Revenue and Taxation Code, Division 2. Other Taxes, Part 1. Sales and Use Taxes

6001.
This part is known and may be cited as the "Sales and Use Tax Law."

6002.
Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

6003.
"Sales tax" means the tax imposed by Chapter 2 of this part.

6004.
"Use tax" means the tax imposed by Chapter 3 of this part.

6005.
"Person" includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

6006.
"Sale" means and includes:
(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession" includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.
(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.
(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.
(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.
(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.
(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.
(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:
(1) Motion pictures or animated motion pictures, including television, films, and tapes.
(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.
(3) Household furnishings with a lease of the living quarters in which they are to be used.
(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.
(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes of this paragraph, "transferor" shall mean the following:
(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.
(B) A decedent from whom the lessor acquired the property by will or the laws of succession.
(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.
(7) Paragraphs (1) and (5) and Section 6094.1 shall not apply to rentals or leases of video cassettes, video tapes, and video discs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the video cassette, video tape, or video disc.

6006.1.
The granting of possession of tangible personal property by a lessor to a lessee, or to another person at the direction of the lessee, is a continuing sale in this state by the lessor for the duration of the lease as respects any period of time the leased property is situated in this state, irrespective of the time or place of delivery of the property to the lessee or such other person.

6006.3.
"Lease" includes rental, hire and license. "Lease" does not include a use of tangible personal property for a period of less than one day for a charge of less than twenty dollars ($20) when the privilege to use the property is restricted to use thereof on the premises or at a business location of the grantor of the privilege. Where a contract designated as a lease binds the lessee for a fixed term and the lessee is to obtain title at the end of the term upon the completion of the required payment or has the option at that time to purchase the property for a nominal amount, the contract shall be regarded as a sale under a security agreement from its inception and not as a lease. In the case of a contract designated as a lease with any state or local governmental body, or any agency or instrumentality thereof, the lessee shall be treated as bound for a fixed term notwithstanding any right of the lessee to terminate the contract in the event that sufficient funds are not appropriated to pay amounts due under the contract.

6006.5.
"Occasional sale" includes all of the following:
(a) A sale of property not held or used by a seller in the course of activities for which he or she is required to hold a seller's permit or permits or would be required to hold a seller's permit or permits if the activities were conducted in this state, provided that the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which he or she is required to hold a seller's permit or would be required to hold a seller's permit if the activity were conducted in this state.
(b) Any transfer of all or substantially all the property held or used by a person in the course of those activities when after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.
(c) A sale of property, other than hay, by a producer of hay, provided that the sale is not one of a series of sales sufficient in number, scope, or character to constitute an activity for which the producer would be required to hold a seller's permit if the producer were not also selling hay.

6006.6.
"Sale" includes any sale at an auction in respect to tangible personal property which is sold to a successful bidder at the auction upon an agreement or understanding at the time of the sale that the property involved either will not be delivered to the successful bidder or that any amount which he may pay for the property pursuant to the sale will be returned to him. The tax shall be computed in such case upon the amount of the successful bid.

6007.
(a) (1) A "retail sale" or "sale at retail" means a sale for a purpose other than resale in the regular course of business in the form of tangible personal property.
(2) When tangible personal property is delivered by an owner or former owner thereof, or by a factor or agent of that owner, former owner, or factor to a consumer or to a person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, the person making the delivery shall be deemed the retailer of that property. He or she shall include the retail selling price of the property in his or her gross receipts or sales price.
(b) (1) Notwithstanding subdivision (a), a "retail sale" or "sale at retail" shall include a sale by a convicted seller of tangible personal property with a counterfeit mark, a counterfeit label, or an illicit label on that property, or in connection with that sale, regardless of whether the sale is for resale in the regular course of business.
(2) For purposes of this subdivision, all of the following shall apply:
(A) A "convicted seller" means a person convicted of a counterfeiting offense, including, but not limited to, a violation under Section 350 or 653w of the Penal Code or Section 2318, 2319, or 2320 of Title 18 of the United States Code on or after the date of sale.
(B) "Counterfeit mark" has the same meaning as that term is defined in Section 2320 of Title 18 of the United States Code.
(C) "Counterfeit label" has the same meaning as that term is defined in Section 2318 of Title 18 of the United States Code.
(D) "Illicit label" has the same meaning as that term is defined in Section 2318 of Title 18 of the United States Code.
(E) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of, and Article 1 (commencing with Section 17500) of Chapter 1 of Part 3 of Division 7 of, the Business and Professions Code, and Title 1.5

(commencing with Section 1750) of Part 4 of Division 3 of the Civil Code shall not apply to any person other than a convicted seller.
(F) Notwithstanding Article 2 (commencing with Section 6481) of Chapter 5, any notice of deficiency determination to a convicted seller shall be mailed within one year after the last day of the calendar month following the date of conviction.

6007.5.
A sale of tangible personal property to a contractor or subcontractor for use in the performance of contracts with the United States for the construction of improvements on or to real property in this State is a retail sale. The gross receipts from such a sale or the sales price of property so sold shall be included in the measure of the taxes imposed by this part.

6008.
"Storage" includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer.

6009.
"Use" includes the exercise of any right or power over tangible personal property incident to the ownership of that property, and also includes the possession of, or the exercise of any right or power over, tangible personal property by a lessee under a lease, except that it does not include the sale of that property in the regular course of business.

6009.1.
"Storage" and "use" do not include the keeping, retaining or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state.

6009.2.
(a) Notwithstanding Sections 6008, 6009, and 6009.1, "storage" and "use" each shall include a purchase by a convicted purchaser of tangible personal property with a counterfeit mark, a counterfeit label, or an illicit label on that property, or in connection with that purchase, regardless of whether the purchase is for resale in the regular course of business.
(b) "Convicted purchaser" means a person convicted of a counterfeiting offense, including, but not limited to, a violation under Section 350 or 653w of the Penal Code or Section 2318, 2319, or 2320 of Title 18 of the United States Code on or after the date of purchase.
(c) For purposes of this section, Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of, and Article 1 (commencing with Section 17500) of Chapter 1 of Part 3 of Division 7 of, the Business and Professions Code, and Title 1.5 (commencing with Section 1750) of Part 4 of Division 3 of the Civil Code shall not apply to any person other than a convicted seller.
(d) "Counterfeit mark" has the same meaning as that term is defined in Section 2320 of Title 18 of the United States Code.
(e) "Counterfeit label" has the same meaning as that term is defined in Section 2318 of Title 18 of the United States Code.
(f) "Illicit label" has the same meaning as that term is defined in Section 2318 of Title 18 of the United States Code.
(g) Notwithstanding Article 2 (commencing with Section 6481) of Chapter 5, any notice of deficiency determination to a convicted purchaser shall be mailed within one year after the last day of the calendar month following the date of conviction.

6010.
"Purchase" means and includes:
(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession" includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.
(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with Section 6091) of Chapter 2, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.
(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.
(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.
(e) Any lease of tangible personal property in any manner or by any means whatsoever, for consideration, except a lease of:
(1) Motion pictures or animated motion pictures, including television, films, and tapes.
(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.
(3) Household furnishings with a lease of the living quarters in which they are to be used.
(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.
(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes of this paragraph, "transferor" shall mean the following:
(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.
(B) A decedent from whom the lessor acquired the property by will or the laws of succession.
(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.
(7) Paragraphs (1) and (5) and Section 6094.1 shall not apply to rentals or leases of video cassettes, video tapes, and video discs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the video cassette, video tape, or video disc.

6010.1.
The possession of tangible personal property by a lessee, or by another person at the direction of the lessee, is a continuing purchase for use in this state by the lessee as respects any period of time the leased property is situated in this state, irrespective of the time or place of delivery of the property to the lessee or such other person.

6010.3.
"Sale" and "purchase," for the purposes of this part, do not include (a) the fabrication or transfer by a typographer of composed type or reproduction proofs thereof for use in the preparation of printed matter, or (b) the fabrication or transfer of such reproduction proofs or impressed mats when the fabrication is for, and the transfer is to, a printer or publisher for use in printing.
The foregoing provisions shall not apply to the fabrication or transfer of a "pasteup," "mechanical" or "assembly" of which a reproduction proof is a component part.

6010.4.
If two or more persons engaged in the production and distribution of motion pictures for use in any media form a partnership for the purpose of reducing the cost of producing motion pictures through the sharing of the use of equipment, studio facilities and the services of personnel, the furnishing (without transferring title to tangible personal property) of such equipment, facilities and services by the partnership to its members for the purpose of the production of motion pictures by its members shall not constitute either a "sale" or "purchase."

6010.5.
For the purposes of this part, the place of the sale or purchase of tangible personal property is the place where the property is physically located at the time the act constituting the sale or purchase, as defined in this part, takes place.

6010.6.
(a) Except as provided in subdivision (c), "sale" and "purchase," for the purposes of this part, do not include any of the following:
(1) The performance of any qualified production services in connection with the production of all or any part of any qualified motion picture. Persons performing those qualified production services are consumers of paintings, models, and art work used by those filming special effects, titles, or credits, and of film, tape, or other embodiment upon which sound, visual images, or computer-generated graphics are created or recorded, notwithstanding that title to the property may be transferred pursuant to the qualified production services contract.

(2) Any transfer of all or any part of any qualified motion picture, or any interest therein or any rights relating thereto, under either of the following circumstances:

(A) The transfer is made prior to the date that the qualified motion picture is exhibited or broadcast to its general audience.

(B) The transfer is made to any person or persons holding, either directly or indirectly, or by affiliation, any exploitation rights obtained prior to the date that the qualified motion picture is exhibited or broadcast to its general audience.

(b) For purposes of this section:

(1) "Motion picture" means any audiovisual work (at any stage of the production thereof) consisting of a series of related images, either on film, tape, or other embodiment, whether photographic, or otherwise, and for these purposes, includes all physical materials comprising part of, or synchronized with, the motion picture, including the original, duplicate, and other negatives, intermediary film products, tapes, prints and original, duplicate, and other sound or visual recordings created to accompany the pictorial material depicted in the motion picture.

(2) "Produce or production of any qualified motion picture" means to originate, create, invent, design, devise, develop, photograph, edit, record, imprint, adapt, alter, make, process, fabricate, assemble, construct, or manufacture all or any part of that qualified motion picture by any means, method, or devise of any kind or character, whether before or after commencement of principal photography.

(3) "Qualified motion picture" means any motion picture, whether or not the production of that motion picture is completely finished, which is produced, adapted, or altered for exploitation in, on, or through any medium or by any device, including, but not limited to, a motion picture produced for exploitation in movie theaters, through any form of television, or videocassettes, videotapes, or videodiscs, in amusement parks, or on commercial carriers, for any purpose, including, but not limited to, for any entertainment, commercial, advertising, promotional, industrial, or educational purpose. Qualified motion picture includes, but is not limited to, all adapted versions thereof (whether adapted for exploitation in any language, for any media, or otherwise) creative advertising, and publicity materials, such as trailers, television spots, or featurettes. Qualified motion picture does not include motion pictures produced for private noncommercial use, such as weddings or graduations.

(4) "Qualified production services" means any fabrication performed by any person in any capacity (whether as an employee, agent, independent contractor, or otherwise) on film, tape, or other audiovisual embodiment in connection with the production of all or any part of any qualified motion picture, including, but not limited to, photography, sound, music, special effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, dubbing, mixing, editing, or cutting services. "Qualified production services" do not include services or other work to manufacture release prints or to duplicate tapes for exhibition or broadcast.

(5) "Transfer" means any change of title or possession in any manner or form by any means whatsoever, conditional or otherwise, including, but not limited to, any sale, assignment, exchange, lease, license, or barter.

(6) "Rights relating to any qualified motion picture" includes, but is not limited to, any and all rights to produce or exploit all or any part of the qualified motion picture by any means and in or through any medium.

(7) "Exploit" or "exploitation" with respect to any qualified motion picture includes, but is not limited to, exhibiting, broadcasting, telecasting, displaying, projecting, transmitting, duplicating, reproducing, distributing, promoting, advertising, commercializing, merchandising, marketing, or otherwise using all or any part of the qualified motion picture in any or all media markets and territories and by any or all means, methods, modes, processes, and devices or delivery systems of every kind and character. "Exploitation" includes each and every act comprising part of any phase of the process of exploiting all or any qualified motion picture, whether before or after commencement of principal photography.

(c) Subdivision (a) shall not apply to any of the following:

(1) Any sale or purchase of raw film or videotape stock.

(2) Any sale or purchase of release prints or tapes for exhibition or broadcast.

(3) Any rentals or leases of videocassettes, videotapes, or videodiscs for private use, as described in paragraph (7) of subdivision (g) of Section 6006 and paragraph (7) of subdivision (e) of Section 6010.

6010.65.

(a) "Sale" and "purchase," for purposes of this part, do not include any transfer of title to, nor any lease of, tangible personal property pursuant to an acquisition sale and leaseback. An acquisition sale and leaseback is a sale by a person and leaseback to that person of tangible personal property where both of the following conditions are satisfied:

(1) That person has paid sales tax reimbursement or use tax with respect to that person's purchase of the property.

(2) The acquisition sale and leaseback is consummated within 90 days of that person's first functional use of the property.

(b) "Sale" and "purchase" include, for purposes of this part, the transfer of title to a lessee upon termination of an acquisition sale and leaseback.

(c) This section shall apply to acquisition sale and leaseback arrangements executed on or after the operative date of this section.

6010.7.

Paragraph (5) of subdivision (g) of Section 6006, paragraph (5) of subdivision (e) of Section 6010, and Section 6094.1 shall have no application to a lease of a chemical toilet unit. Such a lease is a "sale" and "purchase" and the taxes imposed by this part apply measured by the lease or rental price accordingly, regardless of whether the unit is leased in substantially the same form as acquired and regardless of whether sales tax or use tax has been paid with respect to the chemical toilets at the time of their acquisition.

6010.8.

(a) (1) "Sale" and "purchase" do not include any lease or transfer of title of tangible personal property constituting any project to any participating party.

(2) On and after September 21, 2018, "sale" and "purchase" do not include any lease or transfer of title of tangible personal property constituting any project to any contractor for use in the performance of a construction contract for the participating party that will use that property as an integral part of the approved project.

(b) As used in this section, "project" has the meaning specified in subparagraph (B) of paragraph (8) of subdivision (a) of Section 26003 of the Public Resources Code and "participating party" has the meaning specified in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003 of the Public Resources Code.

(c) This section shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

6010.8.

(a) "Sale" and "purchase" do not include any lease or transfer of title of tangible personal property constituting any project to any participating party. As used in this section, "project" has the meaning specified in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003 of the Public Resources Code and "participating party" has the meaning specified in subparagraph (B) of paragraph (6) of subdivision (a) of Section 26003 of the Public Resources Code.

(b) This section shall become operative on January 1, 2026.

6010.9.

"Sale" and "purchase," for the purposes of this part, do not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession, of a custom computer program, other than a basic operational program (as defined in Section 995.2), either in the form of written procedures or in the form of storage media on which, or in which, the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program so transferred.

As used in this section:

(a) "Storage media" includes punched cards, tapes, discs, diskettes, or drums on which computer programs may be embodied or stored.

(b) "Computer" does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment.

(c) "Computer program" means the complete plan for the solution of a problem, such as the complete sequence of automatic data-processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.

(d) "Custom computer program" means a computer program prepared to the special order of the customer and includes those services represented by separately stated charges for modifications to an existing prewritten program which are prepared to the special order of the customer. The term does not include a "canned" or prewritten computer program which is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification.

6010.10.

(a) "Sale" and "purchase," for the purposes of this part, do not include any transfer of title of tangible personal property constituting any project or pollution control facility to the California Pollution Control Financing Authority by any

participating party, nor any lease or transfer of title of tangible personal property constituting any project or pollution control facility by the authority to any participating party, when the transfer or lease is made pursuant to Division 27 (commencing with Section 44500) of the Health and Safety Code. The terms "project," "pollution control facility," and "participating party" as used in this section have the meanings ascribed to them in Sections 44506 and 44508 of the Health and Safety Code.

(b) This section shall only apply to a project or pollution control facility that is a "project" or "pollution control facility" as defined in Section 44508 of the Health and Safety Code as amended by Chapter 756 of the Statutes of 1999.

(c) This section shall not apply to a project for which the authority refunds bonds or evidences of indebtedness not originally issued by the authority, and the authority makes a finding that the project being refinanced qualifies as a project under Division 27 (commencing with Section 44500) of the Health and Safety Code.

6010.11.

"Sale" and "purchase," for the purpose of this part, do not include any transfer of a qualified mass commuting vehicle pursuant to a safe harbor lease arrangement described in Section 168(f)(8) of the Internal Revenue Code of 1954, as amended by Section 208 of Public Law 97-248, Section 5 of Public Law 97-354, and Section 102 of Public Law 97-448, or pursuant to a sale-leaseback or lease-leaseback arrangement which includes a safe harbor lease arrangement. For purposes of this section, "qualified mass commuting vehicle" means a qualified mass commuting vehicle as defined in Section 103(b)(9) of the Internal Revenue Code of 1954.

6010.15.

(a) "Sale" and "purchase" for the purposes of this part do not include the transfer of title to vested property by a pawnbroker to a person who pledged the property to the pawnbroker as security for a loan and from whom title to the property transferred to the pawnbroker pursuant to Section 21201 of the Financial Code, if all of the following requirements are met:

(1) The transfer occurs no more than six months after title to the property transferred to the pawnbroker from the person pursuant to Section 21201 of the Financial Code.

(2) As consideration for the transfer of the property, the person is required to pay the pawnbroker only the remaining unpaid balance of the loan, including accrued charges and interest, as of the date the pawnbroker becomes vested with title to the property, together with one of the following:

(A) For an original loan amount not exceeding two thousand four hundred ninety-nine dollars and ninety-nine cents ($2,499.99), charges and interest allowable under the loan pursuant to Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, from the date the pawnbroker is vested with title to the property to the date of the transfer to the person who pledged the property.

(B) For an original loan amount of two thousand five hundred dollars ($2,500) or more, charges and interest due in accordance with the last monthly contractual interest rate, from the date the pawnbroker is vested with title to the property until the date of the transfer to the person who pledged the property.

(3) The person has proof, such as a receipt or similar document provided to the purchaser, that the person originally paid sales tax on the item.

(b) As used in this section:

(1) "Pawnbroker" has the meaning described in Section 21000 of the Financial Code.

(2) "Vested property" has the meaning described in subdivision (b) of Section 21002 of the Financial Code.

(c) This section shall become inoperative on January 1, 2027.

6010.30.

(a) "Sale" and "purchase," for the purpose of this part, do not include the transfer of original drawings, sketches, illustrations, or paintings by an artist or designer at a social gathering for entertainment purposes, if all of the following requirements are met:

(1) Substantially all of the drawings, sketches, illustrations, or paintings are delivered by the artist or designer to a person or persons other than the purchaser.

(2) Substantially all of the drawings, sketches, illustrations, or paintings are received by a person or persons, other than the purchaser, at no cost to the person or persons who become the owner of the drawings, sketches, illustrations, or paintings.

(3) The charge for the drawings, sketches, illustrations, or paintings is based on a preset fee.

(4) The fee charged for the drawings, sketches, illustrations, or paintings is contingent upon a minimum number of at least three drawings, sketches, illustrations, or paintings to be produced by the artist or designer at the social gathering.

(b) For purposes of this section, "substantially all" means 80 percent or more.

6010.40.

