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SB-38 Sales and use taxes: consumer designation: all volunteer fire department. (2019-2020)

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Senate Bill No. 38

CHAPTER 78

An act to amend Section 6018.10 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 11, 2020. Filed with Secretary of State September 11, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 38, Hill. Sales and use taxes: consumer designation: all volunteer fire department.

Existing sales and use tax laws, among other things, impose a tax on retailers measured by the gross receipts from their sales of tangible personal property sold at retail in this state. The Sales and Use Tax Law designates that certain sellers of tangible personal property are consumers, and not retailers, of the tangible personal property they sell, including, until January 1, 2021, that an all volunteer fire department, as defined, is a consumer, and not a retailer, of all tangible personal property sold by it, if the profits are used solely and exclusively in furtherance of the purposes of the all volunteer fire department, subject to specified limitations, so that the retail sale subject to tax is the sale of tangible personal property to the all volunteer fire department.

This bill would extend the operation of that consumer designation for all volunteer fire departments until January 1, 2026.

Existing law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

The bill also would include additional information required for any bill authorizing a new tax expenditure.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities 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 counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse any local agencies 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 6018.10 of the Revenue and Taxation Code is amended to read:

6018.10. (a) An all volunteer fire department is a consumer, and shall not be considered a retailer within the provisions of this part, of all tangible personal property sold by it, including, but not limited to, hot prepared food products and clothing, if the profits are used solely and exclusively in furtherance of the purposes of the all volunteer fire department.

(b) For purposes of this section, an "all volunteer fire department" means an organization that meets all of the following requirements:

(1) A member shall not be paid a regular salary, but a member may be compensated on an hourly or per incident basis.

(2) The purpose of the organization is to protect the lives, property, and environment within a designated geographical area from fires, disasters, and emergency incidents through education, prevention, training, and emergency response.

(3) The organization is regularly organized for volunteer fire department purposes and qualifies as an exempt organization, either under Section 23701d or 23701f of this code or under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code, having official recognition and full or partial support of the government of the county, city, or district in which the volunteer fire department is located, and that has functions having an exclusive connection with the prevention and extinguishing of fires within the area of the county, city, or district extending official recognition for the benefit of the public generally and to lessen the burdens of the entity of government that would otherwise be obligated to furnish that fire protection.

(c) This section shall not apply if an all volunteer fire department, in each of the two preceding calendar years, has gross receipts from the sale of tangible personal property of one hundred thousand dollars (\$100,000) or more.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. For purposes of complying with Section 41 of the Revenue and Taxation Code, with respect to the tax expenditure created by the amendment of Section 6018.10 of the Revenue and Taxation Code made by this act, the Legislature finds and declares as follows:

(a) The specific goals, purposes, and objectives of this tax expenditure are all of the following:

(1) To ensure that the entire gross amount of fundraisers continues to stay with all volunteer fire departments and helps provide critically needed equipment and services.

(2) To help all volunteer fire departments through this critical time.

(3) To ensure all volunteer fire departments can afford necessary equipment during fire season.

(b) For the purpose of aiding the Legislature in determining whether this act meets the goals, purposes, and objectives listed in subdivision (a), the California Department of Tax and Fee Administration shall annually estimate the revenue loss associated with the tax expenditure created by this act.

(c) The California Department of Tax and Fee Administration shall report the information described in subdivision (b) to the Legislature before each year beginning on or after January 1, 2023, and before January 1, 2026. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.