

**Repeal Revenue and Taxation Code Section 6225 of the Sales and Use Tax Law to eliminate the “qualified purchaser” program.**

**Source:** Honorable George Runner

**Existing Law.** During 2009’s Fourth Extraordinary Session, ABx4 18 (Ch. 16, in effect July 28, 2009) was enacted into law to impose a use tax registration and reporting obligation on larger businesses. Under these provisions, businesses (except for those already registered to report sales or use tax) that have annual gross receipts from business operations of at least \$100,000 annually, are required to register with the BOE and file an annual use tax return on or before April 15<sup>th</sup> and report their purchases subject to use tax that were made during the previous calendar year.

**This Proposal.** This proposal would repeal these provisions.

Since its enactment, the BOE has registered over 500,000 businesses and has received only \$82 million in use tax, interest and penalty (about \$74 million is tax) from these businesses for reporting periods 2007, 2008, 2009, and 2010. Over half of these businesses that have filed use tax returns under this provision have reported no use tax liability. (At its July 27, 2011 meeting, the Members of the BOE unanimously approved the staff’s recommendation to remove from the program, those qualified purchasers that have filed returns with zero use tax liability for three years in succession. Staff is currently in the process of removing those purchasers from the program).

This program was intended to address the over \$1 billion use tax gap – which, at the time, was primarily a result of unreported use tax on business-to-business transactions. However, revenues derived from the program have fallen considerably short of the anticipated amounts. When the bill was pending before the Legislature, staff had estimated that for the first year, \$81 million in use tax revenue would be generated for the fiscal year 2009-10, \$183 million for 2010-11, and up to \$651 million for 2013-14. With only a \$74 million use tax gain over a four-year period, it is apparent that the projected revenues will never be realized.

In addition to this revenue shortfall, this program has resulted in significant confusion by business owners who had no previous relationship with the BOE (staff has received over 200,000 phone calls from confused and frustrated small business owners), significant BOE costs to implement and administer, and a significant burden on taxpayers. Eliminating this program would end the burden placed on business owners and enable BOE staff to focus its enforcement efforts in more productive ways.

*Section 6225 of the Revenue and Taxation Code is repealed.*

~~6225. (a) In order to facilitate the collection of use tax imposed by this part, a qualified purchaser shall register with the board on a form prescribed by the board and shall set forth the name under which the qualified purchaser transacts or intends to transact business, the location of the qualified purchaser's place or places of business, and other information as the board may require.~~

~~(b) Article 1 (commencing with Section 6451) of Chapter 5 of this part shall apply to a qualified purchaser, except that a return showing the total sales price of the tangible personal property purchased by the qualified purchaser, the storage,~~

~~use, or other consumption of which became subject to the use tax during the preceding calendar year, and which was not paid to a retailer required to collect the tax or which was not paid to a retailer the qualified purchaser reasonably believed was required to collect the tax, shall be filed, together with a remittance of the amount of the tax due, with the board on or before April 15.~~

~~(c) A "qualified purchaser" means a person that meets all of the following conditions:~~

~~(1) The person is not required to hold a seller's permit pursuant to this part.~~

~~(2) The person is not required to be registered pursuant to Section 6226.~~

~~(3) The person is not a holder of a use tax direct payment permit as described in Section 7051.3.~~

~~(4) The person receives at least one hundred thousand dollars (\$100,000) in gross receipts from business operations per calendar year.~~

~~(5) The person is not otherwise registered with the board to report use tax.~~

~~(d) This section shall not apply to the purchase of a vehicle, vessel, or aircraft as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part.~~