"Sale" and "purchase," for the purpose of this part, do not include the transfer by a city, city and county, county, or other local government animal shelter or a nonprofit animal welfare organization of any animal to an individual for use as a pet, or any charges made by the government shelter or nonprofit organization for services in connection with the transfer of that animal, including, but not limited to, the spaying or neutering or future spaying or neutering of the animal, or any vaccination, future vaccination, or similar service. For purposes of this section, "nonprofit animal welfare organization" means any organization formed and operated for the primary purpose of prevention of abuse, neglect, or exploitation of animals and that qualifies for the exemption from taxation pursuant to Section 23701d.

6010.50.

(a) For purposes of this part, "sale" and "purchase" do not include any transfer of an endangered or threatened animal or plant species acquired or disposed of through a trade or exchange between nonprofit zoological societies or between a member of the American Zoo and Aquarium Association (AZA) and a nonprofit zoological society.

(b) For purposes of this section and Section 6366.5, "endangered or threatened animal or plant species" means animals or plants that are any of the following:

(1) Listed in Appendix I, II, or III to the Convention for International Trade of Endangered Species.

(2) Listed as endangered or threatened by the United States Department of the Interior, Fish and Wildlife Service.

(c) For purposes of this section and Section 6366.5, a "nonprofit zoological society" includes both of the following:

(1) A zoological society operated for charitable, educational, or scientific purposes and qualified for exemption under Section 501(c)(3) of the Internal Revenue Code.

(2) A zoological park owned or operated by a city, county, or other instrumentality of any state or foreign government.

6011.

(a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.
(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.
(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.
(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.
(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.
(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, "technology transfer agreement" means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).
(12) (A) The amount of tax imposed by any Indian tribe within the State of California with respect to a retail sale of tangible personal property measured by a stated percentage of the sales or purchase price, whether the tax is imposed upon the retailer or the consumer.

(B) The exclusion authorized by subparagraph (A) shall only apply to those retailers who are in substantial compliance with this part.

6011.1.
(a) Notwithstanding Section 6011, "sales price" from the sale of tangible personal property by consumer cooperatives, as defined in subdivision (b), shall not include the value of initial or periodic membership fees and the value of labor performed in lieu of, or as part of, monthly membership fees; provided, the exclusion authorized by this section shall not be interpreted to permit consumer cooperatives to exclude from "sales price" the cost of the property sold.
(b) As used in this section, consumer cooperative means a corporation or group of persons composed of ultimate producers or consumers, or both, organized for the purpose of conducting any lawful business primarily for the mutual benefit of its shareholders who may be natural or legal persons, and the earnings, savings, or benefits of which are used for the general welfare of the shareholders or patrons or are distributed in the form of cash, stock, evidences of indebtedness, goods, or services, proportionately and equitably among the persons for which it does business upon the basis of the amount of their transactions or participation in production, or both. However, any such corporation may pay out of its net surplus earnings, savings, or benefits, not to exceed 5 percent interest upon its capital stock.

6012.
(a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with any rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If that deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid or for which the purchaser issues a certificate pursuant to Section 6245.5.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, "technology transfer agreement" means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

(12) (A) The amount of tax imposed by any Indian tribe within the State of California with respect to a retail sale of tangible personal property measured by a stated percentage of the sales or purchase price, whether the tax is imposed upon the retailer or the consumer.

(B) The exclusion authorized by subparagraph (A) shall only apply to those retailers who are in substantial compliance with this part.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

6012.1.

(a) Notwithstanding Section 6012, "gross receipts" from the sale of tangible personal property by consumer cooperatives, as defined in subdivision (b), shall not include the value of initial or periodic membership fees and the value of labor performed in lieu of, or as part of, monthly membership fees; provided, the exclusion authorized by this section shall not be interpreted to permit consumer cooperatives to exclude from "gross receipts" the cost of the property sold.

(b) As used in this section, consumer cooperative means a corporation or group of persons composed of ultimate producers or consumers, or both, organized for the purpose of conducting any lawful business primarily for the mutual benefit of its shareholders who may be natural or legal persons, and the earnings, savings, or benefits of which are used for the general welfare of the shareholders or patrons or are distributed in the form of cash, stock, evidences of indebtedness, goods, or services, proportionately and equitably among the persons for which it does business upon the basis of the amount of their transactions or participation in production, or both. However, any such corporation may pay out of its net surplus earnings, savings, or benefits, not to exceed 5 percent interest upon its capital stock.

6012.2.

(a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Section 18014 of the Health and Safety Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall be based on the current value of the used mobilehome as specified by a recognized value guide, whenever a registered or legal owner sells a used mobilehome through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code, or whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development. If the value guide does not specify the model or manufacturer of a used mobilehome, the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" and "gross receipts" shall be based on the actual sales price of the mobilehome as evidenced by purchase documents. The State Board of Equalization shall approve the value guides for use within this state through regulation.

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

(c) For the purposes of this section, the "actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, in place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

6012.3.

For purposes of this part, "gross receipts" and "sales price" do not include that portion of the sales price returned to the purchaser of a used motor vehicle or the purchase price for the purchase of a contract cancellation option pursuant to Section 11713.21 of the Vehicle Code.

6012.5.

Nothing in Sections 6011 and 6012 shall affect the exemption afforded under Section 6385 to sales of tangible personal property to a common carrier under the circumstances set forth in Section 6385.

6012.6.

(a) For the purposes of this part, "gross receipts" from the sale of a factory-built school building, and the "sales price" of a factory-built school building, sold or stored, used, or otherwise consumed in this state shall be 40 percent of the sales price of the factory-built school building to the consumer.

(b) For purposes of this section, "factory-built school building" means any building designed in compliance with state laws for school construction and approved by the structural safety section in the office of the State Architect, which is either wholly manufactured or is in substantial part manufactured at an offsite location, to be assembled, erected, or installed on a site owned or leased by a school district or a community college district.

(c) For purposes of this section, the place of sale or purchase of a factory-built school building is the place of business of the retailer of the factory-built school building as provided in Section 7205, regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

6012.7.

(a) For the purposes of this part, "gross receipts" from the sale of factory-built housing, and the "sales price" of factory-built housing, sold or stored, used, or otherwise consumed in this state shall be 40 percent of the sales price of the factory-built housing to the consumer.

(b) For purposes of this section, "factory-built housing" includes:

(1) A residential building, dwelling unit or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with regulations adopted by the Commission of Housing and Community Development of the State of California pursuant to Section 19990 of the Health and Safety Code or in accordance with applicable local building requirements if such factory-built housing is inspected and approved by the local enforcement agency at the place of, and during the time of, manufacture.

(2) "Modular housing," which is a three-dimensional box or cube-shaped structure or structures making up one or more rooms of a residential building.

(3) "Sectionalized housing," which generally consists of two modules which form a total living unit.

(4) "Modular," "utility," or "wet cores," which are three-dimensional habitable rooms or modules and which are generally comprised of a kitchen or a bathroom or bathrooms.

(c) For purposes of this section, "factory-built housing" does not include:

(1) A "mobilehome," as defined in Section 18008 of the Health and Safety Code.

(2) "Precut housing packages" where more than 50 percent of the package consists of precut lumber only.

(3) "Panelized construction," such as walls or components that may become one or more rooms of a building, unless a complete housing package is provided by the builder or manufacturer, such as by providing wall panels, floors, and a roof which will form a complete housing structure.

(4) "Porches" or "awnings" which are not purchased as a part of the original housing package.

(d) If a purchaser certifies in writing to a retailer that the factory-built housing purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 60 percent of the gross receipts or sales price from the measure of tax, and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of tax measured by 60 percent of the sales price.

6012.8.

(a) For the purposes of this part, "gross receipts" from the sale of a new mobilehome, and the "sales price" of a new mobilehome sold or stored, used, or otherwise consumed in this state shall be 75 percent of the sales price of the mobilehome to the retailer, if the mobilehome is sold by the retailer to the purchaser for installation on a foundation system pursuant to Section 18551 of the Health and Safety Code for occupancy as a residence, and is thereafter subject to property taxation. The retailer shall be considered to be the consumer for purposes of this part if the sale by the retailer would otherwise have been subject to sales tax and if the retailer is not also the manufacturer of the mobilehome. If the retailer of the mobilehome is the manufacturer, tax shall be measured by an amount equal to 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

Notwithstanding any other provision of this part, a retailer may give a resale certificate for the purchase by the retailer of such a mobilehome and shall report the gross receipts or sales price from the purchase with the return for the period during which the mobilehome is sold to the purchaser for installation for occupancy as a residence.

Notwithstanding any other provision of this part, any retailer who is a licensed mobilehome dealer under Section 18002.6 of the Health and Safety Code is a retailer-consumer regardless of whether or not it installs the mobilehome on a foundation system as an improvement to realty. The licensed dealer may give a resale certificate for the purchase of such a mobilehome, and shall report the gross receipts or sales price from the purchase with the return for the period during which the mobilehome is installed by the licensed dealer for occupancy as a residence.

(b) For purposes of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 25 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser less an amount equal to 75 percent of the gross receipts or sales price of the mobilehome to the retailer.

(d) 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 any used mobilehome, the initial retail sale of which qualified for the partial exemption from tax provided for by this section.

6012.9.

(a) For the purposes of this part, "gross receipts" from the sale of a new mobilehome, and the "sales price" of a new mobilehome sold or stored, used or otherwise consumed in this state shall be 75 percent of the sales price of the mobilehome to the retailer, if such mobilehome is sold by the retailer to the purchaser for installation for occupancy as a residence pursuant to the requirements of Section 18613 of the Health and Safety Code, and is thereafter subject to property taxation. The retailer shall be considered to be the consumer for purposes of this part if the sale by the retailer would otherwise have been subject to sales tax and if the retailer is not also the manufacturer of the mobilehome. If the retailer of the mobilehome is the manufacturer, tax shall be measured by an amount equal to 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

Notwithstanding any other provision of this part, a retailer may give a resale certificate for the purchase by the retailer of such a mobilehome and shall report the gross receipts or sales price from such purchase with the return for the period during which the mobilehome is sold to the purchaser for installation for occupancy as a residence.

(b) For the purpose of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 25 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser less an amount equal to 75 percent of the gross receipts or sales price of the mobilehome to the retailer.

(d) 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 any used mobilehome, the initial retail sale of which qualified for the partial exemption from tax provided for by this section.

6013.

"Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

6014.

"Seller" includes every person engaged in the business of selling tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax.

For the purposes of this section, the phrase "tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax" includes all tangible personal property of a kind the gross receipts from the retail sale of which is, or would be, required to be included in the measure of the sales tax if sold at retail, whether or not the tangible personal property is ever sold at retail or is suitable for sale at retail.

6015.

(a) "Retailer" includes:

(1) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(2) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(3) Any person conducting a race meeting under Chapter 4 of Division 8 of the Business and Professions Code, with respect to horses which are claimed during such meeting.

(b) When the board determines that it is necessary for the efficient administration of this part to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors, or employers the board may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of this part.

(c) Notwithstanding subdivision (b), a newspaper carrier is not a retailer and the retailer is the publisher or distributor for whom the carrier delivers the newspapers. The publisher or distributor is responsible for the tax measured by the price charged to the customer by the carrier.

6016.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses.

6016.3.

"Tangible personal property," for the purpose of this part, includes any leased fixtures if the lessor has the right to remove the fixtures upon breach or termination of the lease, unless the lessor is also the lessor of the realty.

6016.5.

Notwithstanding any other provision of law, "tangible personal property," for purposes of this part, does not include telephone and telegraph lines, electrical transmission and distribution lines, and the poles, towers, or conduit by which they are supported or in which they are contained.

6017.

"In this State" or "in the State" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

6018.

A licensed optometrist, physician and surgeon, pharmacist, or registered dispensing optician is a consumer of and shall not be considered a retailer within the provisions of this part as follows:

(a) In the case of a licensed optometrist or physician and surgeon with respect to the ophthalmic materials used or furnished by him or her, in the performance of his or her professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

(b) In the case of a licensed pharmacist only with respect to replacement contact lenses dispensed pursuant to Section 4124 of the Business and Professions Code.
(c) In the case of a registered dispensing optician with respect to the dispensing of ophthalmic materials.

6018.1.
A licensed veterinarian is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, drugs and medicines used or furnished by him or her in the performance of his or her professional services. For the purposes of this section, "drugs and medicines" includes substances or preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals and which is commonly recognized as a substance or preparation intended for this use. The term includes legend drugs, pills and capsules (other than vitamins), liquid medications, injected drugs, ointments, vaccines, intravenous fluids, and medicated soaps if those soaps are available only to veterinarians. The term does not include vitamins, shampoos, pet foods, prescription diet foods, artificial diets, flea powders, and flea sprays.

6018.2.
(a) A qualified veteran may receive from the state a qualified repayment if all provisions of this section are satisfied.
(b) The procedures set forth in this section shall be the procedure and remedy for the claims for a repayment of taxes, interest, or penalties paid by a qualified veteran under the Sales and Use Tax Law (Part 1 (commencing with Section 6001)), Section 35 of Article XIII of the California Constitution, local sales tax imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and local transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) during the eight-year period beginning on and after April 1, 2002, and before April 1, 2010.
(c) (1) For purposes of this section, a "qualified veteran" means a person who meets all of the following requirements:
(A) The person met the requirements of a qualified itinerant vendor as set forth in Section 6018.3 during the period in which the sales were made.
(B) The person paid to the board taxes imposed under the Sales and Use Tax Law (Part 1 (commencing with Section 6001)), Section 35 of Article XIII of the California Constitution, taxes imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) during the period beginning April 1, 2002, and before April 1, 2010, for which no sales tax reimbursement was collected from customers, and also paid any interest or penalties associated with those tax liabilities.
(2) "Qualified repayment" means an amount equal to the amount described in subparagraph (B) of paragraph (1), less any amounts previously refunded, credited, or paid to a qualified veteran through any means whatsoever.
(d) (1) Before January 1, 2016, a qualified veteran may file a claim for a qualified repayment with the board.
(2) The claim shall be in writing, and shall be completed in accordance with any instructions or regulations as the board may prescribe, including, but not limited to, proof of payment of the tax, interest, or penalties described in subparagraph (B) of paragraph (1) of subdivision (c).
(3) On or before March 1, 2016, the board shall certify to the Controller the amount of qualified repayments to be made to each qualified veteran pursuant to this section. The total amount of money available to make qualified repayments shall not exceed fifty thousand dollars ($50,000). If the total amount of claims filed exceeds fifty thousand dollars ($50,000), the board shall determine the pro rata share due to each qualified veteran based on the proportion each claim bears to the total amount of claims and shall report that amount for certification.
(4) There is hereby appropriated fifty thousand dollars ($50,000) from the General Fund to the board to make the payments of qualified repayments to qualified veterans.
(5) No interest shall be paid on any qualified repayment made pursuant to this section.
(6) (A) On or before May 1, 2016, the board shall report to the Joint Legislative Budget Committee, the Assembly Committee on Revenue and Taxation, and the Senate Committee on Governance and Finance, the name of each qualified veteran who was issued a qualified repayment pursuant to this section and the amount of the qualified repayment.
(B) The requirement for submitting a report imposed under subparagraph (A) is inoperative on May 1, 2020, pursuant to Section 10231.5 of the Government Code, and the report shall be submitted in compliance with Section 9795 of the Government Code.
(7) Upon notification by the board, the Controller shall transfer any balance remaining from the amount appropriated in paragraph (4) back to the General Fund.

6018.4.
A licensed chiropractor is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, vitamins, minerals, dietary supplements, and orthotic devices used or furnished by him in the performance of his professional services.

6018.5.
A licensed podiatrist is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, the prosthetic materials and inlays used or furnished by him in the performance of his professional services in the diagnosis, treatment, or correction of conditions of the human foot, including the adaptation of arch supports or special footgear for the aid thereof.

6018.6.
(a) Any person who received no more than 20 percent of his or her total gross receipts from the alteration of garments during the preceding calendar year is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, property used or furnished by that person in altering new or used clothing, provided that both of the following apply:
(1) That person operates a location or locations as a pickup and delivery point for garment cleaning, or provides spotting and pressing services on the premises but not garment cleaning, or operates a garment cleaning or dyeing plant on the premises.
(2) Seventy-five percent or more of that person's total gross receipts represent charges for garment cleaning or dyeing services.
(b) Sales tax shall not apply to the charges for alterations specified in subdivision (a). However, that person is a retailer of any other tangible personal property sold to consumers in the regular course of business and sales tax shall apply to the gross receipts from those sales.
(c) For the purpose of this section:
(1) "Cleaning" means wet cleaning and drycleaning.
(2) "Wet cleaning" means the process of cleaning a garment by immersion in water, or by applying manually or by any mechanical device, water, or any detergent and water, or by spraying or brushing the garment with water or water and any detergent, or water vapor, or steam, and includes self-service or coin-operated equipment in whole or in part.
(3) "Drycleaning" means the process of cleaning or renovating wearing apparel, feathers, furs, hats, fabrics, household items, or textiles by immersion and agitation, spraying, vaporization, or immersion only, in a volatile, commercially moisture-free solvent or by the use of a volatile or inflammable product, applied either manually or by means of a mechanical appliance and including self-service or coin-operated equipment in whole or in part.
(4) "Dyeing" means the process of coloring wearing apparel, feathers, furs, hats, fabrics, or textiles by the use of aniline dyes, mordants, or acids, with or without steam, excluding, however, the use of any dye or combination of dyes which is directly soluble or dispersible in water and which does not require chemical alteration of its structure for application, where that dye or combination of dyes is applied to cotton, viscose rayon, or cuprammonium rayon other than wearing apparel.
(5) "Spotting" means the process of removing spots or stains or localized areas of soil from a garment, either before or after, and with or without drycleaning or wet cleaning, by brushing, spraying, or other means of manual or mechanical application, other than immersion, with water, detergents, and volatile or inflammable solvents, chemicals, or any, or all of them.
(6) "Pressing" means the process of restoring the garment to the original shape, dimensions, or contour thereof, or to those in which the same was received from the customer, or as directed by the customer, and the removal of wrinkles, stresses, bulges, and impressions, imprint marks and shine, from a garment by the application of pressure, heat, moisture, water vapor, or steam, or all of them, whether applied manually, or by any mechanical means.

6018.7.
A licensed hearing aid dispenser is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to hearing aids sold or furnished by him or her.

6018.8.
The Department of Transportation is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, passenger transportation vehicles, including, but not limited to, rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats, which it sells to and leases back from

any person pursuant to Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code.

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.

6019.
Every individual, firm, copartnership, joint venture, trust, business trust, syndicate, association or corporation making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, shall be considered a retailer within the provisions of this part in his or its individual, firm, copartnership, joint venture, trust, business trust, syndicate, associate or corporate capacity.

6020.
Producers of X-ray films or photographs for the purpose of diagnosing medical or dental conditions of human beings, excluding use of those products for purely cosmetic purposes, are the consumers of materials and supplies used in the production thereof.

6021.
Notwithstanding any other provision of law, the sales tax applies to the receipts of operators of vending machines located on Army, Navy or Air Force installations and dispensing tangible personal property of a kind the gross receipts from the retail sale of which are subject to tax. This section shall not be deemed to require payment of sales tax measured by receipts of such operators who lease the machines to exchanges of the Army, Air Force, Navy or Marine Corps which acquire title to and sell the merchandise through the machines to authorized purchasers from such exchanges.
The term "operator," as used herein, means any person who owns or possesses vending machines and who controls the operations of the machines, as by placing the merchandise therein or removing the coins therefrom, and who has access thereto for any purpose connected with the sale of merchandise through the machines, and whose compensation is based, in whole or in part, upon receipts from sales made through such machines.

6022.
"Vehicle" and "motor vehicle," as used in this part, shall have the meanings ascribed to them in Sections 415 and 670 of the Vehicle Code.

