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SB-1007 Sales and use taxes: exemption: military and veteran medical facilities. (2017-2018)

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Senate Bill No. 1007

CHAPTER 785

An act to add Section 6369.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 2018. Filed with Secretary of State September 26, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, Hertzberg. Sales and use taxes: exemption: military and veteran medical facilities.

Existing state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. The Sales and Use Tax Law provides various exemptions from those taxes, including an exemption for the sale of, or the storage, use, or other consumption of, meals and food products that are furnished or served by any nonprofit veteran's organization for purposes of fundraising, as specified.

This bill, on and after January 1, 2019, and before January 1, 2025, would exempt from these taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building materials and supplies purchased by a qualified person for use by that qualified person in the construction of specified military and veteran medical facilities.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes cities and counties to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing laws authorize districts, as specified, to impose transactions and use taxes in accordance with the Transactions and Use Tax Law, which generally conforms to the Sales and Use Tax Law. Amendments to the Sales and Use Tax Law are automatically incorporated into the local tax laws.

Existing law requires the state to reimburse cities and counties for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding these provisions, no appropriation is made and the state shall not reimburse cities and counties for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6369.7 is added to the Revenue and Taxation Code, to read:

6369.7. (a) On and after January 1, 2019, and before January 1, 2025, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building materials and supplies purchased by a qualified person for use by that qualified person in the construction of a qualified facility.

(b) For the purposes of this section, the following definitions shall apply:

(1) (A) "Building materials and supplies" includes any machinery, equipment, materials, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or other tangible personal property of any other nature or description that meet all of the following:

(i) Are necessary to construct and equip a qualified facility.

(ii) Become part of the completed facility.

(iii) Are transferred to the United States Department of Defense or the United States Department of Veterans Affairs as a gift described in paragraph (3).

(B) "Building materials and supplies" shall not include any tools or construction equipment other than those specified in subparagraph (A) that a qualified person uses in construction activities, specifically including construction of a qualified facility.

(2) "Qualified facility" means either of the following:

(A) A medical facility, or a temporary residential facility for families of patients receiving care, including either or both inpatient and outpatient care, at a medical facility, located on a United States military base located in California.

(B) A United States Department of Veterans Affairs medical center, or a temporary residential facility for families of patients receiving care at or as part of a United States Department of Veterans Affairs medical center, located in California.

(3) "Qualified nonprofit organization" means an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that constructs a qualified facility as a gift to the United States Department of Defense pursuant to Section 2601 of Title 10 of the United States Code or the United States Department of Veterans Affairs pursuant to Section 8301 of Title 38 of the United States Code.

(4) "Qualified person" means either or both of the following:

(A) A qualified nonprofit organization.

(B) A contractor, subcontractor, or builder working under contract with a qualified nonprofit organization to construct a qualified facility.

(c) The exemption provided by this section shall only apply to sales and purchases that occur after the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the offer of the qualified nonprofit organization to construct the qualified facility and on or before the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the qualified facility.

(d) (1) An exemption shall not be allowed under this section with respect to sales by, or purchases from, a retailer engaged in business in this state or from a retailer that is authorized by the California Department of Tax and Fee Administration, under the rules and regulations as it may prescribe, to collect the tax and that is, for the purposes of this part relating to the use tax, regarded as a retailer engaged in business in this state, unless the purchaser furnishes the retailer with an exemption certificate completed in accordance with any instructions or regulations as the California Department of Tax and Fee Administration may prescribe and the retailer retains a copy of the exemption certificate in its records and furnishes the copy of the exemption certificate to the California Department of Tax and Fee Administration upon request.

(2) If a purchaser furnishes the retailer with a copy of an exemption certificate pursuant to paragraph (1), but uses materials or fixtures purchased with the exemption certificate in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the materials or fixtures at the time the property is so used, and the cost of the materials or fixtures to the purchaser shall be deemed the gross receipts from that retail sale.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse cities and counties for any sales and use tax revenues lost by them under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.