



*California State Board of Equalization,
Legislative and Research Division*

LEGISLATIVE BULLETIN



State Capitol Building (from the East) c.1945
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SALES TAX LEGISLATION 2015

STATE BOARD OF EQUALIZATION

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[Assembly Bill 160 \(Dababneh\) Chapter 427](#)
Counterfeit Goods: Sales for Resale

Effective January 1, 2016. Amends Sections 6007 and 6009.2 of the Revenue and Taxation Code.

Summary: Removes the sale for resale exclusion for tangible personal property sold or purchased with counterfeit or illicit labeling, as defined and specified.

Sponsor: Board of Equalization Chairman Jerome Horton

Purpose: To bar sellers who are convicted of a counterfeit-related offense from enjoying a tax benefit that is otherwise available to legitimate businesses. The removal of the exclusion serves to minimize profits and prevent the counterfeit products from entering the retail stream and deceiving consumers.

Fiscal Impact Summary: Potential \$1.1 million state and local annual gain.

Former Law: California law imposes the sales tax on the “retail sale” or “sale at retail” (hereinafter referred to as “retail sale”) of tangible personal property in this state. California law also imposes the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The sales or use tax is computed on the retailer’s gross receipts or the sales price, respectively, unless the law provides a specific exemption or exclusion.

The law defines a “retail sale” as a sale for any purpose other than resale in the regular course of business. Generally, for illegal sales of goods in California, the law imposes a sales or use tax on the retail sales and purchases of those goods in the same manner as legitimate sales. However, beginning September 19, 2014, the law¹ specifies that a “convicted seller’s” or a “convicted purchaser’s” sales and purchases of tangible personal property with a counterfeit mark² on, or in connection with, that sale or purchase, is subject to sales or use tax, regardless of whether these sales are for resale in the regular course of business. Under these provisions, if a person is convicted of trafficking in counterfeit goods under certain Penal Code provisions,³ then all sales and purchases of those counterfeit goods on or before the conviction date are considered taxable. This applies whether the convicted seller or purchaser is a manufacturer, wholesaler, distributor, or a retailer of the counterfeit goods.

Under federal law, a “counterfeit mark” generally relates to a trademark used to confuse or deceive a consumer that is identical with, or substantially indistinguishable from, the genuine trademark.

Amended Law: This bill specifies that a “convicted seller” and a “convicted purchaser” means a person convicted of a counterfeiting offense, including, but not limited to, specified counterfeiting-related violations.

Background: The BOE Members unanimously voted to sponsor the 2014 legislation related to convicted sellers’ and purchasers’ sales of counterfeit goods. That legislation targeted counterfeit good sales, as they unfairly compete with the original brand, tarnish the reputation of the original brand, cause a revenue loss, and potentially cause sickness or injury, such as counterfeit drugs or auto parts. The Legislature unanimously approved this measure.

¹ As added by AB 2681 (Stats. 2014, Ch. 477, in effect September 19, 2014).

² As defined in Section 2320 of Title 18 of the United States Code.

³ Penal Code Sections 350 or 653w or Section 2320 of Title 18 of the United States Code.

Commentary:

- 1. Effect of the bill.** This measure subjects convicted sellers and convicted purchasers to liability for the sales or use tax on any non-retail sale or any purchase of goods associated with a counterfeiting offense, including, but not limited to, goods that criminally infringe on a copyright, or goods with a counterfeit or illicit label.
- 2. Summary of amendments.** The **June 16, 2015** amendments made a nonsubstantive change by substituting “a” for “any” in Section 6007, and added a coauthor. The **May 5, 2015 amendments** removed the Penal Code provision that would have included tax fraud under the Sales and Use Tax, Cigarette and Tobacco Products, and Diesel Fuel tax laws to the list of crimes eligible for civil forfeiture as criminal profiteering activities. The **April 9, 2015 amendments** revised the definition of “organized crime” in the Penal Code provisions related to criminal profiteering activity to, among other things, include crimes that through planning and coordination of individual efforts, seek to conduct the illegal activities of tax fraud, as specified.
- 3. Inadvertent omission.** As the TRaCE team continues its work on tax evasion operations associated with the underground economy, it has identified other counterfeit-related goods trafficking violations that were inadvertently omitted in the 2014 legislation. For example a California retailer was recently arrested for selling counterfeit gold bullion bars and silver. Since the alleged violation relates to illegal labeling, rather than illegal use of a trademark, the current provisions that impose tax on a convicted seller’s purchase price or non-retail sales are not applicable if the seller is convicted (the sales tax on the retailer’s gross receipts from sales in this state to consumers, applies however, under the general Sales and Use Tax Law provisions). This bill makes it clear that a seller or purchaser convicted of any counterfeiting offense is liable for the tax on all his or her sales and purchases of goods, even when the sales are illegal.

[Assembly Bill 199 \(Eggman\) Chapter 768](#)

***Exclusion: California Alternative Energy and Advanced
Transportation Financing Authority: Recycled Feedstock***

Urgency; effective October 11, 2015. Amends Sections 26003 and 26011.8 of the Public Resources Code.

Summary: Until January 1, 2021, allows a sale and use tax exclusion for projects that process or use recycled feedstock when the exclusion is approved by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA).

Sponsor: Californians Against Waste

Purpose: To maximize California's infrastructure and investment in recycling.

Fiscal Impact Summary: All projects approved by CAEATFA, including the projects described in this bill, are limited to \$100 million in sales and use tax loss each calendar year.

Former Law: CAEATFA: Existing law⁴ contains a specific sales and use tax exclusion⁵ for tangible personal property purchased for certain approved manufacturing projects. In 2010, legislation⁶ authorized the CAEATFA until January 1, 2021, to approve sales and use tax exclusions for tangible personal property utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative energy source products, components or systems. In 2012, legislation⁷ was enacted to authorize CAEATFA until July 1, 2016, to approve sales and use tax exclusions related to advanced manufacturing projects. The law⁸ provides a \$100 million sales and use tax loss cap for these exclusions.

CAEATFA's approval of these exclusions is based on whether the project results in a net fiscal or environmental benefit to the State.

Sales and use tax partial exemption: Beginning July 1, 2014, and until July 1, 2022, existing law⁹ provides qualified manufacturers, biotechnology and other physical, engineering, and life science researchers and developers a 4.1875% sales and use tax exemption for their purchases of qualifying tangible personal property used in a qualifying manner. As an example, biofuel manufacturers produce ethanol and biodiesel fuel, and certain manufacturing equipment they buy qualifies for this partial exemption.