6023.
"Mobile transportation equipment" includes equipment such as railroad cars and locomotives, buses, trucks (except "one-way rental trucks"), truck tractors, truck trailers, dollies, bogies, chassis, reusable cargo shipping containers, aircraft and ships, and tangible personal property which is or becomes a component part of such equipment. "Mobile transportation equipment" does not include passenger vehicles as defined in Section 465 of the Vehicle Code, trailers and baggage containers designed for hauling by passenger vehicles, or "one-way rental trucks" as defined and identified pursuant to Section 6024.

6024.
"One-way rental trucks" are motortrucks of a kind required to be registered under the Vehicle Code, not exceeding the manufacturer's gross vehicle weight rating of 24,000 pounds, which are principally employed by a person in the rental business in being leased out for short-term periods of not more than 31 days to individual customers for one-way or local hauling of personal property of the customers, and which upon acquisition or being employed in this state by the person are identified to the board, in such manner as the board may prescribe, for employment in such one-way or local hauling. Upon the leasing of such a truck to a customer, the person shall make known to the customer the fact that the vehicle is designated as a one-way rental truck and any taxes imposed by this part which are payable measured by the rentals.

6025.
This chapter shall be known as and referred to as the "Streamlined Sales Tax Project."

6026.
For purposes of this act:
(a) "Agreement" means the Streamlined Sales and Use Tax Agreement.
(b) "Board" means the board of governance, as defined in this act, or the board's designee.
(c) "Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.
(d) "Certified service provider" means an agent certified jointly by the states that are signatories to the agreement to perform all of the seller's sales tax functions.
(e) "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.
(f) "Sales tax" means the tax levied by Chapter 2 (commencing with Section 6051) of Part 1 of Division 2 of the Revenue and Taxation Code.
(g) "Purchaser" means a person to whom a sale of tangible personal property is made or to whom a service is provided.
(h) "Seller" means any person making sales, leases, or rentals of personal property of services.
(i) "Sourcing" means determining the tax situs of a transaction.
(j) "State" means any state of the United States and the District of Columbia.
(k) "Signatory state" means a state that has entered into the agreement.
(l) "Use tax" means the tax levied by Chapter 3 (commencing with Section 6201) of Part 1 of Division 2 of the Revenue and Taxation Code.

6027.
(a) There is created in state government a Board of Governance consisting of two Members of the Senate chosen by the Senate Committee on Rules, one of whom shall belong to the majority party and one of whom shall belong to the minority party, two Members of the Assembly chosen by the Speaker of the Assembly, one of whom shall belong to the majority party and one of whom shall belong to the minority party, one member of the State Board of Equalization, one member of the Franchise Tax Board, and one member of the Governor's Department of Finance.
(b) The board may represent this state in all meetings, limited only to those states that are also authorized by statute to enter into the agreement. The board shall vote on behalf of this state and shall represent the position of this state in all matters relating to the adoption of or amendments to the agreement.
(c) The board shall report quarterly to the Assembly and Senate Revenue and Taxation Committees on the board's progress in negotiating the agreement and shall recommend to the committees the state statutes required to be added, amended, or otherwise modified for purposes of substantially complying with the agreement.

6028.
The state's decision to join the Streamlined Sales Tax Project shall not invalidate, amend, or otherwise modify, in whole or in part, any provision of the law of this state. Implementation of any provision of the agreement in this state, whether adopted before, at, or after this state's adoption of the agreement, shall be exclusively done by a separate act or acts of the Legislature.

6029.
The board may not enter into the agreement unless the agreement requires each state to abide by the following requirements:
(a) The agreement shall set restrictions to limit over time the number of state rates.

(b) The agreement shall establish uniform standards for the following:
(1) The sourcing of transactions to taxing jurisdictions.
(2) The administration of exempt sales.
(3) Sales and use tax returns and remittances.
(c) The agreement shall provide a central electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.
(d) The agreement shall provide that registration with the central registration system and the collection of sales and use taxes in the signatory states does not by itself determine whether the seller has nexus with a state for any tax.
(e) The agreement shall provide for reduction of the burdens of complying with local sales and use taxes through the following:
(1) Restricting variances between the state and local taxes bases.
(2) Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.
(3) Restricting the frequency of changes in local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.
(4) Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.
(f) The agreement shall outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The agreement shall allow for a joint public and private sector study of the compliance cost on sellers and certified service providers to collect sales and use taxes or state and local governments under various levels of complexity.
(g) The agreement shall require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.
(h) The agreement shall require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.
(i) The agreement shall provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

6030.
The agreement is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

6031.
(a) The agreement shall bind and inure only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the agreement.
(b) Consistent with subdivision (a), no person shall have any cause of action or defense under the agreement or by virtue of this state's decision to join the Streamlined Sales Tax Project. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the agreement.
(c) No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

6040.
This chapter shall be known as and referred to as the Marketplace Facilitator Act.

6041.
For purposes of this chapter, the following definitions shall apply:
(a) "Marketplace" means a physical or electronic place, including, but not limited to, a store, booth, internet website, catalog, television or radio broadcast, or a dedicated sales software application, where a marketplace seller sells or offers for sale tangible personal property for delivery in this state regardless of whether the tangible personal property, marketplace seller, or marketplace has a physical presence in this state.
(b) "Marketplace facilitator" means a person who contracts with marketplace sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the marketplace seller's products through a marketplace operated by the person or a related person and who does both of the following:
(1) Directly or indirectly, through one or more related persons, engages in any of the following:
(A) Transmitting or otherwise communicating the offer or acceptance between the buyer and seller.
(B) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and sellers together.
(C) Providing a virtual currency that buyers are allowed or required to use to purchase products from the seller.
(D) Software development or research and development activities related to any of the activities described in paragraph (2), if such activities are directly related to a marketplace operated by the person or a related person.
(2) Directly or indirectly, through one or more related persons, engages in any of the following activities with respect to the marketplace seller's products:
(A) Payment processing services.
(B) Fulfillment or storage services.
(C) Listing products for sale.
(D) Setting prices.
(E) Branding sales as those of the marketplace facilitator.
(F) Order taking.
(G) Providing customer service or accepting or assisting with returns or exchanges.
(c) "Marketplace seller" means a person who has an agreement with a marketplace facilitator and makes retail sales of tangible personal property through a marketplace owned, operated, or controlled by a marketplace facilitator, even if that person would not have been required to hold a seller's permit or permits, or required to collect the taxes imposed pursuant to Chapter 2 (commencing with Section 6051) or Chapter 3 (commencing with Section 6201), or a fee administered pursuant to Part 30 (commencing with Section 55001), had the sale not been made through that marketplace.

6041.1.
Newspapers, internet websites, and other entities that advertise tangible personal property for sale, refer purchasers to the seller by telephone, internet link, or other similar means to complete the sale, and do not participate further in the sale are not facilitating a sale under this chapter.

6041.2.
For purposes of this chapter, the following shall apply:
(a) A person is related to another person if both persons are related to each other pursuant to Section 267(b) of the Internal Revenue Code and the regulations thereunder.
(b) (1) A "fee administered pursuant to Part 30 (commencing with Section 55001)" shall include a charge pursuant to the Lead-Acid Battery Recycling Act of 2016 (Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of the Health and Safety Code), a lumber products assessment pursuant to Article 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code, a fee imposed pursuant to the Electronic Waste Recycling Act of 2003 (Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code), and a California tire fee pursuant to Article 5 (commencing with Section 42885) of Chapter 17 of Part 3 of Division 30 of the Public Resources Code.
(2) A "fee administered pursuant to Part 30 (commencing with Section 55001)" shall not include the fee administered pursuant to Part 21.1 (commencing with Section 42100).

6041.5.
(a) Notwithstanding Section 6041, a person that is a delivery network company is not a marketplace facilitator for purposes of this chapter.
(b) For purposes of this section, all of the following definitions shall apply:
(1) "Delivery network company" means a business entity that maintains an internet website or mobile application used to facilitate delivery services for the sale of local products.
(2) "Delivery services" means the pickup of one or more local products from a local merchant and delivery of the local products to a customer. "Delivery services" do not include any delivery requiring over 75 miles of travel from the local merchant to the customer.
(3) "Local merchant" means a third-party merchant, including, but not limited to, a kitchen, restaurant, grocery store, retail store, convenience store, or business of another type, that is not under common ownership or control with the delivery network company.
(4) "Local product" means any item, including food, other than freight, mail, or a package to which postage has been affixed.
(c) Notwithstanding subdivision (a), a delivery network company that meets the definition set forth in subdivision (b) of Section 6041 may elect, in a reasonable manner and duration prescribed by the department, to be deemed a marketplace facilitator pursuant to this chapter. Consistent with this section, the department

shall adopt regulations that establish the criteria for obtaining and retaining an election to be a marketplace facilitator pursuant to this subdivision.

6041.6.
(a) Notwithstanding Section 6041, a person that is a vehicle rental broker is not a marketplace facilitator with respect to the facilitation, for a commission, fee, or other consideration, of a passenger vehicle rental on behalf of a rental company that is not a related person for purposes of this chapter.
(b) For purposes of this section, the following definitions apply:
(1) "Optional accessory" includes, but is not limited to, a child seat, a GPS navigation system, snow chains or other traction device, and a ski rack.
(2) "Passenger vehicle" has the same meaning as defined in Section 465 of the Vehicle Code.
(3) "Passenger vehicle rental" means any lease of a passenger vehicle, including any optional accessory, which is classified as a "continuing sale" and a "continuing purchase" in accordance with Sections 6006.1 and 6010.1.
(4) "Rental company" means a person or entity in the business of leasing passenger vehicles to the public and that is registered with the department under Chapter 2 (commencing with Section 6051) or Chapter 3 (commencing with Section 6201).
(5) "Vehicle rental broker" means a person that facilitates, for a commission, fee, or other consideration, passenger vehicle rentals through an online marketplace owned, operated, or controlled by the person or a related person.

6042.
A marketplace facilitator shall be considered the seller, retailer, and dealer for each sale facilitated through its marketplace for purposes of determining whether the marketplace facilitator is required to register with the department under Chapter 2 (commencing with Section 6051), Chapter 3 (commencing with Section 6201), or under any other law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001), in addition to each sale for which the marketplace facilitator is the seller, retailer, dealer, or any combination of the three, under Chapter 1 (commencing with Section 6001), or any other law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001).

6043.
A marketplace facilitator that is registered with the department or required to register with the department under Chapter 2 (commencing with Section 6051) or Chapter 3 (commencing with Section 6201) and that facilitates a retail sale of tangible personal property by a marketplace seller is the retailer selling or making the sale of the tangible personal property sold through its marketplace for purposes of this part.

6043.1.
A marketplace facilitator that is registered with the department or required to register with the department under any law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001) and that facilitates a retail sale of tangible personal property by a marketplace seller is the retailer or dealer or both for purposes of collecting and remitting any fee imposed on the consumer in regards to that retail sale.

6044.
For purposes of determining the total combined sales of tangible personal property for delivery in this state pursuant to Section 6203:
(a) A marketplace facilitator shall include all sales of tangible personal property for delivery in this state, including sales made on its own behalf and by all related persons and sales facilitated on behalf of marketplace sellers.
(b) A marketplace seller shall include all sales of tangible personal property for delivery in this state, including sales made on its own behalf and sales facilitated through any marketplace facilitator's marketplace.

6045.
A marketplace seller shall register with the department under Chapter 2 (commencing with Section 6051), Chapter 3 (commencing with Section 6201), or any other law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001), as required, for retail sales made on its own behalf and not facilitated through a registered marketplace facilitator.

6046.
If the marketplace facilitator demonstrates to the satisfaction of the department that the marketplace facilitator has made a reasonable effort to obtain accurate and complete information from an unrelated marketplace seller about a retail sale and that the failure to remit the correct amount of taxes or fees imposed under this part, or under any other law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001), was due to incorrect or incomplete information provided to the marketplace facilitator by the unrelated marketplace seller, then the marketplace facilitator shall be relieved of liability for the taxes or fees for that retail sale. This section does not apply with regard to a retail sale for which the marketplace facilitator is the retailer selling or making the sale of the tangible personal property on its own behalf or if the marketplace facilitator and marketplace seller are related. Where a marketplace facilitator is relieved of liability for the taxes or fees on a retail sale under this section, the marketplace seller is the retailer for that retail sale.

6047.
(a) A marketplace facilitator shall be relieved of the taxes or fees on retail sales facilitated through its marketplace as provided in subdivision (c) if the marketplace facilitator demonstrates to the satisfaction of the department all of the following:
(1) The retail sales were facilitated for a marketplace seller prior to January 1, 2023, through a marketplace of the marketplace facilitator.
(2) The marketplace facilitator is not the marketplace seller.
(3) The marketplace facilitator and the marketplace seller are not related.
(4) The failure to collect sales and use tax or any other fee administered pursuant to Part 30 (commencing with Section 55001) was due to a good faith error other than an error in sourcing the sale pursuant to the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) or any other law that imposes a fee administered pursuant to Part 30 (commencing with Section 55001).
(b) To the extent that a marketplace facilitator is relieved of liability for collection of sales and use tax or any other fee administered pursuant to Part 30 (commencing with Section 55001) under this section, the marketplace seller for whom the marketplace facilitator has facilitated the retail sale is also relieved of liability, unless the marketplace seller is the retailer for those retail sales pursuant to Section 6046. The department may determine the manner in which a marketplace facilitator or marketplace seller shall claim the liability relief provided in this section.
(c) The liability relief provided under this section shall not exceed the following percentage of the sum of all sales and use tax and any other fee administered pursuant to Part 30 (commencing with Section 55001) due on sales facilitated by a marketplace facilitator for marketplace sellers, which sales shall not include sales by the marketplace facilitator or persons related to the marketplace facilitators:
(1) For sales facilitated during the fourth quarter of 2019 or during the 2020 calendar year, 7 percent.
(2) For sales facilitated during the 2021 calendar year, 5 percent.
(3) For sales facilitated during the 2022 calendar year, 3 percent.
(d) Nothing in this section shall be construed to relieve any person of liability for collecting but failing to remit to the department sales and use tax or any other fee administered pursuant to Part 30 (commencing with Section 55001).

6049.5.
(a) This chapter shall become operative on October 1, 2019.
(b) The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

6051.
For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of $2^1/_2$ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on or after August 1, 1933, and to and including June 30, 1935, and at the rate of 3 percent thereafter, and at the rate of $2^1/_2$ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of $3^3/_4$ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of $4^3/_4$ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of $3^3/_4$ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of $4^3/_4$ percent thereafter.

6051.1.
(a) Notwithstanding Section 6051, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 5 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after the operative date of this subdivision.
(b) Subdivision (a) shall become operative on December 1, 1989, and shall cease to be operative on January 1, 1991.
(c) The rate prescribed by Section 6051 shall be applicable on and after the first day following the date subdivision (a) ceases to be operative pursuant to subdivision (b).

6051.15.
(a) Notwithstanding Section 7101 or any other law, the amount of revenues, net of refunds, collected pursuant to Section 6051 and attributable to a rate of 1.0625 percent shall, subject to subdivision (b), be deposited in the State Treasury to the credit of the Local Revenue Fund 2011, as established pursuant to Section 30025 of the Government Code, and shall be used exclusively for the public safety purposes for which that fund is created.
(b) The amount of revenues derived from any tax or tax increase enacted after July 1, 2011, that is deposited in the Local Revenue Fund 2011 shall be applied to reduce the amount otherwise required to be deposited in that fund pursuant to subdivision (a).
(c) Notwithstanding subdivisions (a) and (b), if the Director of Finance determines that the State Board of Equalization has allocated more revenue to the Local Revenue Fund 2011 than required by subdivisions (a) and (b) for taxable sales that occurred during the period of July 1, 2011, to June 30, 2016, inclusive, the total amount of revenues credited to the Local Revenue Fund 2011 for this period shall be considered to have fulfilled the requirements of subdivisions (a) and (b), and no allocation adjustment for this period shall be made.

6051.2.
(a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of $^1/_2$ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991.
(b) All revenues received pursuant to this section shall be deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.
(c) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6201.2 that are deposited in the Local Revenue Fund are either of the following:
(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.
(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.
(d) Notwithstanding subdivisions (a) and (b), if the Director of Finance determines that the State Board of Equalization has allocated more revenue to the Local Revenue Fund than required by subdivisions (a) and (b) for taxable sales that occurred during the period of July 1, 2011, to June 30, 2016, inclusive, the total amount of revenues credited to the Local Revenue Fund for this period shall be considered to have fulfilled the requirements of subdivisions (a) and (b), and no allocation adjustment for this period shall be made.

6051.3.
In addition to the taxes imposed by Sections 6051, 6051.2, 6051.5, and any other provision of this part, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of $^1/_4$ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state on and after July 15, 1991, and during any period in which this section is operative pursuant to Section 6051.4.

6051.4.
(a) Section 6051.3 shall be operative with respect to the sale of all tangible personal property sold at retail in this state on or after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).
(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:
(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.
(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6051.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.
(c) Section 6051.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.
(d) Section 6051.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6051.3 is operative and the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.
(e) Section 6051.3 shall become operative on and after January 1 following any November 1 in which Section 6051.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.

6051.45.
Notwithstanding 6051.4 or any other provision of law, the state sales tax rate in Section 6051.3 shall not be operative in any calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:
(a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the $^1/_4$ cent sales and use tax rate.
(b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination. The Director of Finance shall make the determination on or before November 1 of each year.
The $^1/_4$ cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.

6051.5.
(a) In addition to the taxes imposed by Section 6051 and any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.
(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as established pursuant to Section 99008 of the Government Code.
(c) Revenues received pursuant to this section accruing to the Fiscal Recovery Fund shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.
(d) This section shall become operative on July 1, 2004, and shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

6051.6.
There are exempted from the taxes imposed by Section 6051.5 the gross receipts derived from the sale of tangible personal property, other than fuel or petroleum products, 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 the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

6051.8.
(a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1.75 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022.
(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), commencing November 1, 2017, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 4 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state.
(c) (1) Notwithstanding subdivision (b) of Section 7102, except as otherwise provided in paragraph (2), all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation under the State Transit Assistance Program pursuant to Section 99312.1 of the Public Utilities Code.
(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation by the Transportation

Agency to intercity rail and commuter rail purposes pursuant to Section 99312.3 of the Public Utilities Code.

6055.

(a) (1) A retailer is relieved from liability for sales tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the tax shall be paid with the return.

(2) (A) Before January 1, 2025, for purposes of this subdivision, the term "retailer" shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.

(B) An entity that is a retailer under this paragraph shall not be entitled to a deduction under paragraph (1) on or after January 1, 2025.

(b) (1) In the case of accounts held by a lender, a retailer or lender that makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:

(A) A deduction was not previously claimed or allowed on any portion of the accounts.

(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a) before January 1, 2025.

(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.

(D) The retailer remitted the tax on or after January 1, 2000.

(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the department.

(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.

(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the department in accordance with Section 6451.

(3) For purposes of this subdivision, the term "lender" means any of the following:

(A) Any person that holds a retail account which that person purchased directly from a retailer who reported the tax.

(B) Any person that holds a retail account pursuant to that person's contract directly with the retailer that reported the tax.

(C) Any person that is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).

(4) For purposes of this section, a "proper election" shall be established when the retailer that reported the tax and the lender prepare and retain an election form, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is prepared and retained by the retailer and the lender.

(c) This section shall remain operative until January 1, 2028, and as of that date is repealed.

6055.

(a) A retailer is relieved from liability for sales tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the tax shall be paid with the return.

(b) This section shall become operative on January 1, 2028.

6066.

(a) Every person desiring to engage in or conduct business as a seller within this state shall file with the board an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the board may require. An application for a permit shall be authenticated in a form or pursuant to methods as may be prescribed by the board. The application shall state that the applicant will actively engage in or conduct business as a seller of tangible personal property.

(b) An application filed pursuant to this section may be filed using electronic media as prescribed by the board.

