

Add Section 6363.4 to the Revenue and Taxation Code to provide an exemption from the sales and use tax, sales of tangible personal property by thrift stores operated by specified nonprofit organizations that provide, in partnership with the Navy and Marine Corps, financial, educational, and other assistance to members of the Naval Service of the United States, eligible family members, and survivors when in need.

Source: AB 1919/SB 1450, 2008 (Honorable Michelle Steel and Honorable John Chiang)

Existing Law

Under existing law, the sales tax applies to the sale of tangible personal property in this state, unless specifically exempted. The Sales and Use Tax Law provides no general statutory exemption from the sales or use tax merely because the seller or the purchaser is engaged in charitable activities, is a nonprofit organization, or enjoys certain privileges under property tax statutes or income tax statutes. However, current law is sprinkled with several separate provisions designed to assist various kinds of nonprofit groups engaged in charitable activities. For example, currently under Section 6363.3 of the Revenue and Taxation Code, a sales and use tax exemption applies to sales and purchases of used pieces of clothing, household items, or other retail items sold by thrift stores operated by a nonprofit organization if the purpose of that thrift store is to obtain revenue for the funding of medical, hospice, or social services to chronically ill individuals.

Current law also provides under Section 6375 an exemption for sales by charitable organizations qualifying for the property tax “welfare exemption” under Section 214 of the Revenue and Taxation Code, provided the organization is engaged in the relief of poverty and distress, and the sales are made principally as a matter of assistance to purchasers in distressed financial condition. Also, the property sold must have been made, prepared, and assembled or manufactured by the organization. Sales at thrift stores operated by Goodwill and Salvation Army, for example, are exempt from sales and use tax under the provisions of Section 6375, as the premises of these organizations’ thrift stores qualify for the “welfare exemption” under Section 214 (because of the fact these organizations rehabilitate persons on the premises of their thrift stores).

This Proposal

This proposal would provide an exemption from the sales and use tax for the sales of tangible personal property by a nonprofit organization that operates thrift stores on military installations, provided the organization is exempt from taxation under Section 23701d, and its purpose is to provide financial, educational, and other assistance to members of the Naval Service of the United States, eligible family members, and survivors when in need.

This proposal was prompted by correspondence received by the Navy-Marine Corps Relief Society that believes the sales made at its thrift stores should not be

subject to sales or use tax. This society is a nonprofit, charitable 501(c)(3) organization that provides financial, educational, and other assistance to members of the Naval Services of the United States, and their eligible family members and survivors, when in need.

The Society, operating in partnership with the Navy and Marine Corps, also operates 25 thrift stores, six of which are located within California at various naval or marine bases in San Diego, Barstow, Miramar, Camp Pendleton, Port Hueneme, Coronado and Lemoore. The Society's thrift stores sell at a nominal cost, used clothing, uniforms, and household items to service members and their families. The sales income realized from the thrift stores is returned to the Navy-Marine Corps community in the form of relief services. Enactment of this proposal would incorporate a small, but important exemption in the law for items purchased by service members and their families in their time of need.

A similar proposal was unanimously adopted by the Board at its November 14, 2007 Legislative Committee and the provisions were incorporated into AB 1919 (Silva) and SB 1450 (Dutton). Both bills were held in the Assembly Appropriations Committee, however.

Section 6363.4 is added to the Revenue and Taxation Code to read:

6363.4. (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of tangible personal property sold by thrift stores located on a military installation and operated by a nonprofit organization.

(b) For purposes of this section, "nonprofit organization" means an organization that provides, in partnership with the Navy and Marine Corps, financial, educational, and other assistance to members of the Naval Service of the United States, eligible family members, and survivors when in need, and that is exempt from taxation under Section 23701d.