California's sales and use tax rates: Effective January 1, 2013, California imposes a statewide 7.5% sales and use tax on tangible personal property sales and purchases. The table below shows California's various sales and use tax rate components (the table excludes voter-approved city and county district taxes):

⁴ Revenue and Taxation Code (RTC) Section 6010.8.

⁵ An "exclusion" means the transfer of the property is neither a "sale" nor a "purchase" and is therefore excluded from the application of the sales and use tax. An "exemption" involves a retail sale that, absent an exemption in law, would otherwise be subject to the tax.

⁶ SB 71 (Ch. 10, Stats. 2010, effective March 24, 2010).

⁷ SB 1128 (Ch. 677, Stats. 2011, effective January 1, 2013).

⁸ Public Resources Code Section 26011.8.

⁹ RTC Section 6377.1.

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Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, and 6201.3)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5)
0.25%	State (Education Protection Account)	Schools and community college funding (Section 36, Article XIII, State Constitution) (until 01/01/17)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.00%	Local (City/County) 0.75% City and County 0.25% County	City and county general operations (RTC Section 7203.1, operative 7/1/04); Dedicated to county transportation purposes
7.50%	Total Statewide Rate	

Amended Law: Until January 1, 2021, this bill includes within the term “project” for purposes of CAEATFA’s authority to approve sales and use tax exclusions, tangible personal property if at least 50% of its use is either to process recycled feedstock that is intended to be reused to produce another product or to use recycled feedstock to produce another product or soil amendment. The bill specifically excludes from the term “project” tangible personal property that processes or uses recycled feedstock in a manner that constitutes disposal, as defined.

The bill defines “recycled feedstock” as materials that would otherwise be destined for disposal, having completed its intended end use and product lifecycle.

Commentary:

1. **Effect of the bill.** Expands CAEATFA’s current program to authorize CAEATFA to approve sale and use tax exclusions related to projects that process and use recycled feedstock.
2. **Amendments.** The **September 10, 2015** amendments added double-jointing language to AB 1269, which extends the CAEATFA-related sales and use tax exclusion for advanced manufacturing projects from July 1, 2016 to January 1, 2021. The **August 25, 2015** amendments made non-substantive technical corrections. The **August 18, 2015 amendments** made a technical correction, so that the bill’s proposed exclusion related to recycled feedstock processes and use would repeal on January 1, 2021 – the same date that CAEATFA’s authority to approve exclusions related to certain advanced transportation technologies or alternative source components sunsets. The **June 9, 2015 amendments** substituted “incidental” for “incident” twice.
3. **Any change to the PRC’s definition of “project” can have a direct sales and use tax implication.** Under the law, the sales and use tax exclusion is linked directly with the PRC’s defined term “project.” When that term is changed within the PRC context, the change can result in a direct state and local sales and use tax revenue impact.
4. **The sales and use tax exclusion’s administration falls primarily under the CAEATFA.** As a result, the BOE’s administrative duties would have minimal effect.

[Assembly Bill 1277 \(Brough\) Chapter 789](#)
Taxpayers' Rights Advocate: Levy Adjustment

Effective January 1, 2016. Among its provisions, amends Section 7094 of the Revenue and Taxation Code.

Summary: Increases from \$1,500 to \$2,300 the amount of levied funds the BOE's Taxpayers' Rights Advocate (TRA) is permitted to return to a taxpayer when the taxpayer can demonstrate that the levy threatens the health or welfare of the taxpayer or the taxpayer's family.¹⁰ Also provides a mechanism for future inflation adjustments, extends this authorization irrespective of a jeopardy determination, and adds levy return authority to the remaining BOE-administered tax and fee programs that currently lack it.

Sponsor: Board of Equalization

Purpose: To adjust for inflation the dollar amount the TRA is authorized to return on a levy to prevent the levy from threatening the health and welfare of a taxpayer or the taxpayer's family.

Fiscal Impact Summary: Annual revenue loss of \$4,600.

Former Law: Existing Revenue and Taxation Code (RTC)¹¹ authorizes the BOE's TRA to **release** a levy or notice to withhold, or order the **return** of up to \$1,500 to the taxpayer¹² within 90 days of receiving levied funds, if the levy threatens the health or welfare of the taxpayer or the taxpayer's family.

Conversely, the Cigarette and Tobacco Products Tax Law (RTC Section 30459.2) and the Fee Collection Procedures Law (RTC Section 55333) require the BOE to **release** a levy upon the TRA's order but do not permit the return of levied funds, when the levy threatens the taxpayer's or the taxpayer's family's health or welfare. These provisions also require the BOE to **release** a levy when the expense of selling an asset exceeds the tax liability.

The TRA authority to release or return funds does not apply when a jeopardy determination has been issued. A jeopardy determination is issued when collection of the amount due is jeopardized by delay. These determinations are due and payable immediately and are subject to all collection actions as of the date they are served. Because a jeopardy determination is indicative of collection being in jeopardy if delayed, collection offices must give priority to these cases and take all appropriate collection actions, including the seizure of personal property.¹³ Internal Revenue Code provisions exempt certain property from levy, but allow the levy on principal residences and certain business assets in certain circumstances. If the Internal Revenue Service (IRS) Secretary finds that collection of the tax is in jeopardy, then the IRS may levy on certain business assets.¹⁴

The BOE must return a taxpayer's levied property or sale proceeds if: (1) the levy is not issued in accordance with law; (2) a taxpayer complies with an installment payment agreement; or (3) the property's return facilitates collection or is in the best interests of the state and the taxpayer. These

¹⁰ The reference to the taxpayer and family includes the taxpayer's spouse/partner and dependents.

¹¹ Sales and Use Tax Law (§ 7094), Use Fuel Tax Law (§ 9272), Alcoholic Beverage Tax Law (§ 32472), Energy Resources Surcharge Law (§ 40212), Emergency Telephone Users Surcharge Law (§ 41172), Hazardous Substances Tax Law (§ 43523), Integrated Waste Management Fee Law (§ 45868), Oil Spill Response, Prevention, and Administration Fees Law (§ 46623), Underground Storage Tank Maintenance Fee Law (§ 50156.12), and Diesel Fuel Tax Law (§ 60632).

¹² The term "taxpayer" includes feepayers.

¹³ Jeopardy Determinations, Section 764.020, [Chapter 7 Collections](#), BOE Compliance Policy and Procedures Manual.

¹⁴ Section 6334 of Part II, of Subchapter D, of Chapter 64, of Subtitle F, of Title 26, of the United States Code.

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provisions do not apply if the BOE finds tax collection is in jeopardy.

