

ARTICLE III. SALES AND USE TAX¹

Sec. 11-40. Purposes of Article

This article is adopted to achieve the following, among other, purposes, and the provisions of this article are to be interpreted in order to accomplish these purposes:

- (a) To adopt sales and use tax regulations which comply with the requirements and limitations contained in part 1.5, division 2, of the California Revenue and Taxation Code.
- (b) To adopt sales and use tax regulations which incorporate provisions identical to those of the Sales and Use Tax Law of the state, insofar as those provisions are not inconsistent with the requirements and limitations contained in part 1.5, division 2, of the Revenue and Taxation Code.
- (c) To adopt a sales and use tax ordinance which imposes a one and one-quarter percent tax and provide a measure that can be administered and collected by the state board of equalization in a manner that adapts itself as fully as practicable to, and require the least possible deviation from, the existing statutory and administrative procedures followed by the state board of equalization in administering and collecting the state sales and use taxes.
- (d) To adopt sales and use tax regulations which can be administered in a manner that will be, to the degree possible, consistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, minimize the cost of collecting county sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this article.

(Ord. No. 424, §2; Ord. No. 500, §1; Ord. No. 788, §1; Ord. No. 1465, §1)

Sec. 11-41. Operative date; contract with state board of equalization

This chapter shall become operative on January 1, 1958, and the county shall contract with the state board of equalization to perform all functions incident to the administration and operation of this article.

(Ord. No. 424, §3; Ord. No. 1465, §1)

Sec. 11-42. Sales tax generally

(a)(1) For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the county at the rate of one percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the county on or

¹For state law as to sales and use taxes, see Rev.&Tax. Code ' ' 6001 et seq. As to authority of county to adopt uniform sales and use taxes, see R&T Code ' 7201.

after January 1, 1958, to and including June 30, 1972, and at the rate of one and one-quarter percent thereafter.

(2) For the purposes of this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the board of equalization.

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, all of the provisions of part 1, division 2, of the Revenue and Taxation Code, as amended and in force and effect on January 1, 1958, applicable to sales taxes are adopted and made a part of this section as though fully set forth.

(2) Wherever, and to the extent that, in part 1, division 2, of the Revenue and Taxation Code, the state is named or referred to as the taxing agency, the county shall be substituted. Nothing in this subsection shall be deemed to require the substitution of the name of the county for the word "state" when that word is used as part of the title of the state controller, state treasurer, the state board of control, the state board of equalization, or the name of the state treasury, or of the Constitution of the state; nor shall the name of the county be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the county or any agency thereof, rather than by or against the state board of equalization, in performing the functions incident to the administration or operation of this article; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the state under the provisions of part 1, division 2, of Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the state under the provisions of such part 1, division 2, of Revenue and Taxation Code; and, in addition, the name of the county shall not be substituted for that of the state in Sections 6701, 6702, except in its last sentence, 6711, 6715, 6737, 6797 and 6828 of Revenue and Taxation Code as adopted in this section.

(3) If a seller's permit has been issued to a retailer under section 6067 of Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

(4) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of property to operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this county.

(5) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of the persons or property under the authority of the laws of this state, the United States or any foreign government.

(6) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(C) Eighty percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government.

(Ord. No. 424, §4; Ord. No. 500, §§2 to 4; Ord. No. 788, §§2 to 4; Ord. No. 851, §1; Ord. No. 1218, §§1, 4; Ord. No. 1465, §1)

Sec. 11-43. Use tax generally

(a) An excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after January 1, 1958, for storage, use or other consumption in the county at the rate of one percent of the sales price of the property to and including June 30, 1972, and at the rate of one and one-quarter percent thereafter. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, all of the provisions of part 1, division 2, of the Revenue and Taxation Code, as amended and in force and effect on January 1, 1958, applicable to use taxes, are hereby adopted and made a part of this section as though fully set forth.

(2) Wherever, and to the extent that, in part 1, division 2, of the Revenue and Taxation Code, the state is named or referred to as the taxing agency, the name of this county shall be substituted. Nothing in this subsection shall be deemed to require the substitution of the name of the county for the word "state" when that word is used as part of the title of the state controller, the state treasurer, the state board of control, the state board of equalization, or the name of the state treasury, or of the Constitution of the state; nor shall the name of the county be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the county or its agency rather than by or against the state board of equalization, in performing the functions incident to the administration, in performing the functions incident to the administration or operation of this article; and neither shall the substitution be deemed to have been made in those sections including but not limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption remains subject to tax by the state under the provisions of part 1, division 2, of the Revenue and Taxation Code of the state, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the state under such provisions of the Revenue and Taxation Code of the state; and in addition, the name of the county shall not be substituted for that of the state in sections 6701, 6702, except in its last sentence, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted in this section, and the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.