(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.

6066.3.

(a) A city, county, or city and county may collect information from persons desiring to engage in business in that jurisdiction for the purposes of selling tangible personal property under this part and shall transmit that information to the board. The information shall be provided to the board in a format to be determined by the board after consulting with the League of California Cities and the California State Association of Counties.

(b) The information submitted to the board under subdivision (a) shall serve as all of the following:

(1) The preliminary application for a seller's permit.

(2) Notification to the board by the city, county, or city and county of a person desiring to engage in the business of selling of tangible personal property in that jurisdiction.

(3) Notice to the board for purposes of redistribution under Section 7209.

(c) The board shall issue a determination regarding issuance of a seller's permit and receipt of notification for purposes of paragraphs (2) and (3) of subdivision (b). The board shall provide a copy of that determination and receipt of notification to the city, county, or city and county from which the board has received information under subdivision (a). The board shall make its determination as follows:

(1) For persons for whom a determination can be made based on the information submitted, the determination shall be issued within 30 days of receipt of the information.

(2) For persons for whom additional information is required before a determination can be made, the determination shall be issued within 120 days of receipt of the information.

(d) The board shall, after consulting with the League of California Cities and the California State Association of Counties, adopt standardized data addressing and naming conventions that are compatible with local jurisdiction conventions for new registrants and, to the extent possible, for current accounts.

(e) A city, county, or city and county may not charge applicants a fee for collecting and transmitting information pursuant to this section.

6066.4.

A city, county, or city and county may require each person desiring to engage in business in that jurisdiction for the purposes of selling tangible personal property to provide his or her seller's permit account number, if any.

6066.5.

At the time the board provides the applicant with an application form, the applicant shall be provided with a written notice in a form prescribed by the board outlining the provisions of Sections 6072 and 6094.5 and the penalties that will accrue to the applicant should the permit be used in a manner which is prohibited by those sections.

6067.

After compliance with Sections 6066 and 6701 by the applicant, and after giving the applicant the notice required by Section 6066.5, the board shall grant and issue to each applicant a separate permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

6068.

Upon such notification of a change of address as may be required by the board, a permit may be reissued for the new address of a business place of a permitholder without the filing of a new application.

6069.

A seller whose permit has been previously suspended or revoked shall pay the board a fee of one hundred dollars ($100) for the renewal or issuance of a permit.

6070.
Whenever any person fails to comply with any provision of this part relating to the sales tax or any rule or regulation of the board relating to the sales tax prescribed and adopted under this part, the board upon hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The board shall give to the person written notice of the suspension or revocation of any of his permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this part relating to the sales tax and the regulations of the board.

6070.5.
(a) The board may refuse to issue a permit to any person submitting an application for a permit as required in Section 6066 if the person desiring to engage in or conduct business as a seller within this state has an outstanding final liability with the board for any amount due under this part.
(b) In addition to the provisions of subdivision (a), the board may also refuse to issue a permit if the person desiring to engage in or conduct business as a seller within this state is not a natural person or individual and any person controlling the person desiring to engage in or conduct business as a seller within this state has an outstanding final liability with the board as provided in subdivision (a). For the purposes of this section, "controlling" has the same meaning as defined in Section 22971 of the Business and Professions Code.
(c) For purposes of this section, a liability will not be deemed to be outstanding if the person has entered into an installment payment agreement pursuant to Section 6832 for any liability and is in full compliance with the terms of the installment payment agreement.
(d) If the person submitting an application for a seller's permit has entered into an installment payment agreement as provided in subdivision (c) and fails to comply with the terms of the installment payment agreement, the board may seek revocation of the seller's permit obtained by the person pursuant to this section.
(e) (1) Whenever any person desiring to engage in or conduct business as a seller within this state is denied a permit pursuant to this section, the board shall give to the person written notice of the denial. The notice of the denial may be served personally, by mail, or by other means deemed appropriate by the board. If served by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the person at the address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of deposit of the notice at the United States Postal Service, or a mailbox, subpost office, substation or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of the delivery. Delivery of notice by other means deemed appropriate by the board may include, but is not limited to, electronic transmission. Personal service or delivery by other means deemed appropriate by the board to a corporation may be made by delivery of a notice to any person listed on the application as an officer.
(2) Any person who is denied a seller's permit pursuant to this section may request reconsideration of the board's denial of the permit. This request shall be submitted in writing within 30 days of the date of the notice of denial. Timely submission of a written request for reconsideration shall afford the person a hearing in a manner that is consistent with a hearing provided for by Section 6070. If a request for reconsideration is not filed within the 30-day period, the denial becomes final at the end of the 30-day period.
(f) The board shall consider offers in compromise when determining whether to issue a seller's permit.

6071.
A person who engages in business as a seller in this state without a permit or permits or after a permit has been suspended or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor punishable as provided in Section 7153.

6071.1.
(a) A permitholder who fails to surrender a seller's permit upon transfer of a business shall be liable for any tax, interest, and penalty incurred by the transferee if the permitholder has actual or constructive knowledge that the transferee is using the permit in any manner. The predecessor's liability shall be limited to the quarter in which the business is transferred, and the three subsequent quarters.
(b) The limitation on liability provided for in subdivision (a) shall not apply in cases where, after the transfer, 80 percent or more of the real or ultimate ownership of the business transferred is held by the predecessor.
(c) For purposes of this section, stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity shall be regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.

6072.
A permit shall be held only by persons actively engaging in or conducting a business as a seller of tangible personal property. Any person not so engaged shall forthwith surrender his or her permit to the board for cancellation. The board may revoke the permit of a person found to be not actively engaged in or conducting a business as a seller of tangible personal property.
Any person who knowingly issues a resale certificate while the person is not actively engaged in business as a seller, for personal gain or to evade the payment of taxes, shall be liable for the taxes that would otherwise have been due on the transaction, plus a penalty of 10 percent or five hundred dollars ($500), whichever is greater, in addition to all other penalties imposed by this part, and interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

6073.
(a) (1) When the board determines it is necessary for the efficient administration of this part, the board may require the operator of a swap meet, flea market, or special event as a prerequisite to renting or leasing space on the premises owned or controlled by that operator to a person desiring to engage in or conduct business as a seller, to obtain written evidence that the seller is the holder of a valid seller's permit issued pursuant to Section 6067, or a written statement from the seller that he or she is not offering for sale any item that is taxable under this part or is otherwise not required to hold a valid seller's permit.
(2) In providing the board with documentation required by the board pursuant to paragraph (1), an operator of a swap meet, flea market, or special event may require each person desiring to engage in or conduct business as a seller at that swap meet, flea market, or special event to provide his or her driver's license number to the operator on a form authorized by the board or under Section 6073.1.
(b) At any time as the board may specify in a written notice, but in no case more than three times in a calendar year, the board may require an operator to submit to the board a list of vendors conducting business on their premises as a seller. Each listing shall be provided to the board within 30 days after the date of the board's notice. The list shall contain the name and seller's permit number for permitholders and the name, address, and driver's license number for vendors who do not have seller's permits. Records shall be retained to the same extent as all transactions involving sales or use tax liability as provided in Section 7053.
(c) "Swap meet, flea market, or special event," as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business, or any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying the property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where the property is offered or displayed for sale or exchange.
(d) Any operator of a swap meet, flea market, or special event who fails or refuses to comply with this section is subject to a penalty not exceeding one thousand dollars ($1,000) for each offense.

6073.1.
An operator of a swap meet or flea market, as defined in Section 6073, or special event, who verifies that a seller has a valid seller's permit, or who obtains from the seller a certificate that the seller is not offering for sale any item that is taxable under this part and who completes the form requirements of Section 21663 of the Business and Professions Code, shall be deemed to have complied with the requirements of Section 6073. No additional forms will be required by the State Board of Equalization.

6073.2.
(a) Section 6073 shall not apply to any of the following:
(1) An event or show for which all exhibitors' contracts prohibit any sale of tangible personal property at the event or show and at which no tangible personal property is actually sold.
(2) An event or show that is conducted for informational or educational purposes only, and at which no sales of tangible personal property occur.
(3) A trade show.
(b) For purposes of this section, a "trade show" means an event or show that complies with all of the following conditions:
(1) The event or show is not open to the general public for any portion of the show.

(2) Only orders for tangible personal property are solicited or taken during the event or show from sellers, as defined in Section 6014, for purposes of subsequent resale.
(3) The event or show is operated by an organization that qualifies for tax exempt status under Section 501(c) of the Internal Revenue Code.

(c) When the board determines it is necessary for the efficient administration of this part, the board may require the operator of a trade show, within 10 days from the close of that show, to provide the board with a listing of the names and addresses of the agents or representatives soliciting orders at the trade show, and their principals, including, but not limited to, manufacturers, wholesalers, distributors, or suppliers.

(d) Any operator of a trade show who willfully fails or refuses to comply with subdivision (c) is subject to a penalty in an amount not to exceed one thousand dollars ($1,000) for each offense.

6074.

(a) When the board determines it is necessary for the efficient administration of this part, the board may, by written notice, require any person making sales to operators of catering trucks, operated out of that person's facility pursuant to Section 114295 of the Health and Safety Code, who resell the property in the regular course of his or her business, to obtain evidence that the operator is the holder of a valid seller's permit issued pursuant to Section 6067.

At any time as the board may specify in a written notice, but in no case more than three times in a calendar year, the board may require a person making sales to operators of catering trucks to submit to the board a listing of operators of catering trucks who purchase goods from that person. Each listing shall be provided to the board within 30 days after the date of the board's notice, and shall include the name and seller's permit number on file of each operator, or, for those operators who do not provide evidence of a valid seller's permit, the operator's name, address, and telephone number.

The board may also, by written notice, require a person making sales to operators of catering trucks to promptly notify the board if a newly purchasing operator does not provide to the person, within 30 days of the date of the first purchase, evidence of a valid seller's permit.

Persons required by written notice of the board to obtain evidence, or provide a listing or notification, who fail to comply, may be subject to a penalty not to exceed five hundred dollars ($500) for each failure.

(b) Persons making sales to operators of catering trucks who do not have valid seller's permits or whose permits have been revoked shall report and pay the tax on property as if the property were sold at retail at the time of the sale. Nothing in this section shall relieve any operator of a catering truck of his or her obligations as a seller under this part.

(c) If the board finds that a person's failure to comply with this section is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty imposed by this section.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

6075.

(a) No permit shall be required of any person who engages in business in this state as a seller of feed, for any form of animal life, that is exempt from taxation pursuant to subdivision (b) of Section 6358 and who engages in no other taxable sales of tangible personal property at retail.

(b) In the case of any seller of hay who is also a grower of hay, the exemption provided in subdivision (a) shall apply only to growers who are either of the following:
(1) A grower who produces hay for sale only to beef cattle feedlots or dairies.
(2) A grower who sells exclusively through a farmer-owned cooperative.

(c) Nothing in this section shall relieve any grower of hay that is not exempt pursuant to subdivision (b) of Section 6358 from obtaining a permit.

6077.

(a) Any retail florist who fails to obtain a permit before engaging in or conducting business as a seller shall, in addition to any other applicable penalty, pay a penalty of five hundred dollars ($500).

(b) Every mobile retail florist shall have a copy of the permit at each sales location which shall be in the possession of a person operating at that location.

(c) For purposes of this section, the following terms have the following meanings:
(1) "Retail florist" means any person selling any flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products at retail. "Retail florist" does not include any flower or ornamental plant grower who sells his or her own products.
(2) "Mobile retail florist" means any retail florist who does not sell from a structure or retail shop, including, but not limited to, a florist who sells from a vehicle, pushcart, wagon, or other portable method, or who sells at a swap meet, flea market, or similar transient location.

6091.

For the purpose of the proper administration of this part and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

6092.

The certificate relieves the seller from liability for sales tax only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for in Article 2 (commencing with Section 6066) of this chapter.

6092.1.

Notwithstanding any other provision of law, any person, other than a person exempt from payment of use tax in accordance with Section 6352, who leases mobile transportation equipment and who cannot otherwise properly issue a resale certificate may issue such a certificate for the limited purpose of reporting his use tax liability based on fair rental value as provided in subdivision (d) of Section 6094 and subdivision (d) of Section 6244. With respect to matters arising out of mergers or acquisitions, the provisions of this section shall apply to any matters pending before the board on the effective date of this section.

6092.5.

(a) Every qualified person making any sale of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of any salvage certificate vehicle as defined in Section 11515 of the Vehicle Code, is presumed to be making a sale at retail and not a sale for resale. The presumption may be rebutted by taking a resale certificate from any of the following:
(1) A person that certifies it is licensed, registered, regulated, or certificated under the Health and Safety Code or the Vehicle Code as a dealer or dismantler.
(2) A person that certifies it is licensed, registered, regulated, or certificated under the Business and Professions Code as an automotive repair dealer, or is qualified as a scrap metal processor as described in the Vehicle Code.
(3) A person that certifies it is licensed, registered, regulated, certificated, or otherwise authorized by another state, country, or jurisdiction to do business as a dealer, dismantler, automotive repairer, or scrap metal processor.

(b) A qualified person shall not accept a resale certificate from any person except as provided in subdivision (a).

(c) (1) In addition to the requirements of Sections 6093 and 6243, the certificate shall include the license or registration number of the dealer, dismantler, or automotive repair dealer, as applicable. If the purchaser is not required to hold a seller's permit because the purchaser makes no sales in this state, the purchaser must include on the certificate a sufficient explanation as to the reason the purchaser is not required to hold a California seller's permit in lieu of the seller's permit number. The certificate issued by a purchaser pursuant to this section shall be substantially in such form as the board may prescribe.
(2) A qualified person that does not timely obtain a resale certificate as provided in this section may use alternative methods as prescribed by the board to rebut the presumption provided in subdivision (a).

(d) For the purposes of this section, a "qualified person" means a person making a sale at auction or a dismantler licensed under the Vehicle Code.

6093.

The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the board may prescribe.

6094.

(a) If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser under Chapter 3 (commencing with Section 6201) of this part as of the time the property is first

used by him, and, except as provided in subdivisions (b), (c), and (d) of this section, the sales price of the property to him shall be the measure of the tax.
(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.
(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.
(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be revoked with respect to the equipment as to which it is made.
(e) As used in subdivision (d), the term "fair rental value" means the rentals required by the purchaser under the lease except where the board determines that such rentals are nominal. The term shall not include any reimbursement payments made by the lessee to the purchaser for such use tax.

6094.1.
If a purchaser acquires property in a transaction described in subdivision (a) of Section 6006.5 and leases such property, the purchaser may elect at the time the property is first leased by him, after the effective date of this section, to pay use tax measured by the purchase price of the property. Purchaser shall include a transferee who acquires property in a transaction which qualifies under the provisions of subdivision (b) of Section 6006.5 and, for purposes hereof, the purchase price of the transferee shall be the same as that paid by the original purchaser.

6094.5.
Except as provided in Sections 6012.8 and 6012.9:
(a) Any person, including any officer or employee of a corporation, who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her or the corporation in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor punishable as provided in Section 7153.
(b) Any person, including any officer or employee of a corporation, who gives a resale certificate for property which he or she knows at the time of purchase is not to be resold by him or her or the corporation in the regular course of business is liable to the state for the amount of tax that would be due if he or she had not given such resale certificate. In addition to the tax, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500) whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

6095.
If a purchaser gives a certificate with respect to the purchase of fungible goods, or purchases those goods for resale in the regular course of business, and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold. Goods removed from the commingled mass for consumption shall be deemed to be a consumption of goods not so purchased until a quantity of commingled goods equal to the quantity of goods not so purchased has been consumed.

6150.
For purposes of this article, notwithstanding any provision of Chapter 1 (commencing with Section 6001), the following words have the following meanings in extending the sales tax to support services:
(a) "County" means a county, city and county, or a public authority or nonprofit consortium, as defined in Section 12301.6 of the Welfare and Institutions Code.
(b) "Gross receipts" means the total amount of the sales of a provider, valued in money, whether paid in money or otherwise, without any deduction for the cost of materials used, any costs of transportation of the provider, or any other expenses. "Gross receipts" shall not include a supplementary payment received by a provider pursuant to Section 12306.6 of the Welfare and Institutions Code.
(c) "Personal care services" means (1) assistance with ambulation, (2) bathing, oral hygiene, and grooming, (3) dressing, (4) care and assistance with prosthetic devices, (5) bowel, bladder, and menstrual care, (6) repositioning, skin care, range of motion exercises, and transfers, (7) feeding and assurance of adequate fluid intake, (8) respiration, and (9) assistance with self-administration of medications.
(d) (1) "Provider" means a natural person who is authorized by law to provide all of the support services defined in subdivision (i) and who makes a retail sale.
(2) "Provider" also means a nongovernmental person that arranges for the retail sale of all support services defined in subdivision (i). When this definition applies, any natural person described by paragraph (1) who provides services under the direction of the nongovernmental person is not a provider.
(e) "Recipient" means a natural person who receives support services.
(f) "Retail sale" means a sale to a recipient.
(g) "Sale" means the furnishing of support services for a consideration.
(h) "Seller" includes the State Department of Social Services in its capacity as the state agency that oversees the In-Home Supportive Services program, or a county in which county staff serve as homemakers pursuant to Section 12302 of the Welfare and Institutions Code in those instances where the department is not the seller, or a county that contracts with a nongovernmental contractor to arrange for the retail sale of support services to eligible recipients pursuant to Section 12301.6 or 12302 of the Welfare and Institutions Code, or any other nongovernmental person that arranges for the retail sale of support services, wherever located.
(i) "Support services" means the following services provided by a provider:
(1) Domestic services and services related to domestic services.
(2) Heavy cleaning.
(3) Personal care services, as defined in subdivision (c).
(4) Accompaniment when needed during necessary travel to health-related appointments or to alternative resource sites.
(5) Yard hazard abatement.
(6) Protective supervision.
(7) Teaching and demonstration directed at reducing the need for other supportive services.
(8) Paramedical services that make it possible for the recipient to establish and maintain an independent living arrangement, including those necessary paramedical services that are ordered by a licensed health care professional who is lawfully authorized to do so, which persons could provide for themselves but for their functional limitations. Paramedical services include the administration of medications, puncturing the skin, or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional.

6151.
(a) Beginning on the date for which the federal Centers for Medicare and Medicaid Services approves implementation of the state plan amendment described in subdivision (c) of Section 12306.6 of the Welfare and Institutions Code, but no earlier than January 1, 2012, for the privilege of selling support services at retail, the sales tax is hereby extended to all providers at the rate, as described in subdivision (b), of the gross receipts of any provider from the sale of all support services sold at retail in this state.
(b) The rate extended by subdivision (a) is the rate, as may be amended from time to time, imposed by Article 1 (commencing with Section 6051) plus the rate imposed by Section 35 of Article XIII of the California Constitution for the privilege of selling tangible personal property at retail in this state.
(c) Notwithstanding the implementation date of this article as provided for in subdivision (a), no tax shall be collected pursuant to this article prior to the receipt of approval by the federal Centers for Medicare and Medicaid Services of the implementation of Section 12306.6 of the Welfare and Institutions Code.

6152.
For the efficient administration of this article and the collection of tax from providers, a seller shall register with the board, collect the tax from the provider, and report and pay the tax to the board.

6154.
For the efficient administration of this article and the collection of tax from providers, Article 1.1 (commencing with Section 6470) of Chapter 5, pertaining to prepayment of taxes, shall not apply to sellers until no later than three months after the date that federal approval is obtained pursuant to subdivision (c) of Section 12306.6 of the Welfare and Institutions Code.

6156.
A seller shall file with the board an application pursuant to Section 6066, which shall state that the applicant will actively engage in arranging for the retail sale of support services.

6158.