Amended Law: This bill increases from \$1,500 to \$2,300 the amount of levied funds the TRA is permitted to return when the levy threatens the health or welfare of the taxpayer or the taxpayer’s family. The law also allows the TRA to return levied funds associated with a jeopardy determination if the collection of the amount due is no longer in jeopardy. Consistent with other tax and fee laws, this bill also provides the TRA the authority to return up to \$2,300 in levied funds under the Cigarette and Tobacco Products Tax Law and the Fee Collection Procedures Law, which governs the collection of the California Tire, Covered Electronic Waste Recycling, Fire Prevention, Marine Invasive Species, Water Rights Fees, and Lumber Products Assessment, as well as the Natural Gas Surcharge.

Background: The Katz-Harris California Taxpayers’ Bill of Rights¹⁵ provides certain guarantees under the California Sales and Use Tax Law to ensure that the rights, privacy, and property of California taxpayers are adequately protected during the tax assessment and collection process. The Taxpayers’ Bill of Rights provides similar guarantees under the California Personal Income Tax Law and the Bank and Corporation Tax Law. In 1992, legislation¹⁶ extended the taxpayer rights provisions to most BOE-administered special tax and fee programs.

The Katz-Harris legislation added RTC Section 7094, which allowed the TRA to release a levy upon determination that the levy threatened the health or welfare of the taxpayer or the taxpayer’s family. The language mirrored Franchise Tax Board (FTB) statutes and placed no time or dollar limitation on the request for release.

In 1995, Section 7094 was amended¹⁷ to read as it does today. Among other things, the Legislature granted the TRA additional authority to return (within 90 days from the levy) up to \$1,500, when the TRA determines the levy threatens the taxpayer’s or the taxpayer’s family’s health or welfare.

RTC Section	Tax or Fee Program	Added	Amended	Bill No.	Amendment
7094	Sales & Use	1988	1995	SB 718	Return of Funds
9272	Use Fuel	1992	1995	SB 718	Return of Funds
30459.2	Cigarette & Tobacco	1992	N/A	SB 1661	Release of Levy
32472	Alcoholic Beverage	1992	1995	SB 718	Return of Funds
40212	Energy Resources	1992	1995	SB 718	Return of Funds
41172	Emergency Telephone	1992	1995	SB 718	Return of Funds
43523	Hazardous Substances	1992	1995	SB 718	Return of Funds
45868	Integrated Waste	1992	1995	SB 718	Return of Funds
46623	Oil Spill Response and Administration	1995	N/A	SB 722	Release of Levy & Return of Funds
50156.12	Underground Storage Tank	1992	1995	SB 718	Return of Funds
55333	Fee Collection Procedures	1992	N/A	SB 1920	Release of Levy
60632	Diesel Fuel	1994	1996	SB 1827	Release of Levy & Return of Funds

In General: Both the IRS and the FTB are authorized by statute to provide for the release of a levy if the levy creates an economic hardship or otherwise threatens the health and welfare of the taxpayer, his or her spouse and dependents or family.

With respect to the FTB, a levy may be released in the event of any circumstances deemed appropriate by the FTB, including, but not limited to the following:

¹⁵ Assembly Bill 2833, Ch. 1574, Stats. 1988; effective January 1, 1989.

¹⁶ Senate Bill 1661, Ch. 438, Stats. 1992; effective January 1, 1993.

¹⁷ Senate Bill 718, Ch. 555, Stats. 1995; effective January 1, 1996 .

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- Expense to the state related to the sales process exceeds the liability.
- TRA orders the release upon a finding that the levy threatens the health or welfare.
- Proceeds from the sale would not result in a reasonable reduction of the debt.
- Administrative procedures were not followed when the levy was issued.
- Installment payment agreement was entered into to pay the tax liability for which the levy was issued, unless the agreement allows for a levy.
- Release of the levy will facilitate collection of the tax liability or will be in the best interest of the taxpayer and state.

In general, the IRS is also authorized to release a levy under similar conditions as the FTB. These include the following:

- Release of the levy will facilitate collection of the liability.
- Installment payment agreement has been entered into, unless the agreement allows for a levy.
- Secretary determines that the levy creates a financial hardship.
- Liability is satisfied or becomes unenforceable due to lapse of time.
- Fair market value exceeds the liability and release will not hinder collection.

The IRS is specifically authorized to return property that has been wrongfully levied upon. The amount and time are both specified and exceed the time limit and amount that the BOE is authorized to return. The IRS may return property at any time. An amount equal to the amount of on the levy may be returned prior to nine (9) months from the date of levy.

Legislative History. Similar changes have been attempted in the prior two years. BOE-sponsored [Assembly Bill 1222](#) (Bloom, 2013) was amended into a different measure when the author did not accept Senate Governance and Finance Committee suggested amendments limiting the bill to provide an out-year inflation adjustment of the return amount. Last year's [Assembly Bill 2249](#) (Bloom) was not heard in a committee.

Commentary:

1. **Effect of the bill.** This bill adjusts for inflation the amount of temporary assistance taxpayers may receive when a levy threatens their or their family's health or welfare. In addition, the bill provides the TRA consistent levy return authority for all BOE administered tax and fee programs.
2. **The April 29, 2015 amendments** substituted the term "determination" for "assessment" in regards to jeopardy cases, and clarified that the TRA may return funds on jeopardy determinations if collection of the amount due is no longer in jeopardy.
3. **The return of levied funds does not reduce the tax liability.** The BOE is authorized to levy bank accounts to collect delinquent amounts. Occasionally a taxpayer is unable to contact the TRA to stop the funds from being levied until after the BOE has seized the funds. In these rare cases, levied funds are needed to cover the taxpayer's basic living expenses. Only the TRA, and not the Board, is allowed to order funds returned when the levy threatens the health or welfare of the taxpayer or the taxpayer's family.
4. **The BOE's TRA bases the decision to return levied funds upon a taxpayer's reasonable documentation and financial condition disclosure.** Typically the taxpayer completes a BOE financial statement with accompanying documents to substantiate income and expenses. Since California is a community property state, the BOE requests information about total household income and expenses.

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- 5. Basis for the suggested increase.** The increase from \$1,500 to \$2,300 is based on the accumulated California inflation factor from the date Section 7094 was first effective, on January 1, 1996, to the present. This measure also provides a mechanism for future inflation adjustments.

The amount returned may not cover a taxpayer's monthly living expenses, but a reasonable increase in the funds returned will help a taxpayer provide for his or her family when the need arises. The incremental inflationary adjustment ensures that the amount returned will keep pace with the cost of living.