(3) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5, division 2, of the Revenue and Taxation Code of the state by any city and county, county or city in this state.

(C) Provided, however, that the storage or use of tangible personal property in the transportation or transmission of persons, property or communications or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities

commission of the state shall be exempt from eighty percent of the tax due under this section.

(4) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this chapter.

(C) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from eighty percent of the tax.

(5) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this chapter.

(C) Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purpose is exempted from eighty percent (80%) of the tax.

(D) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from eighty percent of the tax.

(Ord. No. 424, §5; Ord. No. 500, §§5, 6; Ord. No. 788, §§5, 6; Ord. No. 851, §2; Ord. No. 1218, §§2, 5; Ord. No. 1465, §1)

Sec. 11-44. Credit for taxes paid to cities in the county-- levied under section 7202(h) of Revenue and Taxation Code

Any person subject to a sales or use tax, or required to collect a use tax under this chapter shall be entitled to credit against the payment of taxes due under this chapter, the amount of sales and use tax due any city in this county; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subdivision (h) of section 7202 of the Revenue and Taxation Code, and other applicable provisions of part 1.5 of division 2 of that Code.

(Ord. No. 424, §6; Ord. No. 500, §7; Ord. No. 1218, §3.)

Sec. 11-45. Same--Levied under section 7202(l) of Revenue and Taxation Code

Any person subject to a sales or use tax or required to collect a use tax under this chapter shall be entitled to credit against the payment of taxes due any city in this county; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (10), inclusive, of subsection (l) of section 7202 of the Revenue and Taxation Code, and other applicable provisions of part 1.5 of division 2 of that Code, pursuant to Government Code § 25123(c).

(Ord. No. 851, §3; Ord. No. 1169, §1; Ord. No. 1218 §3; Ord. No. 1465, §1)

Sec. 11-46. Collection not to be enjoined

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this county or against any officer of the state or this county to prevent or enjoin the Revenue and Taxation Code of any tax or any amount of tax required to be collected.

(Ord. No. 424, §7; Ord. No. 1169, §1; Ord. No. 1465, §1)

Sec. 11-47. Adoption of amendments to state law

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this article which relate to the sales and use tax and which are not inconsistent with part 1.5, division 2, of the Revenue and Taxation Code, shall automatically become a part of this article.

(Ord. No. 424, §8; Ord. No. 1465, §1)

Sec. 11-48. Article may be made inoperative

This article may be made inoperative not less than sixty days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with article II (commencing with section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(Ord. No. 788, §7; Ord. No. 1465, §1)

Sec. 11-49. Operative date--Board of Equalization

(a) Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 of this Code shall become operative on January 1 of the year following the year in which the state board of equalization adopts an assessment ratio which is required for local assessment by Section 401 of the Revenue and Taxation Code, at which time sections 11-20(b)(4), 11-21(b)(3) and 11-22 shall become operative.

(b) In the event that Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 of this Code become operative and the state board of equalization subsequently adopts an assessment ratio for state assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, Sections 11-20(b)(4), 11-21 (b)(3) and 11 -22 shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time Sections 11-20(b)(4.5), 11-2 1 (b)(3.5) and 1 1-22.1 of this Code shall be inoperative until the first day of the month following the month in which the board again adopts an assessment ratio of state assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 shall again become operative, and Sections 11-20(b)(4), 11-21(b)(3) and 11-22 shall become inoperative.

(Ord. No. 851, §4; Ord. No. 1465, §1)

Sec. 11-50. Operative date--legislative action

Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22 of this chapter shall be operative on January 1, 1984. Sections 11-20(b)(4.6), 11-21(b)(3.6) and 11-22.1 of this chapter shall be operative on the operative date of any act of the Legislature of the State of California which amends or repeals and reenacts Sections 7202 and 7203 of the Revenue and Taxation Code to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983.

(Ord. No. 1218, §7; Ord. No. 1222, §1; Ord. No. 1465, §1)