After compliance by the seller with Section 6156 and by the seller and the board with Section 6067, the board shall grant and issue a permit or permits to each applicant pursuant to Section 6067, except that the board shall grant and issue a single permit to the State Department of Social Services without regard to its multiple places of business.

6160.
A permit issued pursuant to this article shall be held only by a seller that is actively engaged in arranging for the retail sale of support services. Any seller not so engaged shall forthwith surrender its permit to the board for cancellation. The board may revoke the permit of a seller found to be not actively engaged in arranging for the retail sale of support services.

6162.
For purposes of Section 6486, a seller is a retailer.

6164.
Every provider and seller shall keep any records, receipts, invoices, and other pertinent papers in such form as the board may require.

6166.
The board, or any person authorized in writing by the board, may examine the books, papers, records, and equipment of any seller or provider, and may investigate the character of the business of the seller, pursuant to Section 7054.

6168.
Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes extended by this article shall be deposited in the State Treasury to the credit of the Personal Care IHSS Quality Assurance Revenue Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, to the State Department of Social Services for disbursement in the manner, and for the purposes, set forth in Section 12306.6 of the Welfare and Institutions Code. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code.

6170.
(a) (1) This article shall become operative only if federal Medicaid approval sought by the Director of Health Care Services pursuant to paragraph (1) of subdivision (c) of Section 12306.6 of the Welfare and Institutions Code is granted.
(2) If approval is granted as described in paragraph (1), within 10 days of that approval the Director of Health Care Services shall notify the State Board of Equalization, and the fiscal and appropriate policy committees of the Legislature, of the approval pursuant to paragraph (3) of subdivision (c) of Section 12306.6 of the Welfare and Institutions Code.
(b) The Department of Finance shall notify the board, within 10 days of the final decision, of a final decision by the California Supreme Court or any California Court of Appeal that the revenues collected pursuant to this article that are deposited in the Personal Care IHSS Quality Assurance Revenue Fund are "General Fund revenues which may be appropriated pursuant to Article XIII B" or "General Fund proceeds of taxes appropriated pursuant to Article XIII B" as used in subdivision (b) of Section 8 of Article XVI of the California Constitution, without regard to the validity of this section. This article shall become inoperative on the first day of the next calendar quarter following 30 days after the date of that final decision.

6172.
This article shall remain in effect only until the January 1 following the date the tax extended by this article becomes inoperative pursuant to subdivision (b) of Section 6170, and as of that date is repealed.

6201.
An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 1, 1935, for storage, use, or other consumption in this state at the rate of 3 percent of the sales price of the property, and at the rate of $2^1/_2$ percent on and after July 1, 1943, and to and including June 30, 1949, and at the rate of 3 percent on and after July 1, 1949, and to and including July 31, 1967, and at the rate of 4 percent on and after August 1, 1967, and to and including June 30, 1972, and at the rate of $3^3/_4$ percent on and after July 1, 1972, and to and including June 30, 1973, and at the rate of $4^3/_4$ percent on and after July 1, 1973, and to and including September 30, 1973, and at the rate of $3^3/_4$ percent on and after October 1, 1973, and to and including March 31, 1974, and at the rate of $4^3/_4$ percent thereafter.

6201.1.
(a) Notwithstanding Section 6201, an excise tax is hereby imposed on the storage, use, or other consumption in the state of tangible personal property purchased from any retailer on or after the operative date of this subdivision, for storage, use, or other consumption in this state at the rate of 5 percent of the sales price of the property on and after the operative date of this subdivision.
(b) Subdivision (a) shall become operative on December 1, 1989, and shall cease to be operative on January 1, 1991.
(c) The rate prescribed by Section 6201 shall be applicable on and after the first day following the date subdivision (a) ceases to be operative pursuant to subdivision (b).

6201.15.
(a) Notwithstanding Section 7101 or any other law, the amount of revenues, net of refunds, collected pursuant to Section 6201 and attributable to a rate of 1.0625 percent shall, subject to subdivision (b), be deposited in the State Treasury to the credit of the Local Revenue Fund 2011, as established pursuant to Section 30025 of the Government Code, and shall be used exclusively for the public safety purposes for which that fund is created.
(b) The amount of revenues derived from any tax or tax increase enacted after July 1, 2011, that is deposited in the Local Revenue Fund 2011 shall be applied to reduce the amount otherwise required to be deposited in that fund pursuant to subdivision (a).
(c) Notwithstanding subdivisions (a) and (b), if the Director of Finance determines that the State Board of Equalization has allocated more revenue to the Local Revenue Fund 2011 than required by subdivisions (a) and (b) for taxable sales that occurred during the period of July 1, 2011, to June 30, 2016, inclusive, the total amount of revenues credited to the Local Revenue Fund 2011 for this period shall be considered to have fulfilled the requirements of subdivisions (a) and (b), and no allocation adjustment for this period shall be made.

6201.2.
(a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on or after July 15, 1991, for storage, use, or other consumption in this state at the rate of $^1/_2$ percent of the sales price of the property.
(b) All revenues received pursuant to this section shall be deposited in the State Treasury to the credit of the Local Revenue Fund, as established pursuant to Section 17600 of the Welfare and Institutions Code.
(c) This section shall cease to be operative on the first day of the first month of the calendar quarter following notification to the board by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal that the revenues collected pursuant to this section and Section 6051.2 and deposited in the Local Revenue Fund are either of the following:
(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.
(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.
(d) Notwithstanding subdivisions (a) and (b), if the Director of Finance determines that the State Board of Equalization has allocated more revenue to the Local Revenue Fund than required by subdivisions (a) and (b) for taxable sales that occurred during the period of July 1, 2011, to June 30, 2016, inclusive, the total amount of revenues credited to the Local Revenue Fund for this period shall be considered to have fulfilled the requirements of subdivisions (a) and (b), and no allocation adjustment for this period shall be made.

6201.3.
In addition to the taxes imposed by Sections 6201, 6201.2, 6201.5, and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after July 15, 1991, and purchased during any period in which this section is operative pursuant to Section 6201.4 at the rate of $^1/_4$ percent of the sales price of the property.

6201.4.
(a) Section 6201.3 shall be operative with respect to the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after July 15, 1991, but shall cease to be operative during any period described in subdivision (c) or (d).

(b) On or before November 1, 1993, and on or before every November 1 thereafter, the Director of Finance shall determine and certify to the Governor, the Legislature, and the board both of the following:

(1) Whether the amount in the Special Fund for Economic Uncertainties, as established pursuant to Section 16418 of the Government Code, as of June 30 of the prior fiscal year exceeded 4 percent of General Fund revenues for that prior fiscal year.

(2) Whether the estimated amount in the Special Fund for Economic Uncertainties as of June 30 of the current fiscal year (without inclusion of any revenue derived pursuant to Section 6201.3 on and after January 1 of the current fiscal year) exceeds 4 percent of General Fund revenues for the current fiscal year.

(c) Section 6201.3 shall cease to be operative on and after January 1, 1994, if on or before November 1, 1993, the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(d) Section 6201.3 shall cease to be operative on and after January 1 following any November 1 in which Section 6201.3 is operative and the Director of Finance certifies pursuant to subdivision (b) that both amounts certified pursuant to paragraphs (1) and (2) of that subdivision exceed 4 percent of General Fund revenues for the respective fiscal year for which each amount is determined and certified.

(e) Section 6201.3 shall become operative on and after January 1 following any November 1 in which Section 6201.3 is inoperative and the Director of Finance certifies pursuant to paragraph (2) of subdivision (b) that the estimated amount does not exceed 4 percent of the General Fund revenues as of June 30 of the current fiscal year.

6201.45.

Notwithstanding 6201.4 or any other provision of law, the state use tax rate in Section 6201.3 shall not be operative in any calendar year beginning on or after January 1, 2002, if the Director of Finance determines both of the following:

(a) The General Fund reserve is 3 percent of revenues excluding the revenues derived from the $^1/_4$ cent sales and use tax rate.

(b) Actual General Fund revenues for the period May 1 through September 30 equal or exceed the May Revision forecast, prior to the November 1 determination.

The Director of Finance shall make the determination on or before November 1 of each year.

The $^1/_4$ cent reduction shall be operative for each calendar year commencing on the next January 1 after the determination is made.

6201.5.

(a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-quarter of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as established pursuant to Section 99008 of the Government Code.

(c) Revenues received pursuant to this section accruing to the Fiscal Recovery Fund shall not be considered to be "State General Fund proceeds of taxes appropriated pursuant to Article XIII B" within the meaning of either Section 8 of Article XVI of the California Constitution or Section 41202 of the Education Code.

(d) This section shall become operative on July 1, 2004, and shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code.

6201.6.

There are exempted from the taxes imposed by Section 6201.5 the storage, use, or other consumption in this state of tangible personal property, other than fuel or petroleum products, by 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 the aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

6201.7.

(a) In addition to the taxes imposed by Section 6201 and any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state, at the rate of 1 percent of the sales price of the property, on and after April 1, 2009.

(b) This section shall cease to be operative on July 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this section shall cease to be operative on July 1, 2012.

6201.8.

(a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 1.75 percent of the sales price of the diesel fuel.

(b) Except as provided by Section 6357.3, in addition to the taxes imposed by this part and by subdivision (a), commencing November 1, 2017, an excise tax is hereby imposed on the storage, use, or other consumption in this state of diesel fuel, as defined in Section 60022, at the rate of 4 percent of the sales price of the diesel fuel.

(c) (1) Notwithstanding subdivision (b) of Section 7102, except as otherwise provided in paragraph (2), all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.

(2) The revenues, less refunds, attributable to a rate of 0.5 percent of the 4-percent increase in the rate pursuant to subdivision (b), amounting to one-eighth of revenues from the increase in the rate under that subdivision, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation by the Transportation Agency to intercity rail and commuter rail purposes pursuant to Section 99312.3 of the Public Utilities Code.

6202.

(a) Every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the tax. His or her liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the board, under the rules and regulations as it may prescribe, to collect the tax and who is, for the purposes of this part relating to the use tax, regarded as a retailer engaged in business in this state, given to the purchaser pursuant to Section 6203, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Notwithstanding any other provision, when a person purchases a vessel or aircraft from another person through a broker, the purchaser's liability for use tax is relieved if the purchaser has paid an amount as sales or use tax to the broker, and the purchaser obtains and retains a receipt from the broker showing the payment of that tax to the broker.

(c) Notwithstanding any other provision, when a person purchases a vessel or aircraft from another person through a broker, if the broker collects from the purchaser an amount as sales or use tax, the broker shall be liable for that amount under Section 6204 as if the broker were a retailer engaged in business in this state required to collect that amount as use tax from the purchaser, and that amount constitutes a debt owed by the broker to this state.

6202.5.

Any retailer, other than a nonprofit zoological society as defined in subdivision (c) of Section 6010.50, that stores, uses, or otherwise consumes in this state endangered or threatened animal or plant species, as defined in subdivision (b) of Section 6010.50, acquired through a trade or exchange with a nonprofit zoological society, shall be liable for the use tax.

6202.7.

Any retailer who loans any motor vehicle to any employee of the University of California or the California State University shall be liable for the use tax on the loan of that vehicle equal to the amount of tax that would have applied if the vehicle had been leased at fair rental value for a time period equal to the period the vehicle is loaned to the university or state university employee, provided that all of the following conditions are met:

(a) The vehicle is for the employee's exclusive use.

(b) The loan of the vehicle has been approved by the chancellor of the university or the president of the state university.

(c) It is demonstrated that the loan of the vehicle is not dependent upon the retailer receiving any automotive-related business from the university or the state university.

6203.

(a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage,

use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) "Retailer engaged in business in this state" as used in this section and Section 6202 means any retailer that has substantial nexus with this state for purposes of the commerce clause of the United States Constitution and any retailer upon whom federal law permits this state to impose a use tax collection duty. "Retailer engaged in business in this state" specifically includes, but is not limited to, any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) (A) Any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property for delivery in this state by the retailer and all persons related to the retailer that exceed five hundred thousand dollars ($500,000).

(B) For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of the Internal Revenue Code and the regulations thereunder.

(d) Except as provided in this subdivision, a retailer is not a "retailer engaged in business in this state" under paragraph (2) of subdivision (c) if that retailer's sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of the retailer's representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than 15 days, in whole or in part, in this state during any 12-month period and did not derive more than one hundred thousand dollars ($100,000) of net income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a "retailer engaged in business in this state," and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(e) Any limitations created by this section upon the definition of "retailer engaged in business in this state" shall only apply for purposes of tax liability under this code. Nothing in this section is intended to affect or limit, in any way, civil liability or jurisdiction under Section 410.10 of the Code of Civil Procedure.

(f) (1) The amendments made to this section by Chapter 5 of the Statutes of 2019 shall become operative on April 1, 2019.

(2) If the amendments made to this section by Chapter 5 of the Statutes of 2019 are held in a final decision of a court of competent jurisdiction to violate the substantial nexus standard of the commerce clause of the United States Constitution, this section shall become inoperative and shall be repealed on the date of that final decision.

6203.

(a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) "Retailer engaged in business in this state" as used in this section and Section 6202 means any retailer that has substantial nexus with this state for purposes of the commerce clause of the United States Constitution and any retailer upon whom federal law permits this state to impose a use tax collection duty. "Retailer engaged in business in this state" specifically includes, but is not limited to, any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) Any retailer that is a member of a commonly controlled group, as defined in Section 25105, and is a member of a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, that includes another member of the retailer's commonly controlled group that, pursuant to an agreement with or in cooperation with the retailer, performs services in this state in connection with tangible personal property to be sold by the retailer, including, but not limited to, design and development of tangible personal property sold by the retailer, or the solicitation of sales of tangible personal property on behalf of the retailer.

(5) (A) Any retailer entering into an agreement or agreements under which a person or persons in this state, for a commission or other consideration, directly or indirectly refer potential purchasers of tangible personal property to the retailer, whether by an internet-based link or an internet website, or otherwise, provided that both of the following conditions are met:

(i) The total cumulative sales price from all of the retailer's sales, within the preceding 12 months, of tangible personal property to purchasers in this state that are referred pursuant to all of those agreements with a person or persons in this state, is in excess of ten thousand dollars ($10,000).

(ii) The retailer, within the preceding 12 months, has total cumulative sales of tangible personal property to purchasers in this state in excess of one million dollars ($1,000,000).

(B) An agreement under which a retailer purchases advertisements from a person or persons in this state, to be delivered on television, radio, in print, on the internet, or by any other medium, is not an agreement described in subparagraph (A), unless the advertisement revenue paid to the person or persons in this state consists of commissions or other consideration that is based upon sales of tangible personal property.

(C) Notwithstanding subparagraph (B), an agreement under which a retailer engages a person in this state to place an advertisement on an internet website operated by that person, or operated by another person in this state, is not an agreement described in subparagraph (A), unless the person entering the agreement with the retailer also directly or indirectly solicits potential customers in this state through use of flyers, newsletters, telephone calls, electronic mail, blogs, microblogs, social networking sites, or other means of direct or indirect solicitation specifically targeted at potential customers in this state.

(D) For purposes of this paragraph, "retailer" includes an entity affiliated with a retailer within the meaning of Section 1504 of the Internal Revenue Code.

(E) This paragraph shall not apply if the retailer can demonstrate that the person in this state with whom the retailer has an agreement did not engage in referrals in the state on behalf of the retailer that would satisfy the requirements of the commerce clause of the United States Constitution.

(d) Except as provided in this subdivision, a retailer is not a "retailer engaged in business in this state" under paragraph (2) of subdivision (c) if that retailer's sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of the retailer's representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than 15 days, in whole or in part, in this state during any 12-month period and did not derive more than one hundred thousand dollars ($100,000) of net income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a "retailer engaged in business in this state," and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(e) Any limitations created by this section upon the definition of "retailer engaged in business in this state" shall only apply for purposes of tax liability under this

code. Nothing in this section is intended to affect or limit, in any way, civil liability or jurisdiction under Section 410.10 of the Code of Civil Procedure.
(f) If the amendments to Section 6203, as added by Section 3 of Chapter 313 of the Statutes of 2011, made by the act adding this section are held in a final decision of a court of competent jurisdiction to violate the substantial nexus standard of the commerce clause of the United States Constitution, this section shall become operative on the date of that final decision.

6203.1.
(a) The department, in its discretion, may relieve a retailer engaged in business in this state that meets the requirements of subdivision (b) of the following:
(1) The penalties provided by Sections 6484, 6511, and 6591.
(2) All or any part of the interest imposed on the person by this part.
(b) This section shall apply to any retailer engaged in business in this state that meets all of the following conditions:
(1) The retailer registered under Article 2 (commencing with Section 6225) on or after April 1, 2019, as a retailer engaged in business pursuant to paragraph (4) of subdivision (c) of Section 6203.
(2) The total combined sales from the retailer and all persons related to the retailer, within the preceding 12 months, of tangible personal property in this state or for delivery in this state does not exceed one million dollars ($1,000,000).
(3) The retailer was not previously registered, or required to be registered, with the department under Chapter 2 (commencing with Section 6051) or Chapter 3 (commencing with Section 6201).
(4) The retailer's failure to collect and remit use tax was due to a good faith error and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect.
(5) The retailer is not a marketplace facilitator as defined in Section 6041.
(6) Any other factors as deemed necessary by the department.
(c) For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of the Internal Revenue Code and the regulations thereunder.
(d) The department may grant relief only for interest or penalties imposed on use tax liabilities due and payable for tax reporting periods beginning April 1, 2019, and ending December 31, 2022.

6203.5.
(a) (1) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the amount of the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the amount of the tax shall be paid with the return.
(2) (A) Before January 1, 2025, for purposes of this subdivision, the term "retailer" shall include any entity affiliated with the retailer under Section 1504 of Title 26 of the United States Code.
(B) An entity that is a retailer under this paragraph shall not be entitled to a deduction under paragraph (1) on or after January 1, 2025.
(b) (1) In the case of accounts held by a lender, a retailer or lender that makes a proper election under paragraph (4) shall be entitled to a deduction or refund of the tax that the retailer has previously reported and paid if all of the following conditions are met:
(A) A deduction was not previously claimed or allowed on any portion of the accounts.
(B) The accounts have been found worthless and written off by the lender in accordance with the requirements of subdivision (a) before January 1, 2025.
(C) The contract between the retailer and the lender contains an irrevocable relinquishment of all rights to the account from the retailer to the lender.
(D) The retailer remitted the tax on or after January 1, 2000.
(E) The party electing to claim the deduction or refund under paragraph (4) files a claim in a manner prescribed by the department.
(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:
(A) If the retailer is entitled to the deduction or refund under the election specified in paragraph (4), the retailer shall include the amount collected in its first return filed after the collection and pay tax on that amount with the return.
(B) If the lender is entitled to the deduction or refund under the election specified in paragraph (4), the lender shall pay the tax to the department in accordance with Section 6451.
(3) For purposes of this subdivision, the term "lender" means any of the following:
(A) Any person that holds a retail account which that person purchased directly from a retailer who reported the tax.
(B) Any person that holds a retail account pursuant to that person's contract directly with the retailer that reported the tax.
(C) Any person that is either an affiliated entity, under Section 1504 of Title 26 of the United States Code, of a person described in subparagraph (A) or (B), or an assignee of a person described in subparagraph (A) or (B).
(4) For purposes of this section, a "proper election" shall be established when the retailer that reported the tax and the lender prepare and retain an election form, signed by both parties, designating which party is entitled to claim the deduction or refund. This election may not be amended or revoked unless a new election, signed by both parties, is prepared and retained by the retailer and the lender.
(c) This section shall remain operative until January 1, 2028, and as of that date is repealed.