[Senate Bill 533 \(Pan\) Chapter 717](#)
Local Tax Revenue Sharing: Restrictions

Effective January 1, 2016. Repeals and adds Section 53084.5 to the Government Code.

Summary: Amends the prohibition on a local agency entering into an agreement that results in the payment, transfer, diversion, or rebate of any Bradley-Burns local tax revenues received by another local agency from a retailer that continues to maintain a physical presence within the jurisdiction of the local agency where the retailer was first located.

Sponsor: City of West Sacramento

Purpose: To prohibit cities and counties from using Bradley-Burns sales tax rebates as an incentive to draw sales tax-generating activities away from other communities.

Fiscal Impact Summary: No impact to state revenue.

Former Law: The Board of Equalization (BOE) administers the **Bradley-Burns Uniform Local Sales and Use Tax Law**¹⁸ which authorizes counties to impose a local sales and use tax. This tax rate is fixed at 1%¹⁹ of the sales price of tangible personal property sold at retail in the county, or purchased outside the county for use within the county.

Under current law, cities are authorized to impose a local sales and use tax rate of up to 0.75%. The city sales and use tax rate is credited against the county rate so that the combined rate does not exceed 1%.

Of the 1%, cities and counties use 0.75% to support general operations. The remaining 0.25% is designated by statute for county transportation purposes and restricted to road maintenance or the operation of transit systems. The counties receive the 0.25% tax for transportation purposes regardless of whether the sale occurs in a city or in the unincorporated area of a county. In California, all cities and counties impose Bradley-Burns local taxes at a total uniform rate of 1%.

Place of Sale – Allocation of Bradley-Burns Local Tax. RTC Section 7205 specifies the “place of sale” for purposes of the local sales tax as the place of business of the retailer. **If a retailer has *only one place of business*** in California, all California retail sales in which that place of business participates occur at that place of business. The BOE allocates the local sales tax to the city, county, or city and county in which that place of business is located, even if title to the property passes to the purchaser outside the jurisdiction in which the retailers business is located, or if the property is never within the jurisdiction in which the retailer’s business is located.

If a retailer has *more than one place of business* in California, the place of sale is determined in accordance with BOE regulations.

Sales and Use Tax Regulation 1802, *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, interprets and makes specific the laws governing the “place of sale” for purposes of allocating local tax revenues to local jurisdictions. Under subdivision (a)(2)(B), if a retailer has *more than one* place of business in this state participating in the sale, then the place of sale is where principal negotiations are carried on.

¹⁸ Part 1.5 of Division 2 (commencing with Section 7200) of the Revenue and Taxation Code (RTC).

¹⁹ RTC Section 7203.1.

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Sales of Jet Fuel. Under current law,²⁰ the place of sale for *all* jet fuel sales for purposes of local sales tax is the point of delivery of the fuel into the aircraft, even if the retailer's other California places of business participate in the sale. Current law also contains specific provisions applicable to the local tax allocation of jet fuel delivered to aircraft at San Francisco and Ontario international airports and at airports located in a local jurisdiction that differs from the jurisdiction that owns or operates the airport (referred to as "multijurisdictional airports").

Government Code (GC) Section 53084.5²¹ prohibits a local agency, including a city, county, or city and county, from entering into an agreement that results in the payment, transfer, diversion or rebate of any Bradley-Burns local tax revenues, when both of the following apply:

- 1) The agreement results in a reduction in the Bradley-Burns tax revenues that is received by another local agency from a retailer that is located within the territorial jurisdiction of that other local agency; and,
- 2) The retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency.

The law specifies that the above prohibition does NOT apply to certain agreements related to the following:

- A retailer that expands its operations into another jurisdiction with the result that the retailer is conducting a comparable operation within the jurisdiction of both local agencies.
- A reduction in the use tax proceeds that are distributed to the originating local agency through one or more countywide pools.
- Any agreement to pay or rebate Bradley-Burns local tax revenue related to a buying company, which is defined as a legal entity that is separate from another legal entity that owns, controls, or is otherwise related to, the buying company and which has been created for the purpose of performing administrative functions, including acquiring goods and services for the other entity, as defined in specified RTC statutes and regulations.
- Any agreement to pay or rebate any local use tax revenue related to a use tax direct payment permit issued under RTC 7051.3.
- Bradley-Burns tax proceeds provided by a local agency to a retailer if those proceeds are used to reimburse the retailer for the construction of public works improvements that serve all or a portion of the territorial jurisdiction of that local agency.

Amended Law: This bill repeals and adds GC Section 53084.5, which prohibits a local agency from entering into an agreement that results in the payment, transfer, diversion or rebate of Bradley-Burns local tax revenues to any person for any purpose when both of the following apply:

- 1) The agreement results in a reduction in Bradley-Burns tax revenues that, in the absence of the agreement, would be received by another local agency.
- 2) The retailer continues to maintain a physical presence within the territorial jurisdiction of that other local agency.

The bill eliminates all exceptions contained in the current version of GC Section 53084.5, other than the exception for an agreement to pay or rebate any use tax revenue related to a use tax direct payment permit issued under RTC 7051.3.

When an agreement that results in the payment, transfer, diversion or rebate of Bradley-Burns local tax revenues that would be received by another local agency is NOT prohibited by the section, the bill requires

²⁰ RTC Section 7205, subdivision (b)(2); RTC Section 7204.03; California Code of Regulations, title 18, Regulation 1802, subdivision (b)(6).

²¹ Added by Senate Bill 27 (Ch. 4, Stats. 2009)

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a local agency entering into such an agreement to do the following:

- Post the proposed agreement on its Internet Web site for at least 30 days prior to ratification or approval of the agreement.
- Notify the other local agency by certified mail at least 60 days prior to ratification or approval of that agreement.
- Post on its Internet Web site any agreements that the local agency entered into prior to the effective date of this bill, which are still in effect.

This bill states that the provisions should not be interpreted to limit the ability of a local agency to contract with or otherwise enter into an agreement pursuant to subdivision (b) of RTC Section 7056.

The prohibition will not apply to any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert tax revenues to another local agency where the agreement would not result in the payment, transfer, diversion, or rebate of those tax revenues to a retailer.

Legislative History: The Legislature has considered several bills to address local agency sales and use tax rebate agreements:

AB 178 (Chapter 462, Statutes 1999, Torlakson and Runner) prohibits cities, counties, and redevelopment agencies from offering any financial assistance to an automobile dealership or a big box retailer that relocates from one city or county to another community in the same market area, unless the receiving community offers a contract to share some of the resulting local sales tax revenues with the other city or county.

SB 114 (Chapter 781, Statutes 2003, Torlakson) eliminates the authority of a redevelopment agency or local agency to provide financial assistance to an automobile dealer or a big box retailer that is relocating from one community to another community within the same market area.

