

Exempting $12.5 million from the sales and use tax would result in the following annual revenue loss:

<table>
<thead>
<tr>
<th>Revenue Effect</th>
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</thead>
<tbody>
<tr>
<td>State General Fund (5.0%)</td>
</tr>
<tr>
<td>$625,000</td>
</tr>
<tr>
<td>State Fiscal Recovery Fund (0.25%)</td>
</tr>
<tr>
<td>31,300</td>
</tr>
<tr>
<td>Local Revenue Fund (0.50%)</td>
</tr>
<tr>
<td>62,500</td>
</tr>
<tr>
<td>Local Public Safety Fund (0.50%)</td>
</tr>
<tr>
<td>62,500</td>
</tr>
<tr>
<td>Bradley-Burns Uniform Local Tax (0.50%)</td>
</tr>
<tr>
<td>125,000</td>
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<tr>
<td>District Tax (0.86%)</td>
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<tr>
<td>107,500</td>
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<tr>
<td><strong>Total Revenue Loss</strong></td>
</tr>
<tr>
<td><strong>$1,013,800</strong></td>
</tr>
</tbody>
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Analysis prepared by: Debra Waltz 916-324-1890 02/18/11
Revenue estimate by: Bill Benson 916-445-0840
Contact: Margaret S. Shedd 916-322-2376

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