6203.5.
(a) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. A retailer that has previously paid the amount of the tax may, under rules and regulations prescribed by the department, take as a deduction the amount found worthless and charged off by the retailer. If these accounts are thereafter in whole or in part collected by the retailer, the amount collected shall be included in the first return filed after the collection and the amount of the tax shall be paid with the return.
(b) This section shall become operative on January 1, 2028.

6204.
The tax required to be collected by the retailer and any amount unreturned to the customer which is not tax but was collected from the customer under the representation by the retailer that it was tax constitutes debts owed by the retailer to this state.

6205.
It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

6206.
The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales.

6207.
Any person violating Sections 6203, 6205, or 6206 is guilty of a misdemeanor.

6225.
(a) In order to facilitate the collection of use tax imposed by this part, a qualified purchaser shall register with the department on a form prescribed by the department 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 department may require.
(b) Article 1 (commencing with Section 6451) of Chapter 5 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 department 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 makes more than ten thousand dollars ($10,000) in purchases subject to use tax per calendar year and that tax has not otherwise been paid on those purchases to a retailer engaged in business in this state or to a retailer

who is authorized by the department, under the rules and regulations as it may prescribe, to collect the tax.

(5) The person is not otherwise registered with the department 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.

(e) This section shall remain in effect only until January 1, 2029, and as of that date 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 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.

(e) This section shall become operative on January 1, 2029.

6226.

Every retailer selling tangible personal property for storage, use, or other consumption in this State shall register with the board and give the name and address of all agents operating in this State, the location of all distribution or sales houses or offices or other places of business in this State, and such other information as the board may require.

6241.

For the purpose of the proper administration of this part and to prevent evasion of the use tax and the duty to collect the use tax, it shall be presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use, or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale.

6242.

The certificate relieves the person selling the property from the duty of collecting the use tax only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for by Article 2 (commencing with Section 6066) of Chapter 2 of this part.

6243.

The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser, and shall indicate the general character of the tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the board may prescribe.

6243.1.

Notwithstanding any other provision of law, any person, other than a person exempt from payment of use tax in accordance with Section 6352, who leases mobile transportation equipment and who cannot otherwise properly issue a resale certificate may issue such a certificate for the limited purpose of reporting his use tax liability based on fair rental value as provided in subdivision (d) of Section 6094 and subdivision (d) of Section 6244.

With respect to matters arising out of mergers or acquisitions, the provisions of this section shall apply to any matters pending before the board on the effective date of this section.

6244.

(a) If a purchaser who gives a resale certificate or purchases property for the purpose of reselling it makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.

(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.

(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be revoked with respect to the equipment as to which it is made.

(e) As used in subdivision (d), the term "fair rental value" means the rentals required by the purchaser under the lease except where the board determines that such rentals are nominal. The term shall not include any reimbursement payments made by the lessee to the purchaser for such use tax.

6245.

If a purchaser gives a certificate with respect to the purchase of fungible goods, or purchases those goods for resale in the regular course of business, and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass can not be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold. Goods removed from the commingled mass for consumption shall be deemed to be consumption of goods not so purchased until a quantity of commingled goods equal to the quantity of goods not so purchased has been consumed.

6245.5.

(a) A person qualified under subdivision (b) may issue a certificate to a retailer with respect to the amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for purposes of subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 when purchasing fuel from the retailer.

(b) A person is qualified for purposes of this section if all of the following conditions are met:

(1) The person was entitled to either a direct refund or credit against his or her income tax for the manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for more than 50 percent of the person's purchases of fuel during the prior calendar year.

(2) The person's business remains substantially the same as during the prior calendar year whereby the person expects to be entitled to either a direct refund or credit against his or her income tax for the manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for more than 50 percent of the person's purchases of fuel.

(3) The person holds a valid California seller's permit.

(c) A person issuing a certificate for purposes of subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 is liable for use tax on the amount of the manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code if the person used fuel purchased under the certificate in a manner whereby the person is not entitled to a direct refund or credit against his or her income tax of the federal excise tax.

(d) A person liable for the use tax under subdivision (c) of this section shall report and pay that use tax with the return for the reporting period in which the person uses the fuel in such a manner that the person is not entitled to a direct refund or credit against his or her income tax of the federal excise tax.

6246.

It shall be further presumed that tangible personal property shipped or brought to this State by the purchaser was purchased from a retailer on or after July 1, 1935, for storage, use, or other consumption in this State.

6247.
On and after the effective date of this section, it shall be further presumed that tangible personal property delivered outside this State to a purchaser known by the retailer to be a resident of this State was purchased from a retailer for storage, use or other consumption in this State and stored, used or otherwise consumed in this State.
This presumption may be controverted by a statement in writing, signed by the purchaser or his authorized representative, and retained by the vendor, that the property was purchased for use at a designated point or points outside this State. This presumption may also be controverted by other evidence satisfactory to the board that the property was not purchased for storage, use, or other consumption in this State.

6248.
(a) There shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state on or after the effective date of this section, and which is brought into California within 12 months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occurs:
(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code. For purposes of this section, a closely held corporation or limited liability company shall also be considered a California resident if 50 percent or more of the shares or membership interests are held by shareholders or members who are residents of California as defined in Section 516 of the Vehicle Code.
(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.
(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.
(4) If purchased by a nonresident of California, the vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.
(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.
(c) This section shall not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.
(d) The amendments made to this section by the act adding this subdivision shall not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.
(e) Notwithstanding subdivision (a), any aircraft or vessel brought into this state exclusively for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state if the repair, retrofit, or modification is, in the case of a vessel, performed by a repair facility that holds an appropriate permit issued by the board and is licensed to do business by the city, county, or city and county in which it is located if the city, county, or city and county so requires, or, in the case of an aircraft, performed by a repair station certified by the Federal Aviation Administration or a manufacturer's maintenance facility.
(f) The presumption set forth in subdivision (a) may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility.

6249.
A member of the armed services on active duty who purchases a vehicle prior to the effective date of his discharge shall not be subject to the presumption established by Section 6248. He shall not be deemed to have purchased the vehicle for storage, use or other consumption in this State unless at the time of purchase he intended to use it in this State, such intent resulting from his own determination, rather than from official orders received as a member of the armed services transferring him to this State.

6263.
No person, other than the manufacturer who has received authorization to sell the motor vehicle in California or a person authorized by the manufacturer, shall install a vehicle emission control label on any motor vehicle. No person shall remove, alter, deface, obscure, or destroy a vehicle emission control label or any label required to be affixed to any motor vehicle certified pursuant to the National Emissions Standards Act (42 U.S.C. Sec. 7521 et seq., and Subpart A (commencing with Sec. 86.078-3) of Part 86 of Title 40 of the Code of Federal Regulations). Any person who violates any provision of this section is guilty of a misdemeanor and is subject to a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for not more than one year, or both that fine and imprisonment.

6271.
Except where the context otherwise requires, the definitions given in this chapter govern the construction of this chapter.

6272.
"Vehicle" is as defined in Section 670 of the Vehicle Code and shall include off-highway motor vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code.

6273.
"Vessel" means any boat, ship, barge, craft, or floating thing designed for navigation in the water except:
(a) A seaplane,
(b) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to or guided on such permanently fixed course by means of a mechanical device on a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled, or by means of a mechanical device attached to the watercraft itself,
(c) A watercraft of a type designed to be propelled solely by oars or paddles,
(d) A watercraft of eight feet or less in length of a type designed to be propelled by sail.
A motor or other component of a vessel, whether or not detachable, shall be deemed to be part of the vessel when sold therewith.

6274.
"Aircraft" means any contrivance designed for powered navigation in the air except a rocket or missile.

6275.
(a) Every person making any retail sale of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft as defined in this article, is a retailer for the purposes of this part of the vehicle, vessel, or aircraft, regardless of whether he or she is a retailer by reason of other provisions of this part, unless another person is the retailer, as provided in subdivision (b).
(b) Every person, licensed or certificated under the Health and Safety Code or the Vehicle Code as a dealer, is the retailer of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or of a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, when a retail sale of the vehicle is made through him or her and that person provides to the Department of Housing and Community Development or the Department of Motor Vehicles a notice of transfer with respect to the vehicle pursuant to Section 18080.5 of the Health and Safety Code or Section 5901 or Section 38200 of the Vehicle Code. That person shall hold a seller's permit and remit tax to the board with respect to those sales in the same manner as a dealer licensed or certificated under the Vehicle Code and making sales on his or her own account. For purposes of this subdivision, "sale" does not include a lease.

6276.1.
(a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Section 18014 of the Health and Safety Code shall be based on the current value of the used mobilehome as specified by a recognized value guide. If the value guide does not specify the model or manufacturer of a used mobilehome the value of the used mobilehome shall be established by reference to the highest value in the value guide according to age and size or the actual sales price, whichever is less. If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the "sales price" shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents. The State Board

of Equalization shall approve the value guides for use within this state through regulation.
(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of the mobilehome.
(c) For the purposes of this section, the "actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, its in place location value, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

6277.
There shall be a presumption that a transfer of a vehicle to a lessee by a lessor, as defined in Section 372 of the Vehicle Code, was a sale for resale if the lessee transfers title and registration to a third party within 10 days from the date the lessee acquired title from the lessor at the expiration or termination of a lease. The presumption may be rebutted by evidence that the sale was not for resale prior to use.
It is the intent of the Legislature in enacting this section to recognize the delay in processing documents when a lessee wishes to transfer title of a leased vehicle to a third party at the expiration or termination of a lease rather than acquiring a vehicle for his or her own use.
This section does not provide an exemption for any use by a lessee after the expiration or termination of a lease.

6281.
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, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, or a vehicle required to be registered under the Vehicle Code or subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vessel or aircraft, when such property is included in any transfer of all or substantially all the property held or used in the course of business activities of the person selling the property and when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of that corporation or other entity.

6282.
There are exempted from the computation of the amount of the sales tax the gross receipts from sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code or vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code.
This exemption does not extend to the rentals payable under a lease of tangible personal property.

6283.
(a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale in this state of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or of a vessel or of an aircraft when the retailer is other than a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, vessels, or of aircraft, as the case may be.
(b) The exemption provided in subdivision (a) shall not apply to either of the following:
(1) Any sale of a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code when the retailer is a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, or dismantler.
(2) Any sale of a vessel or an aircraft when a broker arranges the sale between two private parties and the broker collects sales tax reimbursement on the transaction.

6284.
If a person is engaged in the business of selling vehicles, mobilehomes, commercial coaches, vessels or aircraft he or she shall not be excused from the requirements of Article 2 (commencing with Section 6066) of Chapter 2 of this part, by reason of the exemptions provided in Sections 6282 and 6283.

6285.
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 a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft, when either of the following occurs:
(a) The person selling the property is either the parent, grandparent, child, grandchild, or spouse, or the brother or sister if the sale between that brother or sister is between two minors related by blood or adoption, of the purchaser, and the person selling is not engaged in the business of selling the type of property for which the exemption is claimed.
(b) The sale is to a revocable trust in which all of the following occur:
(1) The seller has an unrestricted power to revoke the trust.
(2) The sale does not result in any change in the beneficial ownership of the property.
(3) The trust provides that upon revocation the property will revert wholly to the seller.
(4) The only consideration for the sale is the assumption by the trust of an existing loan for which the tangible personal property being transferred is the sole collateral for the assumed loan.

6291.
Notwithstanding Section 6451, the use taxes imposed by this part with respect to the storage, use or other consumption in this state of a mobilehome or commercial coach required to be registered annually under the Health and Safety Code, or of a vehicle required to be registered under the Vehicle Code, or of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, or of a vessel or an aircraft as defined in this chapter are due and payable by the purchaser at the time the storage, use, or other consumption of the property first becomes taxable. Delinquency penalties and interest with respect to use tax for mobilehomes or commercial coaches registered annually with the Department of Housing and Community Development or for vehicles registered with the Department of Motor Vehicles shall be as provided in Section 6292. Delinquency penalties and interest with respect to use tax for vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code shall be as provided in Section 6293. Delinquency penalties and interest with respect to use tax for vessels and aircraft shall be imposed as if the due date of the tax were fixed by Section 6451.

6292.
(a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18123 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.
(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.
(c) Application to the appropriate department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.
(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

6293.
(a) Except when the sale is by lease, when a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code, is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to

Section 11615.5 of the Vehicle Code, or a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 38211 of the Vehicle Code.

(b) If the purchaser makes an application to that department which is not timely, and is subject to penalty because of delinquency in effecting identification or transfer of ownership of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591 of this code, but no interest shall accrue.

(c) Application to that department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to that department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

6294.

(a) When an undocumented vessel required to be registered under the Vehicle Code is sold at retail by other than a person holding a seller's permit and regularly engaged in the business of selling vessels, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vessel must pay the use tax to the Department of Motor Vehicles acting for, and on behalf of, the board pursuant to Section 9928 of the Vehicle Code.

(b) If the purchaser makes an application to the department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the undocumented vessel, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the department by the purchaser shall relieve the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

6295.

(a) (1) Except as provided in subdivision (h), when a motor vehicle required to be registered under the Vehicle Code, except for a recreational vehicle that is either truck-mounted, permanently towable on the highways without a permit or a park trailer, as these terms are used in Section 18010 of the Health and Safety Code, is sold at retail by a dealer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code, the dealer shall pay the applicable sales tax and any applicable use tax due under the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) to the Department of Motor Vehicles acting for and on behalf of the California Department of Tax and Fee Administration pursuant to Sections 4456 and 4750.6 of the Vehicle Code.

(2) The amendments to this subdivision made by Section 11 of Chapter 256 of the Statutes of 2021 do not constitute a change in, but are declaratory of, existing law.

(b) If the dealer makes an application to the Department of Motor Vehicles that is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, the dealer shall also be liable for penalty as specified in Section 6591, but no interest shall accrue.

(c) (1) Application to the Department of Motor Vehicles by the dealer shall be deemed a return filed with the California Department of Tax and Fee Administration pursuant to Article 1 (commencing with Section 6451) of Chapter 5 with respect to amounts reported to the Department of Motor Vehicles pursuant to subdivision (a).

(A) An application submitted to the Department of Motor Vehicles that is deemed a filed return pursuant to this subdivision shall be treated as filed on the date the application is submitted.

(B) An application submitted to the Department of Motor Vehicles that is deemed a filed return pursuant to this subdivision shall be subject to the requirements of this part.

(2) The amendments made to this subdivision by the act adding this paragraph shall apply to sales reported to the Department of Motor Vehicles for reporting periods beginning on and after January 1, 2021.

(d) (1) If the dealer fails to make an application to the Department of Motor Vehicles, fails to pay the amount of sales or use tax due, or fails to timely file a return with the California Department of Tax and Fee Administration under Section 6452, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

(2) The amendments to this section made by the act adding this subdivision do not constitute a change in, but are declaratory of, existing law.

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

(1) "Dealer" shall not include a franchisee as defined in Section 331.1 of the Vehicle Code, a franchisee of a recreational vehicle franchise as defined in Section 331.3, a manufacturer or remanufacturer holding a license issued pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code, an automobile dismantler holding a license and certificate issued pursuant to Chapter 3 (commencing with Section 11500) of Division 5 of the Vehicle Code, or a lessor-retailer holding a license issued pursuant to Chapter 3.5 (commencing with Section 11600) of Division 5 of the Vehicle Code, and subject to the provisions of Section 11615.5 of the Vehicle Code.

(2) "Newly licensed dealer" means a dealer who was originally licensed by the Department of Motor Vehicles on or after January 1, 2019.

(f) The Department of Motor Vehicles shall, through the adoption of regulations, establish any additional requirements for the implementation of this section.

(g) (1) Subject to paragraph (2), this section shall apply to sales of vehicles occurring on and after January 1, 2021.

(2) Based upon operational needs to effectively enforce the collection of taxes pursuant to this section, the Department of Motor Vehicles may establish the following compliance schedule for this section:

(A) Newly licensed dealers, dealers whose seller's permit was reinstated within the last two years, and dealers with a previous finding of underreporting within the last two years shall comply beginning January 1, 2021.

(B) Except as provided in paragraph (3), all other dealers shall comply by January 1, 2023.

(3) Based upon operational needs to effectively enforce the collection of taxes pursuant to this section, the California Department of Tax and Fee Administration, in consultation with the Department of Motor Vehicles, may delay the compliance schedule set forth in subparagraph (B) of paragraph (2) to no later than January 1, 2026, for dealers that made more than 300 retail vehicle sales in the previous calendar year and are not subject to the compliance schedule set forth in subparagraph (A) of paragraph (2).

(h) (1) The California Department of Tax and Fee Administration, in consultation with the Department of Motor Vehicles, may exempt from the requirements of subdivision (a) any dealer, including any dealer that has paid the applicable sales tax and any applicable use tax due to the Department of Motor Vehicles pursuant to subdivision (a) prior to the operative date of the act adding this subdivision, if the dealer sold 1,000 or more vehicles at retail in the current or preceding calendar year and the dealer's account is in good standing with the California Department of Tax and Fee Administration.

(2) The California Department of Tax and Fee Administration may revoke the exemption provided by this subdivision after 30 days following the date the department provides notice to the dealer that either of the following has occurred:

(A) The dealer is no longer in good standing.

(B) The dealer's retail vehicle sales drop below 1,000 vehicles in any calendar year beginning on or after the operative date of the act adding this subdivision.

(3) For purposes of this subdivision, "good standing" means that the dealer has timely filed and remitted applicable payments, including applicable prepayments, for all required sales and use tax returns for the 12 quarterly reporting periods immediately preceding the issuance of the exemption.

6351.

"Exempted from the taxes imposed by this part," as used in this article, means, in case of the sales tax, exempted from the computation of the amount of tax imposed.

6352.

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 tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

6353.

There are exempted from the taxes imposed by this part the gross receipts derived from the sales, furnishing, or service of and the storage, use, or other consumption in this state of, all of the following:

(a) Gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers through mains, lines, or pipes.

(b) (1) Liquefied petroleum gas, delivered to a qualified residence by the seller, that is sold for household use in the qualified residence, or liquefied petroleum gas that is purchased for use by a qualified person to be used in producing and harvesting agricultural products; provided, in either case, the liquefied petroleum gas is delivered into a tank with a storage capacity for liquefied petroleum gas that is equal to or greater than 30 gallons. This subdivision may not be construed to

provide any exemption from any tax levied by a city, county, or city and county pursuant to Section 7284.3, or any successor to that section.

(2) For purposes of this subdivision:

(A) "Qualified residence" means a primary residence, not serviced by gas mains and pipes.

(B) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that assists that person in the lines of business described in this paragraph in producing and harvesting agricultural products.

(c) Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines, or pipes.

(d) Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.

(e) The exemptions provided by subdivision (b) shall be effective starting September 1, 2001.

6354.

There are exempted from the taxes imposed by this part, the gross receipts from the sales of commemorative "California Gold" medallions produced and sold in accordance with Chapter 25 (commencing with Section 7551) of Division 7 of Title 1 of the Government Code, and the storage, use, or other consumption in this state of commemorative "California Gold" medallions so produced and sold.

6355.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins that are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange and the storage, use, or other consumption in this state of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins so sold.

(b) (1) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins sold in the transaction totals, in market value, the sum of one thousand dollars ($1,000) or more, or its equivalent.

(2) The department shall adjust the one-thousand-dollar ($1,000) amount specified in paragraph (1) as follows:

(A) On or before September 1, 1994, and on or before each October 1 of each year thereafter, the department shall multiply the amount applicable for the current calendar year by the inflation factor adjustment determined by the Franchise Tax Board pursuant to subdivision (h) of Section 17041, the resulting amount to be the applicable amount for the succeeding calendar year. The applicable amount shall be operative as an adjustment of the amount specified in paragraph (1) only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (C).

(B) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (C), the resulting applicable amount, rounded to the nearest multiple of five hundred dollars ($500), shall be operative for purposes of paragraph (1) beginning January 1 of the succeeding calendar year.