SB 983 (Hernandez, 2014) proposed excluding from the definition of “buying company” under GC Section 53084.5 a retailer that contracts to sell through a card lock system. The bill passed out of the Senate and but changed subject matter in the Assembly.

Commentary:

1. Effect of the bill. This bill eliminates certain exemptions from the prohibition in GC Section 53084.5. Those exemptions are:

- A retailer that expands its operations into another jurisdiction with the result that the retailer is conducting a comparable operation within the jurisdiction of both local agencies.
- Local tax proceeds provided by a local agency to a retailer to reimburse the retailer for the construction of public works improvements that serve all or a portion of the territorial jurisdiction of that local agency.
- An agreement involving reductions in local use tax distributed through the countywide pool process.
- An agreement to pay or rebate local tax revenue relating to a buying company.

The bill requires local agencies entering into agreements involving reductions in local tax revenues that otherwise would be received by another local agency to notify that other local agency by certified mail at least 60 days prior to ratification or approval of these proposed agreements. The local agency must post these proposed agreements on its Internet Web site for at least 30 days prior to their ratification or approval. Additionally, the bill requires local agencies to post on their Internet Web site any of these agreements entered into prior to the effective date of SB 533 that are still in effect.

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- 2. Summary of amendments. The July 6, 2015 amendments** clarified that the prohibition will not apply to any mutual tax revenue sharing agreement between local agencies to pay, transfer, or divert tax revenues to another local agency, and where the agreement would not result in the payment, transfer, diversion, or rebate of those tax revenues to a retailer. **The June 10, 2015 amendments** (1) specified that the bill's prohibition will not apply to a local agency that has a mutual tax revenue sharing agreement with each local agency that is affected by the agreement, and (2) made nonsubstantive, technical amendments.
- 3. The bill does not impact the BOE's administration of the local tax.** Once the BOE disburses funds to cities and counties based on the Bradley-Burns laws and regulations, the cities and counties then control how the money is spent or allocated.

Senate Bill 598 (Hill) Chapter 248
Volunteer Fire Departments: Consumers

Tax levy; effective September 2, 2015, but operative on April 1, 2016. Adds and repeals Section 6018.10 of the Revenue and Taxation Code.

Summary: Specifies that all-volunteer fire departments (VFDs) are consumers, rather than retailers, of tangible personal property they sell when the profits are used to further the VFD's purposes.

Sponsor: La Honda Fire Brigade

Purpose: To allow VFDs to better utilize scarce resources by exempting from sales tax their fund-raising sales, such as hot prepared food products and clothing, and instead requiring them to pay tax on the purchase price of any taxable items they buy for resale in their fund-raising activities. VFDs rely primarily on membership drives and fundraising activities to support their operational budgets.

Fiscal Impact Summary: Annual state and local sales and use tax revenue loss of \$42,000.

Former Law: Except where specifically exempted by statute, California's Sales and Use Tax Law²² imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption of tangible personal property purchased from a retailer. The law does not generally exempt from sales or use tax sales or purchases by nonprofit organizations, persons engaged in charitable activities, or those who enjoy certain income tax or property tax privileges. Therefore, nonprofit organizations' tangible personal property sales generally are subject to tax to the same extent as any other retailer's sales.

Generally, persons engaged in the business of selling tangible personal property must obtain a seller's permit. These persons must also report the tax on a Board of Equalization (BOE)-prescribed return. However, various statutes regard some small or service-based businesses and certain nonprofit organizations as statutory consumers. The law does not consider a statutory consumer's qualifying sales to be retail sales. Therefore statutory consumers need not report or pay tax on their sales or obtain a seller's permit, unless they make other non-qualifying retail sales. Instead, statutory consumers generally owe tax on their purchases of taxable products they intend to sell.

The statutory consumer concept is primarily intended to minimize certain businesses' and organizations' reporting burdens. It also minimizes the associated revenue loss that accompanies a complete tax exemption. Other statutory consumers classified in law include PTAs, nonprofit veterans' organizations, nonprofit youth organizations, various charitable organizations, schools and school districts, optometrists, veterinarians, podiatrists, and licensed hearing aid dispensers, among others.

Amended Law: This bill specifies that, until January 1, 2021, an "all volunteer fire department" is a consumer, and shall not be considered a retailer, of tangible personal property sold by it if the profits are used solely and exclusively to further the VFD's purposes.

The bill defines "all volunteer fire department" as an organization that meets these requirements:

- No member shall be paid a regular salary, but a member may be compensated hourly or on a per incident basis.
- The organization's purpose is to protect the lives, property and environment, as specified.

²² Part 1, Division 2 (commencing with Section 6001) of the Revenue and Taxation Code (RTC).

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- The organization is regularly organized for VFD purposes and qualifies as an exempt organization, as specified.

The new section does not apply if the VFD, in each of the two preceding calendar years, has gross receipts from tangible personal property sales of \$100,000 or more.

Commentary:

- 1. Effect of the bill.** VFDs that make sales of taxable food, clothing, or other tangible personal property will not be required to report sales tax on those sales, hold a BOE-issued seller's permit, or file sales tax returns. Instead, they will only be required to pay tax reimbursement on the cost of the taxable items they intend to sell for fund-raising purposes.
- 2. Summary of amendments.** The **June 29, 2015** amendments shortened the sunset date from January 1, 2026 to January 1, 2021, and made other non-substantive technical changes. The **April 15, 2015** amendments added a sunset date of January 1, 2026, and specified that the provisions do not apply to VFDs that have receipts from tangible personal property sales of \$100,000 or more in each of the two preceding calendar years.
- 3. This bill does not materially impact the BOE's tax audit or administrative functions.** According to the author's office, about 250 VFDs exist in California. However, generally, the BOE seldom audits VFDs due to their low sales volume and lack of complexity.

[Senate Bill 705 \(Hill\) Chapter 579](#)

San Mateo County and Monterey County: 2% Cap Exemption

Effective January 1, 2016. Adds Chapter 3.9 (commencing with Section 7295) and Chapter 3.91 (commencing with Section 7297) to the Revenue and Taxation Code.

Summary: Authorizes both San Mateo County and the Transportation Agency for Monterey County (TAMC) to impose a countywide transportation program transactions and use tax (district tax), until January 1, 2026. The tax may exceed the existing 2% rate limitation.

Sponsors: San Mateo County and Transportation Agency for Monterey County

Purpose: To provide additional funding for transportation programs.

Fiscal Impact Summary: Approximately \$96 million annually for San Mateo County and \$26.8 million annually for Monterey County.