(C) For purposes of this paragraph, "operative threshold" means an amount that exceeds by at least five hundred dollars ($500), the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraphs (A) and (B) as the operative adjustment to the amount specified in paragraph (1).

(3) Notwithstanding paragraph (2), the following shall apply:

(A) The January 1, 2023, increase in the operative threshold pursuant to paragraph (2) shall be operative July 1, 2023.

(B) Beginning on or after January 1, 2024, increases in the operative threshold pursuant to paragraph (2) shall be operative the first day of the second calendar quarter beginning after the effective date of amendments incorporating the increase in the operative threshold into the department's regulations.

(c) "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. "Monetized bullion," for purposes of this section, also means gold medallions struck under authority of the American Arts Gold Medallion Act (Title IV of Public Law 95-630).

(d) A sale of monetized bullion, nonmonetized gold or silver bullion, or numismatic coins, for purposes of this section, shall be deemed to be substantially equivalent to a transaction in securities or commodities through a national securities or commodities exchange, if the sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.

6356.

There are exempted from the sales tax the gross receipts from sales of vessels of more than 1,000 tons burden by the builders thereof.

6356.5.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, farm equipment and machinery, and the parts thereof, purchased for use by a qualified person to be used primarily in producing and harvesting agricultural products.

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

(1) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that uses farm equipment and machinery to assist this person in the lines of business described in this paragraph in producing and harvesting agricultural products.

(2) "Farm equipment and machinery" means implements of husbandry, as defined in Section 411.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(d) The exemption provided by this section shall be effective starting September 1, 2001.

6356.6.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person to be used primarily in harvesting timber.

(b) The State Board of Equalization may adopt emergency regulations to specify equipment and machinery exempted by this section, and may revise those regulations from time to time.

(c) For purposes of this section, "qualified person" means any person engaged in commercial timber harvesting.

(d) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Section 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(e) The exemption provided by this section shall be effective starting September 1, 2001.

6357.

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 motor vehicle fuel used in propelling aircraft, except aircraft jet fuel, the distributions of which in this state are subject to the tax imposed by Part 2 (commencing with Section 7301) of this division and not subject to refund.

6357.1.

(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, diesel fuel used in farming activities and food processing. This section shall be implemented as soon as possible, but in no case later than September 1, 2001.

(b) For purposes of this section, "farming activities" has the same meaning as "farming business" as set forth in Section 263A of the Internal Revenue Code. "Farming activities" also includes the transportation and delivery of farm products to the marketplace.

(c) The exemption established by this section does not apply with respect to either of the following:

(1) A tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(2) A tax imposed under Section 6051.2 or 6201.2, or under Section 35 of Article XIII of the California Constitution.

6357.3.

(a) On and after July 1, 2011, there are exempted from the taxes imposed by Sections 6051.8 and 6201.8, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of both of the following:

(1) Diesel fuel purchased for use or used in a manner that is exempt from the tax imposed pursuant to Part 31 (commencing with Section 60001) of Division 2 and not subject to the backup tax imposed by Section 60058 or the payment requirement specified in Section 60108.

(2) Diesel fuel subject to the payment requirement specified in Section 60502.2.

(b) No exemption from the tax imposed pursuant to Sections 6051.8 and 6201.8 shall be allowed under this section unless the purchaser furnishes the seller with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe.

(c) If a purchaser certifies in writing to the seller that the diesel fuel purchased without payment of the tax imposed pursuant to Section 6051.8 or 6201.8 will be used in a manner entitling the seller to regard the gross receipts or sales price from the sale as exempt from that tax, and uses the diesel fuel in a manner that subjects the diesel fuel to the tax imposed pursuant to Section 60050, the purchaser shall be liable for payment of the sales tax imposed pursuant to Section 6051.8, with applicable interest, as if the purchaser were a retailer making a retail sale of the diesel fuel at the time the fuel is so used, and the sales price of the diesel fuel to the purchaser shall be deemed the gross receipts from that retail sale.

6357.5.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, fuel and petroleum products sold to an air common carrier for immediate consumption or shipment in the conduct of its business as an air common carrier, on an international flight.

(b) To qualify for the exemption, the air common carrier shall furnish to the seller an exemption certificate in writing stating the quantity of fuel and petroleum products claimed as exempt. That certificate shall bear the purchaser's valid seller's permit number or valid fuel exemption registration number and shall be substantially in the form prescribed by the board. Acceptance in good faith of that certificate shall relieve the seller from liability for the sales tax.

(c) "Immediate consumption or shipment," as used in this section, means that the delivery of the fuel and petroleum products by the seller is directly into an aircraft for consumption or transportation on an international flight and not for storage by the purchaser or any third party.

(d) "International flight," as used in this section, is a flight whose final destination is a point outside of the United States.

(e) Any air common carrier claiming exemption under this section who is not required to hold a valid seller's permit, shall be required to register with the board and obtain a fuel exemption registration number, and shall be required to file returns as the board may prescribe, either if the board notifies the carrier that returns must be filed or if the carrier is liable for taxes based upon consumption or transportation of fuel or petroleum products erroneously claimed as exempt under this section. A common carrier required to hold a fuel exemption registration number shall be subject to all applicable provisions of this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251).

(f) An air common carrier claiming an exemption under this section upon request, shall make available to the board records, including, but not limited to, a copy of a log abstract, an air waybill, or a cargo manifest, documenting its consumption or transportation of the fuel or petroleum products on an international flight and the amount claimed as exempt. If the carrier fails to provide these records upon request, the board may revoke the carrier's fuel exemption registration number.

(g) The board may require any air common carrier claiming an exemption under this section and required to obtain a fuel exemption registration number, to place with it such security as the board may determine pursuant to Section 6701.

(h) Pursuant to this section, any use of the fuel and petroleum products by the purchasing carrier, other than that incident to the delivery of the fuel and petroleum products to the carrier and the consumption or transportation of the fuel and petroleum products by the carrier on an international flight for use in the conduct of its business as a common carrier, or a failure of the carrier to document its consumption or transportation of the fuel and petroleum products on an international flight, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

(i) In the event that the federal exemption provided in Section 1309 of Title 19 of the United States Code, relating to supplies for certain vessels and aircraft, is repealed, this section is repealed as of that date.

6357.7.

(a) On and after July 1, 2010, 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, motor vehicle fuel, as defined in Section 7326.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) The exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, or pursuant to Section 35 of Article XIII of the California Constitution.

(c) On and after July 1, 2010, the State Board of Equalization and the Department of Finance shall recognize that the state no longer receives state sales and use tax revenues from the sale of, and the storage, use, or other consumption of, motor vehicle fuel for purposes of any estimates required to be performed under paragraphs (1) and (2) of subdivision (a) of Section 7102, and Section 7104.2.

6358.

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:

(a) Any form of animal life the products of which ordinarily constitute food for human consumption.

(b) Feed for any form of animal life the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(c) Seeds and plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(d) Fertilizer to be applied to land the products of which are to be used as food for human consumption or are to be sold in the regular course of business.

(e) On or after January 1, 1997, drugs or medicines, including oxygen, the primary purpose of which is the prevention or control of disease, that are administered to animal life the products of which ordinarily constitute food for human consumption.

6358.1.

(a) There are exempted from taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of either of the following:

(1) Organic products grown expressly for fuel purposes.

(2) Waste byproducts from agricultural or forest products operations, municipal refuse, or manufacturing which are used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas, or coal.

(b) In addition to subdivision (a), the exemption under this section shall include the use of still gas produced in the refining process from purchased crude oil.

6358.2.

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 wood shavings, sawdust, rice hulls, or other products that are used as litter in poultry and egg production and that are ultimately resold as, or incorporated into, fertilizer products.

6358.4.

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, drugs or medicines administered to animal life as an additive to feed or drinking water, the primary purpose of which is the prevention and control of disease of food animals, or of nonfood animals which are to be sold in the regular course of business.

6358.5.

(a) (1) 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, any racehorse breeding stock.

(2) For purposes of this section "racehorse breeding stock" means a horse that is capable of reproduction and for which the purchaser states that it is the purchaser's sole intent to use the horse for breeding purposes.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) The exemption established by this section does not apply with respect to any tax levied pursuant to either Section 6051.2 or 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(c) The exemption provided by this section shall be effective starting September 1, 2001.

6359.

(a) 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, food products for human consumption.

(b) For the purposes of this section, "food products" includes all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, candy, gum, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages that are composed at least in part of milk or a milk product and that require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, including bottled water, but excluding spirituous, malt, or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" does not include any of the following:

(1) Medicines, including medicinal cannabis or medicinal cannabis products, as defined in Division 10 (commencing with Section 26000) of the Business and Professions Code, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) Cannabis, as defined in Section 11018 of the Health and Safety Code, and cannabis products, as defined in Section 11018.1 of the Health and Safety Code.

(3) This addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(d) None of the exemptions in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though those products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in combination, such as a hot meal, a hot specialty dish or serving, a hot sandwich, or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) does not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items, or components that have been prepared for sale in a heated condition and that are sold at any temperature that is higher than the air temperature of the room or place where they are sold.

(f) Notwithstanding paragraph (6) of subdivision (d), if the seller elects to separately account for sales of food products specified in subdivision (b), then the gross receipts from the sale of those food products shall be exempt under subdivision (a), provided that the separate accounting is fully documented in the seller's records. However, if the seller's records do not reflect the separate accounting of the gross receipts from sales of nontaxable food products, the seller's election under this subdivision shall be revoked.

6359.1.

There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and storage, use, or other consumption in this state, of hot prepared food products sold by caterers, or other vendors, to air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers, and the gross receipts from the sale of and the storage, use or other consumption of hot prepared food products sold or served to passengers by air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers.

6359.2.

(a) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1988, and ending on December 31, 1988, 77 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(b) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1989, and ending on December 31, 1989, 55 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(c) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1990, and thereafter, 33 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(d) (1) The Legislature finds that 33 percent represents the statewide average of food products sold through vending machines which are subject to the tax imposed under this part. Therefore, the Legislature establishes this average as the measure of the tax with respect to vending machine sales to simplify tax auditing procedures and to provide for uniformity in the taxation of gross receipts derived from the sale of food products through vending machines.

(2) The Legislature also finds that due to fiscal constraints, it is necessary to phase in the partial exemption for sales made through vending machines in the 1988 and 1989 calendar years.

(e) For purposes of this section, "food products" includes hot coffee, hot tea, and hot chocolate, when those hot beverages are actually sold through a vending machine for a separate price. "Food products" does not include other hot prepared food products, as defined in Section 6359.

6359.3.

Any nonprofit veterans' organization is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to flags of the United States of America which it sells, where the profits are used solely and exclusively in furtherance of the purposes of the nonprofit organization.

6359.4.

(a) Any vending machine operator is a consumer of, and shall not be considered a retailer of, food products which sell at retail for fifteen cents ($0.15) or less and which are actually sold through a vending machine.

(b) Notwithstanding subdivision (a), any vending machine operator is a consumer of, and shall not be considered a retailer of, food products, other than beverages or hot prepared food products, which are sold through a coin-operated bulk vending machine if the amount of each sale is twenty-five cents ($0.25) or less. For purposes of this subdivision, "bulk vending machine" means a vending machine containing unsorted food products, other than beverages or hot prepared food products which, upon insertion of a coin, dispenses those food products, including candy and confectionery, in approximately equal portions, at random, and without selection by the customer.

6359.45.

(a) Any vending machine operator which is a nonprofit, charitable, or educational organization is a consumer of, and shall not be considered a retailer of, tangible personal property which sells at retail for fifteen cents ($0.15) or less and which is actually sold through a vending machine.

(b) Any library district, municipal library, or county library and any vendor making sales pursuant to a contract with a library district, municipal library, or county library is a consumer of, and shall not be considered a retailer of, photocopies which it sells at retail and which are actually sold through a coin-operated copy machine located at a library facility.

6359.7.

As incidental to the exemption provided for in Section 6359, 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 ice or dry ice used or employed in packing and shipping or transporting food products for human consumption when the food products are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers.

6359.8.

When fruits or vegetables are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers, as an incident to the exemption provided for in Section 6359, 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, all of the following:
(a) Carbon dioxide used or employed in packing and shipping or transporting fruits or vegetables for human consumption, when those fruits or vegetables are not sold to the ultimate consumer in a package that contains the carbon dioxide.
(b) Any nonreturnable materials containing the carbon dioxide atmosphere.

6360.
Any organization formed and operated for charitable purposes and qualifying for the welfare exemption from property taxation under Section 214 is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to bracelets designed to commemorate American prisoners of war, which it distributes, whether or not a contribution is made to such organization, where the profits are used solely and exclusively in furtherance of the purposes of such organization.

6360.1.
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, a "Buddy Poppy" or any other symbolic, impermanent lapel pin that memorializes United States military veterans killed in foreign wars of the United States, by any corporation established by the Congress of the United States pursuant to Chapter 2301 (commencing with Section 23101) of Title 36 of the United States Code, or any of that corporation's subordinate state or territorial subdivisions, local chapters, posts, or auxiliaries.

6361.
(a) Any organization listed or described in subdivision (b) is a consumer and shall not be considered a retailer within the provisions of this part, of food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization provided, however, that the organization's sales are made on an irregular or intermittent basis, and that the organization's profits from those sales are used exclusively in furtherance of the purposes of the organization.
(b) For purposes of this section, "organization" includes any of the following:
(1) Any nonprofit organization which meets all of the following conditions:
(A) The organization qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code.
(B) The organization's primary purpose is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth.
(C) The organization does not discriminate on the basis of race, sex, nationality, or religion.
(2) (A) Any youth group sponsored by or affiliated with a qualified educational institution, including, but not limited to, any student activity club, athletic group, or musical group.
(B) For purposes of this section, "qualified educational institution" means any of the following:
(i) Any public elementary, secondary, or vocational-technical school providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, operated by state or local government.
(ii) Any nonprofit private educational institution providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, that meets the requirements of the State Department of Education for a school. "Private educational institution" means any entity providing education which satisfies the requirements of state and local laws pertaining to private educational institutions in effect on January 1, 1990, and which does not discriminate on the basis of race, sex, nationality, or religion.
(3) Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner football.
(c) For purposes of this section, "irregular or intermittent" means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. That term includes refreshment stands or booths that are utilized at scheduled events of organized leagues, but does not include storefront or mobile retail outlets which ordinarily require local business licenses.

6361.1.
(a) Any qualified organization is a consumer of, and shall not be considered a retailer of, tangible personal property if all of the following conditions are met:
(1) The tangible personal property is of a handcrafted or artistic nature and is designed, created, or made by either individuals with developmental disabilities or children with severe emotional disturbances who are members of, or receive services from, the qualified organization.
(2) The price of each item of tangible personal property sold does not exceed twenty dollars ($20).
(3) The qualified organization's sales are made on an irregular or intermittent basis.
(4) The qualified organization's profits from the sales are used exclusively in furtherance of the purposes of the organization.
(b) For purposes of this section, "qualified organization" means any organization that meets all of the following conditions:
(1) The organization is exempt from taxation pursuant to paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code.
(2) The primary purpose of the organization is to provide services to either individuals with developmental disabilities or children with severe emotional disturbances.
(3) The organization does not discriminate on the basis of race, sex, nationality, or religion.

6361.5.
Any public or private school, school district, county office of education, or student organization is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to yearbooks and catalogs prepared for or by it and distributed to students.

6362.3.
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 newspapers or periodicals, during the term of a prepaid subscription, if the subscription was entered into and paid for prior to July 15, 1991.

6362.5.
(a) There are exempted from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, except amounts subject to the taxes imposed by other provisions of this part paid by a customer in connection with the customer's production of master tapes or master records to a recording studio for the tangible elements of such master records or master tapes.
(b) For purposes of this section:
(1) "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.
(2) "Amounts paid for the furnishing of the tangible elements" shall not include any amounts paid for the copyrightable, artistic or intangible elements of such master tapes or master records, whether designated as royalties or otherwise including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting "sale" under Section 6006.
(3) "Recording studio" is a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

6362.7.
(a) 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 tangible personal property which becomes an ingredient or component part of any newspaper or periodical that is distributed without charge and regularly issued at average intervals not exceeding three months, and any such newspaper or periodical.
(b) 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 tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier.
(c) For purposes of this section, "periodical" means any publication that appears at stated intervals at least four times per year, but not more than 60 times per year, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and there must be some connection

between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. The term does not include printed sales messages, shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period.

6362.8.

(a) 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 tangible personal property that becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months, or any such newspaper or periodical.

(b) This section shall apply only with respect to any of the following:

(1) Any newspaper or periodical that is published or purchased by an organization that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is distributed to the members of the organization in consideration of payment of the organization's membership fee, or to the organization's contributors.

(2) Any newspaper or periodical that is published by an organization that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and does not receive revenue from, or accept, any commercial advertising.

(3) Any newspaper or periodical distributed by a nonprofit organization for which both of the following apply:

(A) Distribution is to any member of the nonprofit organization in consideration, in whole or in part, of payment of the organization's membership fee.

(B) The amount paid or incurred by the nonprofit organization for the cost of printing the newspaper or periodical is less than 10 percent of the membership fee attributable to the period for which the newspaper or periodical is distributed.

6363.

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, meals and food products for human consumption furnished or served to the students of a school by public or private schools, school districts, student organizations, parent-teacher associations, and any blind person (as defined in Section 19153 of the Welfare and Institutions Code) operating a restaurant or vending stand in an educational institution under Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code. The term "food products" as used in this section has the meaning ascribed to it in Section 6359.

The exemption provided by this section shall not apply when the meals or food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

6363.2.

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 that is sold to a successful bidder at an auction that is conducted by, or affiliated with, a nonprofit organization, if the purpose of that auction is to obtain revenue for the funding of a shelter for homeless individuals and families and those revenues obtained are actually expended for that purpose. For purposes of this section, "nonprofit organization" means an organization that is exempt from taxation under Section 23701d. This section shall not apply to any sale at an auction that is conducted more than once during any 12-month period.

6363.3.

(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, 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, and at least 75 percent of the net income derived from operations of the thrift store are actually expended for the purpose of providing medical, hospice, or social services to the chronically ill.

(b) For purposes of this section, "nonprofit organization" means an organization that provides medical, hospice, or social services to individuals with a chronic, life-threatening illness, as defined in subdivision (c) of Section 1568.01 of the Health and Safety Code, and is exempt from taxation under Section 23701d.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

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 a thrift store located on a military installation and operated by a designated entity that, in partnership with the United States Department of Defense, provides financial, educational, and other assistance to members of the Armed Forces of the United States, eligible family members, and survivors that are in need.

(b) For purposes of this section, "designated entity" means a military welfare society described in Section 1033 of Chapter 53 of Part II of Subtitle A of Title 10 of the United States Code.

6363.5.

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, meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities.

For the purposes of this section, "religious organization" means any organization the property of which is exempt from taxation pursuant to subdivision (f) of Section 3 of Article XIII of the State Constitution.

6363.6.

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, meals and food products for human consumption furnished or served to and consumed by residents or patients of the following:

(a) A health facility, as defined in Section 1250 of the Health and Safety Code, that holds the license required pursuant to Section 1253, or is exempt from the license requirement pursuant to subdivision (a) of Section 1270, or is operated by the United States.

(b) A community care facility, as defined in Section 1502 of the Health and Safety Code, that holds the license required by Section 1508, or is a residential facility selected by a licensee pursuant to Section 1506 and exclusively used for the reception and care of persons placed by the licensee, or is exempt from the license requirement pursuant to subdivision (f) of Section 1505, or is operated by the United States.

(c) A residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, that holds the license required by Section 1569.10 of the Health and Safety Code or is exempt from the license requirements pursuant to Section 1569.145 of the Health and Safety Code, or is operated by the United States.