Former Law: The **Transactions and Use Tax Law**²³ and the **Additional Local Taxes Law**²⁴ authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%²⁵ (with the exception of the counties of Alameda, Contra Costa, and Los Angeles²⁶).

In addition, Section 7291 authorizes Alameda County and Contra Costa County to impose a district tax for countywide transportation programs at a capped rate of 0.5%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- 1) Alameda County and Contra Costa County adopt an ordinance proposing the district tax by any applicable voting requirements;
- 2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
- 3) the district tax conforms to the Transactions and Use Tax Law.

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Various statutes under the Public Utilities Code (PUC) provide for the establishment of a local transportation authority, and authorize that authority to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law. The law also requires local transportation authorities to contract with the BOE to perform all functions related to the administration of the ordinance.

²³ Part 1.6 of Division 2 of the RTC, commencing with Section 7251.

²⁴ Part 1.7 of Division 2 of the RTC, commencing with Section 7280.

²⁵ RTC Section 7251.1.

²⁶ Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

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Amended Law: This bill authorizes San Mateo County, in accordance with the district tax requirements of the Bay Area County Traffic and Transportation Funding Act,²⁷ to impose a district tax for transportation programs at a capped rate of 0.5%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law.

The bill also authorizes the TAMC to impose a district tax for transportation programs at a capped rate of 0.375%, which, in combination with other district taxes, would exceed the 2% limitation established in existing law, if all of the following conditions are met:

- 1) TAMC adopts an ordinance proposing the district tax by any applicable voting requirements;
- 2) the proposed ordinance is submitted to the electorate and is approved by two-thirds of the voters voting on the ordinance; and,
- 3) the district tax conforms to the Transactions and Use Tax Law.

The bill states that the Legislature finds and declares that a special law is necessary because of the unique fiscal pressures experienced by the San Mateo County Transportation Authority and the TAMC in providing essential transportation programs.

If the ordinances are not approved by the electorate, the applicable statutes will be repealed as of January 1, 2026.

Background: Currently, San Mateo County has five district taxes being levied within its borders—three county-wide taxes (two transportation taxes) and two city-wide taxes.

San Mateo County - District Name and Tax Area	Rate	Effective Date	Expiration Date
San Mateo County Retail Transactions and Use Tax (county-wide)	0.50%	04-01-13	03-31-23
San Mateo County Transportation Authority (county-wide)	0.50%	01-01-89	12-31-33
San Mateo County Transit District (county-wide)	0.50%	07-01-82	None
City of Half Moon Bay Transactions and Use Tax (city-wide)	0.50%	04-01-13	03-31-16
City of San Mateo Transactions and Use Tax (city-wide)	0.25%	04-01-10	03-31-18

Currently, Monterey County has 15 district taxes being levied within its borders—one county-wide tax (transportation purposes) and 14 city-wide taxes.

Monterey County - District Name and Tax Area	Rate	Effective Date	Expiration Date
Monterey-Salinas MST Special Transit District (county-wide)	0.125%	04-01-15	03-31-30
City of Carmel-by-the-Sea Transactions and Use Tax (city-wide)	1.00%	04-01-13	03-31-23
City of Del Rey Oaks Transactions and Use Tax (city-wide)	1.00%	04-01-07	03-31-17
City of Del Rey Oaks Transactions and Use Tax (city-wide)	0.50%	04-01-15	None
City of Gonzales Quality of Life Transactions and Use Tax (city-wide)	0.50%	04-01-15	03-31-25
City of King City Transactions and Use Tax (city-wide)	0.50%	04-01-15	03-31-22

²⁷ Division 12.5 of the PUC, commencing with Section 131000.

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Monterey County - District Name and Tax Area	Rate	Effective Date	Expiration Date
City of Greenfield Transactions and Use Tax (city-wide)	1.00%	10-01-12	09-30-17
City of Marina Transactions and Use Tax (city-wide)	1.00%	04-01-11	03-31-26
City of Monterey Special Transactions and Use Tax (city-wide)	1.00%	04-01-15	03-31-19
City of Pacific Grove Transactions and Use Tax (city-wide)	1.00%	10-01-08	None
City of Salinas Temporary Transactions and Use Tax (city-wide)	0.50%	04-01-06	None
City of Salinas Measure G Transactions and Use Tax (city-wide)	1.00%	04-01-15	03-31-30
City of Sand City 2015 Spec Purpose Transactions and Use Tax (city-wide)	1.00%	04-01-15	None
City of Seaside Transactions and Use Tax (city-wide)	1.00%	07-01-08	None
City of Soledad Temporary Emergency Transactions and Use Tax (city-wide)	1.00%	10-01-12	09-30-32

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. The city district taxes cannot exceed the 2% limit. Because the city of Half Moon Bay imposes a tax of 0.5%, San Mateo County has reached the 2% limit.

Monterey County has one 0.125% county-wide tax and ten 1% city-wide taxes. Because the ten cities each impose a tax at rate of 1%, Monterey County is 0.875% shy of the 2% limit. The City of Greenfield has qualified a 0.75% district tax measure for the November 2015 ballot, which, if approved by the voters, would leave only 0.125% for Monterey County.

Legislative History: Over the years, four bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.²⁸
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. AB 1086 required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.

²⁸ AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

Commentary:

- 1. District taxes currently administered by the BOE.** As of April 1, 2015, 202 local jurisdictions (city, county, and special purpose authority)²⁹ impose a district tax for general or special purposes. Of the 202 district taxes, 48 are county-imposed and 154 have city-imposed taxes. Four of the 48 county-imposed taxes are general purpose taxes and 30 are special purpose taxes. Of the 48 county-imposed taxes, 29 are imposed for transportation purposes. Of the 154 city-imposed taxes, 124 are general purpose taxes and 30 are special purpose taxes.

Currently, the individual district tax rates vary from 0.1%³⁰ to 1%. Some cities and counties have more than one district tax in effect, while others have none. Accordingly, combined state, local and district tax rates generally range from 7.5% to 9.5%, with the exception of the cities of Albany, Hayward, San Leandro, and Union City in Alameda County, the City of El Cerrito in Contra Costa County, and the cities of La Mirada, Pico Rivera, and South Gate in Los Angeles County, which, subject to the specific exemptions discussed above, each have a tax rate of 10%. A listing of the district taxes, rates, and effective dates is available on the BOE's website: www.boe.ca.gov/sutax/pdf/districtratelist.pdf.

- 2. Other California counties at or near the 2% limit.** Alameda, Contra Costa, and Los Angeles Counties have reached the 2% limit. Marin County is 0.25% shy of the 2% limit and San Diego and Sonoma Counties are 0.5% short of the limit.
- 3. Related Legislation.** [SB 767](#) (Ch. 580, Stats. 2015, De Leon) authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% district tax for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.

Governor Brown recently vetoed [AB 464](#) (Mullin and Gordon), which would have increased the combined rate of all transactions and use taxes imposed in any county from 2% to 3%. In his veto [message](#), the Governor states:

Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot.

²⁹ Currently, all district taxes levied exclusively within the borders of either a county or an incorporated city (with the exception of the Bay Area Rapid Transit District, which is comprised of Alameda, Contra Costa, and San Francisco counties and the Sonoma-Marín Rail Transit District). For purposes of calculating the 202 jurisdictions, the Bay Area Rapid Transit District and the Sonoma-Marín Rail Transit District are counted as one jurisdiction, even though each jurisdiction is comprised of three counties and two counties, respectively.

³⁰ Through specific authority, SB 1187 (Ch. 285, Stats. 2001, Costa) authorized Fresno County to impose a 0.1% district tax for zoological purposes.

Senate Bill 767 (De Leon) Chapter 580

Los Angeles County Metro Transportation Authority: 2% Cap Exemption

Effective January 1, 2016. Amends Section 130350.5 of, repeals Section 130350.6 of, and adds Section 130350.7 to, the Public Utilities Code.

Summary: Authorizes the Los Angeles County Metropolitan Transportation Authority (MTA) to impose an additional 0.5% transactions and use tax (district tax) for funding transportation-related projects and programs. The tax would be imposed for an unspecified period to be determined by the MTA, and may exceed the existing 2% rate limitation.

Sponsors: Los Angeles County Metropolitan Transportation Authority

Purpose: To provide additional funding for specific transportation projects.

Fiscal Impact Summary: Approximately \$800 million annually.

Former Law: The **Transactions and Use Tax Law**³¹ and the **Additional Local Taxes Law**³² authorize cities and counties (and special purpose entities) to impose district taxes under specified conditions. Counties may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the county. Cities also may impose a district tax for general purposes and special purposes at a rate of 0.125%, or multiples of 0.125%, if the ordinance imposing the tax is approved by the required percentage of voters in the city. The combined district tax rate imposed within any local jurisdiction cannot exceed 2%³³ (with the exception of the counties of Alameda, Contra Costa, and Los Angeles³⁴).

By law, cities and counties (and special purpose entities) contract with the BOE to administer the ordinances imposing the district taxes.

Various statutes under the Public Utilities Code (PUC) provide for the establishment of a local transportation authority, and authorize that authority to impose a district tax, subject to the applicable voter approval requirement. District taxes imposed under the PUC must conform to the administrative provisions contained in the Transactions and Use Tax Law. The law also requires local transportation authorities to contract with the BOE to perform all functions related to the administration of the ordinance.

PUC Section 130350 authorizes the MTA³⁵ to impose a district tax for public transit purposes within the incorporated and unincorporated territory of the County of Los Angeles, provided that two-thirds of the electors voting on the measure vote to authorize its enactment. The district tax must conform to Part 1.6 of the Transactions and Use Tax Law, including the requirement that the combined tax does not exceed the 2% rate limitation. Currently, MTA imposes two separate 0.5% district taxes under Section 130350. As

³¹ Part 1.6 of Division 2 of the RTC, commencing with Section 7251.

³² Part 1.7 of Division 2 of the RTC, commencing with Section 7280.

³³ RTC Section 7251.1.

³⁴ Exceptions authorized through AB 210 (Ch. 194, Stats. 2013, Wieckowski) for Alameda County and Contra Costa County and SB 314 (Ch. 785, Stats. 2003, Murray) for the Los Angeles Metropolitan Transportation Authority.

³⁵ The Los Angeles County Metropolitan Transportation Authority was created in February 1993 (AB 152 (Ch. 60, Stats. 1992) added PUC Section 130050.2 to create the MTA) as a result of the merger between the Los Angeles County Transportation Commission and the Southern California Rapid Transit. The MTA became the regional transportation planning agency for the County of Los Angeles.

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previously stated, these district taxes are NOT exempt from the 2% combined rate limitation in current law.

However, a third MTA tax, imposed under PUC Section 130350.5,³⁶ is exempt from the 2% rate limitation. This 0.5% district tax is for the funding of specified transportation-related capital projects and programs. Los Angeles County voters approved this additional 0.5% in November 2008, and it became effective July 1, 2009.

Amended Law: This bill deletes the authority previously granted to MTA to seek voter approval for the extension of the existing 0.5% district tax for transportation, and instead authorizes MTA to impose a new additional transportation district tax at a rate of 0.5%, provided the combined rate does not exceed 1%.

The ordinance imposing the tax must include all of the following:

- 4) Expenditure plan that lists the transportation projects and programs to be funded from the net tax revenues.
- 5) Provisions specifying that the district tax conforms to the Transactions and Use Tax Law, except for the combined rate limitation in RTC Section 7251.1.
- 6) Provision limiting the MTA’s costs to administer the ordinance and the net tax revenues to 1.5% of the total tax revenues.
- 7) A requirement that the net tax revenues, as defined, would be used to fund transportation projects and programs that are identified in the expenditure plan.

The ordinance would become operative pursuant to PUC Section 130352, which provides that any district tax ordinance adopted shall become operative on the first day of the first calendar quarter commencing not less than 180 days after adoption.

The bill authorizes the MTA to incur bonded indebtedness payable from the net revenues of the tax pursuant to the bond issuance provisions of Chapter 5 of Division 12 of the PUC.

Background: Currently, Los Angeles County has fourteen district taxes being levied within its borders—three transportation county-wide taxes and eleven city-wide taxes. Only the MTA tax (bolded), operative July 1, 2009 through June 30, 2039, is NOT subject to the 2% statutory rate limitation:

District Name and Tax Area	Rate	Effective Date	Expiration Date
Los Angeles County Transportation Commission (county-wide)	0.50%	04-01-91	None
Los Angeles County Transportation Commission (county-wide)	0.50%	07-01-82	None
Los Angeles County Metro Transportation Authority (county-wide)	0.50%	07-01-09	06-30-39
City of Avalon Municipal Hospital and Clinic Tax (city-wide)	0.50%	10-01-00	None
City of Commerce Transactions and Use Tax (city-wide)	0.50%	04-01-13	None
City of Culver City Essential City Services Transactions and Use Tax (city-wide)	0.50%	04-01-13	03-31-23
City of El Monte Transactions and Use Tax (city-wide)	0.50%	04-01-09	03-31-19

³⁶ SB 314 (Ch. 785, Stats. 2003, Murray)

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District Name and Tax Area	Rate	Effective Date	Expiration Date
City of Inglewood Vital City Services Transactions and Use Tax (city-wide)	0.50%	04-01-07	None
City of La Mirada Transactions and Use Tax (city-wide)	1.00%	04-01-13	03-31-18
City of Pico Rivera Transactions and Use Tax (city-wide)	1.00%	04-01-09	None
City of San Fernando Temporary Transactions and Use Tax (city-wide)	0.50%	10-01-13	09-30-20
City of Santa Monica Transactions and Use Tax (city-wide)	0.50%	04-01-11	None
City of South El Monte Vital City Services Protection Transactions and Use Tax (city-wide)	0.50%	04-01-11	None
City of South Gate Transactions and Use Tax (city-wide)	1.00%	10-01-08	None

As previously stated, cities and counties may impose district taxes as long as the combined rate does not exceed 2% within the county. Two of the three Los Angeles County 0.5% taxes are not exempt from the 2% rate limitation, while, the PUC Section 130350.5 tax is exempt. Thus, the total county-wide tax rate is 1%. The city district taxes cannot exceed the 2% limit. Because the cities of La Mirada, Pico Rivera, and South Gate each impose a tax of 1%, Los Angeles County has reached the 2% limit.

Legislative History: Over the years, four bills have been approved by the Legislature granting specific authority to local governments to impose a district tax that exceeds the general 2% rate limitation:

- SB 314 (Ch. 685, Stats. 2003, Murray) authorized the MTA to impose a 0.5% district tax for the funding of specified transportation-related capital projects and programs. However, MTA never placed an ordinance before the voters to levy this authorized tax within the 6.5 year time frame.³⁷
- AB 1086 (Ch. 327, Stats. 2011, Wieckowski) authorized the County of Alameda to impose a district tax for the support of countywide transportation programs at a rate of up to 0.5%. AB 1086 required that the ordinance proposing the tax be submitted to the electorate on the November 6, 2012 General Election ballot and be approved by the voters. Alameda County voters declined to approve the proposed district tax (Measure B1) on the November 6, 2012 ballot; the measure fell 0.14% short of the 66.6% super-majority needed to pass.
- AB 210 (Ch. 194, Stats. 2013, Wieckowski) extends the authority of Alameda County and authorizes Contra Costa County to impose a countywide transportation program district tax at a rate of up to 0.5%.
- AB 1324 (Chapter 795, Stats. 2014, Skinner) authorizes the City of El Cerrito to impose a general-purpose district tax at a rate of up to 0.5%.

³⁷ AB 2321 (Chapter 302, Statutes 2008, Feuer) amended PUC Section 130350.5 to authorize, among other things, the 0.5% tax for a period not to exceed 30 years.

Commentary:

1. **Effect of the bill.** If enacted, the MTA would have two tax authorizations exempt from the 2% rate limitation. As previously stated, Los Angeles County cannot enact a new district tax because the cities of La Mirada's, Pico Rivera's, and South Gate's 1% tax, combined with the county's two district taxes already reaches the 2% limit.
2. **Summary of amendments.** **The July 16, 2015 amendments** deleted the authority previously granted to MTA to seek voter approval for the extension of the existing 0.5% district tax for transportation, and instead authorized MTA to impose a new additional transportation district tax at a rate of 0.5%, provided the combined rate does not exceed 1%. **The July 8, 2015 amendments** specified that the tax shall not exceed either: (1) a rate of 0.5% if a 0.5% tax authorized under existing law is already in effect, or (2) a rate of 1% if a tax authorized under existing law is not effect. **The June 1, 2015 amendments** (1) required the MTA to post the expenditure plan on its website at least 30 days before submitting the measure to the voters, (2) required the expenditure plan to include the most recent costs estimates and the expected completion dates for each project, (3) required the MTA to develop a transparent process to determine the most recent cost estimates, and (4) added coauthors.
3. **Suggested technical amendment.** The June 1, 2015 amendments to PUC Section 130350.7 re-lettered former subdivision (f) as subdivision (h). Consequently, the reference to "subdivision (f)" in subdivision (b)(2) should be "subdivision (h)." Accordingly, BOE staff recommends the following amendment:

On page 11, line 24, replace "subdivision (f)" with "subdivision (h)."

4. **Related Legislation.** [AB 338](#) (Hernandez), which is similar to SB 767, provides (1) the 0.5% tax must be imposed for a period not to exceed 30 years, and (2) a percentage of the net revenues must be allocated for bus and rail operations.

Governor Brown recently vetoed [AB 464](#) (Mullin and Gordon), which would have increased the combined rate of all transactions and use taxes imposed in any county from 2% to 3%. In his veto [message](#), the Governor states:

Although I have approved raising the limit for individual counties, I am reluctant to approve this measure in view of all the taxes being discussed and proposed for the 2016 ballot.

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TABLE OF SECTIONS AFFECTED

SECTIONS		BILL AND CHAPTER NUMBER		SUBJECT
Revenue & Taxation Code				
§6007	Amend	AB 160	Ch. 427	Retail sale: counterfeit goods
§6009.2	Amend	AB 160	Ch. 427	Sales of counterfeit goods
§6018.10	Add Repeal	SB 598	Ch. 248	Volunteer fire departments: consumers
§7094	Amend	AB 1277	Ch. 789	Taxpayers' Rights Advocate: levy adjustment
Chapter 3.9 (commencing with §7295)	Add Repeal	SB 705	Ch. 579	Authorization to levy: San Mateo County: 2% cap exemption
Chapter 3.91 (commencing with §7297)	Add Repeal	SB 705	Ch. 579	Authorization to levy: Monterey County: 2% cap exemption
Government Code				
§53084.5	Amend	SB 533	Ch. 717	Local tax sharing agreements: restrictions
Public Utilities Code				
§130350.5	Amend	SB 767	Ch. 580	Authorization to levy: County of Los Angeles
§130350.6	Repeal	SB 767	Ch. 580	Authorization to levy: County of Los Angeles: transportation transactions and use tax
§130350.7	Add	SB 767	Ch. 580	Authorization to levy: County of Los Angeles: transactions and use tax
Public Resources Code				
§26003	Amend	AB 199	Ch. 768	California Alternative Energy and Advanced Transportation Financing Authority Exclusion: Revises definition of a "project"
§26011.8	Amend	AB 199	Ch. 768	California Alternative Energy and Advanced Transportation Financing Authority Exclusion: Defines recycled feedstock