(d) Any house or institution supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older, and any housing that primarily serves older persons and that is financed by state or federal programs.

(e) An alcoholism recovery facility, as defined in Section 11834.02 of the Health and Safety Code, that holds the license required by Section 11834.30 of the Health and Safety Code. This subdivision shall apply to meals served by the facility on or after January 1, 1985.

(f) A drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code, that holds the license required by Section 11834.30 of the Health and Safety Code.

6363.7.

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, meals that are delivered to homebound elderly or disabled persons by a nonprofit volunteer home delivery meal provider.

6363.8.

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, meals and food products for human consumption that are furnished or served by any nonprofit veteran's organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on those functions and activities.

6363.9.

On and after January 1, 2020, 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, diapers designed, manufactured, processed, fabricated, or packaged for use by infants, toddlers, and children.

6363.10.

(a) On and after January 1, 2020, 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, menstrual hygiene products.

(b) For purposes of this section, "menstrual hygiene products" shall only include the following:

(1) Tampons.

(2) Sanitary napkins primarily designed and labeled for menstrual hygiene use.

(3) Menstrual sponges.

(4) Menstrual cups.

6364.

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:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(d) Containers, when sold or leased without the contents to persons who place food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and whether the food products are remanufactured or repackaged prior to sale.

(e) For purposes of this section, "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

6364.5.

(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, any container used to collect or store human whole blood, plasma, blood products, or blood derivatives that are exempt from taxation pursuant to Section 33, including, but not limited to, blood collection units and blood pack units.

(b) For purposes of this section, "blood collection units" and "blood pack units" include all items that form an integral, interconnected package that, when sold to plasmapheresis centers and blood banks, are used to collect blood or blood components, which are then sold together with the bags and tubing in which they are contained. Blood pack units consist of a plastic bag or bags, tubing, and a needle. Blood collection units are either a manual system that includes a needle, multiple bags, a bag containing saline solution, tubing, filters, grommets, and a pooling bag or an automated system that consists of a needle, a bag of anticoagulant, tubing, a plastic bowl containing a stainless steel centrifuge and a pooling bag. Blood collection units and blood pack units also include plastic bags and tubing sold to plasmapheresis centers when those centers use them to collect blood plasma or platelets and then sell the plasma or platelets together with the bags and tubing in which they are contained.

6365.

(a) 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, original works of art, which are:

(1) Purchased by this state or any city, county, city and county, or other local governmental entity;

(2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental entity;

(3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for one or more museums regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d;

(4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofitorganization; or

(5) Leased from one nonprofit organization to another nonprofit organization for 35 years or more, if both the lessor and lessee are nonprofit organizations as defined in either paragraph (2) or (3).

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection of any of the following:

(1) A museum.

(2) A nonprofit corporation which has qualified for exemption pursuant to Section 23701d; regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums; and is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art; provided, that the work of art for which the exemption is claimed pursuant to this section shall actually be placed on display at one or more museums in California for not less than 24 months during the three-year period commencing from the date of purchase.

(3) Any city, county, city and county, or other local governmental entity and this state which purchases, commissions, or leases from any such governmental entity public art for display to the public in buildings, parks, plazas, or other public places. These areas shall be open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year.

(c) For purposes of this section, "work of art" means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, costume, dress, clothing, personal adornment, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge;

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

(e) For the purposes of this section, "permanent collection" as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

(f) Any public entity or nonprofit organization claiming an exemption pursuant to this section shall maintain records, in such forms as prescribed by the board, sufficient to substantiate its claim. Such records shall include, but not be limited to, the date of purchase, the purchase price, the date the property was first brought into this state, and the dates and locations the work of art was on display at a museum.

6366.

(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, the following:

(1) Aircraft sold to any person using the aircraft as a common carrier of persons or property under authority of the laws of this state, of the United States, or of any foreign government, or sold to any foreign government for use by that government outside of this state, or sold to any person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

(2) (A) A ground control station sold to any foreign government for use by that government outside of this state or sold to any person who is not a resident of this state and who will not use that ground control station in this state otherwise than in the removal of the ground control station from this state.

(B) A "ground control station" means a portable facility used to operate aircraft in the air without a pilot on board. The term includes controls, video equipment, computers, generators, and communications equipment, sold as an integral part of the station, and antennas used to control the aircraft. The term does not include trucks, tractor-trailers, or other devices solely used to transport the station.

(3) Tangible personal property that is purchased on or after October 1, 1996, and becomes a component part of any aircraft described in paragraph (1), as a result of the maintenance, repair, overhaul, or improvement of that aircraft in compliance with Federal Aviation Administration requirements, and any charges made for labor and services rendered with respect to that maintenance, repair, overhaul, or improvement.

(b) With respect to aircraft sold on or after January 1, 1997, it shall be presumed that a person is not engaged in business as a common carrier if the person's yearly gross receipts from the use of the aircraft as a common carrier do not exceed 20 percent of the purchase cost of the aircraft to him or her, or fifty thousand dollars ($50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the person is engaged in business as a common carrier.

In no event shall "gross receipts" include compensation by the person or related parties for use of the aircraft as a common carrier.

6366.1.

(a) 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 aircraft which

are leased, or are sold to persons for the purpose of leasing, to lessees using such aircraft as common carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or to any foreign government as lessees for use by such government outside the state, or to persons as lessees who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.
(b) 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 tangible personal property sold to an aircraft manufacturer and incorporated into aircraft to be leased by the manufacturer under conditions set forth in subdivision (a) of this section.
(c) With respect to aircraft leased, or sold for the purpose of leasing, on or after January 1, 1997, it shall be presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the lessor's yearly gross receipts from the lease of that aircraft to persons using the aircraft as common carriers of property or persons do not exceed 20 percent of the cost of the aircraft to the lessor, or fifty thousand dollars ($50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the aircraft is regularly used as a common carrier of property or persons.
In no event shall "gross receipts" include compensation by the lessor or related parties for use of the aircraft as a common carrier.

6366.2.
(a) 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 any new motor vehicle sold to a purchaser who is a resident of a foreign country and who arranges for the purchase through an authorized vehicle dealer in the foreign country prior to arriving in the United States, if the following conditions are met:
(1) The purchaser is issued an in-transit permit pursuant to Section 6700.1 of the Vehicle Code.
(2) Prior to the expiration of the in-transit permit issued to the purchaser, the retailer ships or drives the motor vehicle to a point outside the United States by means of facilities operated by the retailer, or by delivery to a carrier, customs broker or forwarding agent for shipment to that point.
(b) For purposes of this section, "carrier" means a person or firm engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

6366.3.
(a) 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 tangible personal property purchased by the state or any local government entity as part of a public art collection which shall be considered a museum pursuant to paragraph (4) of subdivision (d) or a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided:
(1) The property is purchased to replace property which has been physically destroyed by fire, flood, earthquake, or other calamity;
(2) The property is purchased and used exclusively for display purposes within such museum; and
(3) The property is purchased within three years from the date the calamity occurred.
(b) The aggregate amount of the exemption provided by this section shall not exceed the value of the property destroyed on the date the calamity occurred.
(c) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.
(d) For purposes of this section, a "museum" shall only include:
(1) A museum which has a significant portion of its space open to the public without charge; or
(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or
(3) A museum which is open to a segment of the student or adult population without charge; or
(4) A public art collection if that art work is on display in a space which is open to the public without charge.

6366.4.
(a) 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, tangible personal property purchased by a nonprofit museum regularly open to the public that is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided the property is purchased and used exclusively for display purposes within the museum.
(b) The exemption provided by this section extends only to items that have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum. However, the exemption does include sprung instant structures used as temporary exhibit housing.
(c) For purposes of this section, a "museum" includes only any of the following:
(1) A museum that has a significant portion of its space open to the public without charge.
(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public.
(3) A museum that is open to a segment of the student or adult population without charge.
(d) This section applies only to the San Diego Air & Space Museum and the California Science Center.

6366.5.
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, endangered or threatened animal or plant species, as defined in subdivision (b) of Section 6010.50 if both the seller and the purchaser are nonprofit zoological societies as defined in subdivision (c) of Section 6010.50.

6367.
There are exempted from the taxes imposed by this part the gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale. This exemption does not apply to the gross receipts from the sale of, or to the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, a vessel or aircraft, as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part, or a vehicle required to be registered under the Vehicle Code or a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code. This section shall not preclude the exemption afforded under Section 6281.

6368.
(a) 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 watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:
(1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.
(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.
(3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.
(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars ($20,000) a year.
(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars ($25,000), whichever is less.

6368.1.
(a) 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 watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing,

repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The lessee uses the watercraft in interstate and foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars ($20,000) a year.

(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in the business of transporting for hire property or persons, if the yearly gross receipts of the lessor from the lease of that watercraft to persons using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to the lessor, or twenty-five thousand dollars ($25,000), whichever is less.

6368.2.

(a) On or after January 1, 2023, 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, a qualified motor vehicle sold to a qualified buyer.

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

(1) "Qualified motor vehicle" means a vehicle for which a grant letter is awarded to the qualified buyer under the Clean Cars 4 All Program established by Section 44124.5 of the Health and Safety Code.

(2) "Qualified buyer" means an individual to whom an award letter or other approval documentation was issued by any entity implementing the Clean Cars 4 All Program indicating that their application was approved for a grant under the Clean Cars 4 All Program.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(d) For the purposes of complying with Section 41, the Legislature finds and declares all of the following:

(1) The specific goal, purpose, and objective that the exemption will achieve is to increase the number of low-income California drivers participating in the Clean Cars 4 All Program and to encourage those drivers to scrap their older, high-polluting car and replace it with a zero- or near-zero emission vehicle.

(2) Detailed performance indicators measure whether the exemption meets the goal, purpose, and objective described in paragraph (1) are the following:

(A) The number of taxpayers exempting the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle sold to a qualified buyer under the Clean Cars 4 All Program pursuant to this section.

(B) The total dollar amount of moneys exempted under this section.

(C) The total number of qualified buyers in each tax bracket for whom a taxpayer claimed an exemption under this section.

(3) On or before March 1, 2024, and annually thereafter, the California Department of Tax and Fee Administration shall analyze the performance indicators in paragraph (2) and shall report its findings, in compliance with Section 9795 of the Government Code, to the Legislature.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

6368.5.

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 rail freight cars for use in interstate or foreign commerce.

6368.7.

There are exempted from the taxes imposed by this part, the gross receipts from the sale and the storage, use, or other consumption of passenger transportation vehicles, including, but not limited to, rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats, sold or leased to the Department of Transportation by a person who received title to the property from the Department of Transportation pursuant to Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code.

6368.9.

(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, qualified equipment purchased by a qualified person at the end of the term of a lease or sublease of qualified equipment pursuant to any exercise of a purchase option under the lease or sublease, provided the following conditions are satisfied:

(1) As of the date the lease or sublease was entered into, the qualified person and qualified equipment were otherwise eligible for exemption under Section 6368.8, as that section read on that same date.

(2) The lease or sublease was entered into before the repeal date of Section 6368.8.

(b) For purposes of this section, "qualified equipment" and "qualified person" have the same meanings as defined in Section 6368.8, as that section read on the date the lease or sublease was entered into.

(c) This section shall only become operative if Section 6368.8 is repealed and, in that event, shall become operative on the date that section is repealed.

6369.

(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, medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law.

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his or her own patient for treatment of the patient.

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist.

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(6) Furnished without charge by a pharmaceutical manufacturer or distributor to a licensed physician, surgeon, dentist, podiatrist, or health facility for the treatment of a human being, or furnished by a pharmaceutical manufacturer or distributor without charge to an institution of higher education for instruction or research, provided that the exemption provided in this paragraph is limited to medicines of a type that can be dispensed only (A) for the treatment of a human being and (B) pursuant to prescriptions issued by persons authorized to prescribe medicines. The exemption provided in this paragraph shall include the materials used to package, and the constituent elements and ingredients used to produce, the medicines described in this paragraph and is intended to preclude any imposition of tax pursuant to Section 6094 or 6095 with respect to those materials, elements, and ingredients.

(b) "Medicines" as used in this section, means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and commonly recognized as a substance or preparation intended for that use. However, "medicines" does not include any of the following:

(1) Any auditory, prosthetic, ophthalmic, or ocular device or appliance.

(2) Articles that are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical, or physical equipment or article or the component parts and accessories thereof.

(3) Any alcoholic beverage the manufacture, sale, purchase, possession, or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section means and includes any of the following:

(1) Sutures, whether or not permanently implanted.

(2) Bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body.

(3) (A) Orthotic devices, other than orthodontic devices, designed to be worn on the person of the user as a brace, support, or correction for the body structure, and replacement parts for these devices. However, orthopedic shoes and supportive devices for the foot are not exempt unless they are custom-made biomechanical foot orthoses or are an integral part of a leg brace or artificial leg.

(B) For purposes of this paragraph, "custom-made biomechanical foot orthoses" means an individually prescribed foot orthosis which is custom fabricated over a neutral or near neutral subtalar joint with a pronated midtarsal joint position positive plaster model of the patient's foot, which model, when the cast is modified to support the osseous position of the forefoot in relationship to the rearfoot, embodies the angular osseous relationships of the anterior and posterior portions of the foot.

(4) Prosthetic devices, and replacement parts for those devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, ophthalmic, and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth, and other dental prosthetic materials and devices.

(5) Artificial limbs and eyes, or their replacement parts, for human beings.

(6) Programmable drug infusion devices to be worn on or implanted in the human body.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code, and also includes any "clinic" as defined in Section 1200 of the Health and Safety Code.

(e) Insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for these devices, furnished pursuant to the written order of a physician or podiatrist, shall be deemed to be dispensed on prescription within the meaning of paragraph (1) of subdivision (a), whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

6369.1.

There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use or other consumption, in this state of hemodialysis products supplied to a patient on order of a licensed physician and surgeon pursuant to Section 4050.7 or 4227 of the Business and Professions Code and which constitute medicines as defined in Section 6369.

6369.2.

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 wheelchairs, crutches, canes, quad canes, white canes used by the legally blind, and walkers, and replacement parts for these devices, when sold to an individual for the personal use of that individual as directed by a physician.

6369.4.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of items and materials when used to modify a vehicle for physically handicapped persons.

(b) In the case of the sale of a modified vehicle described in subdivision (a) to a disabled person who is eligible to be issued a distinguishing license plate or placard for parking purposes pursuant to Section 22511.5 of the Vehicle Code, there are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption attributable to that portion of the vehicle which has been modified for physically handicapped persons.

(c) For purposes of this section, on and after July 1, 2020, and before July 1, 2030, "physically handicapped persons" shall include eligible persons with a severe burn injury, as those terms are defined in Section 3901(1) of Title 38 of the United States Code.

6369.5.

There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of any medical oxygen delivery system, including, but not limited to, liquid oxygen containers, high pressure cylinders, and regulators, when sold, leased, or rented to an individual for the personal use of that individual as directed by a physician.

6369.6.

(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, medicinal cannabis or medicinal cannabis products as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a person with an identification card or primary caregiver furnishes the seller with both their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(b) For purposes of this section, "person with an identification card" and "primary caregiver" have the same meanings as those terms are defined in Section 11362.7 of the Health and Safety Code.

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 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 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 building materials and supplies purchased with the exemption certificate in a manner not qualifying for the exemption, the purchaser is liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the building materials and supplies at the time the property is so used, and the cost of the building materials and supplies to the purchaser shall be deemed the gross receipts from that retail sale.

6370.

(a) This section applies to each of the following:

(1) Nonprofit parent-teacher associations chartered by the California Congress of Parents, Teachers, and Students, Incorporated, and equivalent organizations performing the same type of service for public or private schools and

authorized to operate within the school by the governing authority of the school.

(2) Nonprofit parent cooperative nursery schools.

(3) Nonprofit associations commonly called The Friends of the Library, and equivalent organizations performing auxiliary services to any library district, municipal library, or county library in the state, which are authorized to operate within the library by the governing authority of the library.

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells, if the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

6370.2.

(a) On and after April 1, 2024, and before April 1, 2029, 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, all of the following:

(1) Breast pumps.

(2) Breast pump collection and storage supplies.

(3) Breast pump kits.

(4) Breast pads.

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

(1) (A) "Breast pump" means an electrically or manually controlled pump device designed and marketed to be used to express milk from a human breast during lactation.

(B) "Breast pump" includes the electrically or manually controlled pump device and any battery, alternating current (AC) adapter, or other power supply unit packaged and sold with the pump device at the time of sale to power the pump device.

(2) (A) "Breast pump collection and storage supplies" means tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and store collected milk until it is ready for consumption, including, but is not limited to, all of the following:

(i) Breast shields and breast shield connectors.

(ii) Breast pump tubes and tubing adapters.

(iii) Breast pump valves and membranes.

(iv) Backflow protectors and backflow protector adaptors.

(v) Bottle and bottle caps specific to the operation of the breast pump.

(vi) Breast milk storage bags.

(vii) Other items that may be useful to initiate, support, or sustain breastfeeding using a breast pump during lactation, that may be sold separately, but are generally sold as part of a breast pump kit.

(B) "Breast pump collection and storage supplies" does not include the following items if not sold as part of a breast pump kit prepackaged by the breast pump manufacturer or distributor:

(i) Bottles and bottle caps not specific to the operation of the breast pump.

(ii) Breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products.

(iii) Breast pump cleaning supplies.

(iv) Nursing bras, bra pads, breast shells, and other similar products.

(v) Creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples.

(3) "Breast pump kit" means a kit that contains a breast pump and one or more of the following items:

(A) Breast pump collection and storage supplies.

(B) Other tangible personal property that may be useful to initiate, support, or sustain breastfeeding using a breast pump during lactation, so long as the other tangible personal property sold with the breast pump kit at the time of the sale are less than 10 percent of the total sales price of the breast pump kit.

(c) For purposes of complying with Section 41, the Legislature finds and declares the following:

(1) The specific goals, purposes, and objectives of this act are:

(A) To promote public health by increasing the affordability of, and expanding access to, breast pumps and related supplies.

(B) To ease the financial burden placed on families who rely on breast pumps to feed their children.

(C) To create parity in taxation between formula and breast pump equipment.

(D) To incentivize optimal breastfeeding for the entirety of time recommended by experts.

(2) (A) To measure the goals set forth in paragraph (1), the Legislative Analyst's Office shall review the effectiveness of the exemption and may request information for this purpose from the California Department of Tax and Fee Administration and any other relevant state government entity.

(B) On or before July 1, 2027, the Legislative Analyst's Office shall submit a report, in compliance with Section 9795 of the Government Code, of the review completed pursuant to subparagraph (A) to the Assembly Committee on Revenue and Taxation and the Senate Governance and Finance Committee. The report shall include, but is not limited to, both of the following:

(i) A recommendation on whether the exemption should be modified, extended, or allowed to become inoperative.

(ii) An assessment on whether more targeted approaches to providing families in need with adequate access to breast pumps and related supplies are available.

(d) This section shall remain in effect only until April 1, 2029, and as of that date is repealed.

6370.5.

(a) This section applies to nonprofit associations and equivalent organizations performing auxiliary services to any city or county museum in the state, which are authorized to operate within the museum by the governing authority of the museum and have held an annual rummage sale for at least five consecutive years immediately preceding the sale referred to in subdivision (b).

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells at an annual rummage sale; provided, the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

6371.

(a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, medical identification tags furnished by an organization which is exempted from taxes under Section 23701.

(b) For purposes of this section, "medical identification tags" includes any tag worn by a person for the purpose of alerting other persons that the wearer of the tag has a medical disability or allergic reaction to certain treatments.

6373.

(a) 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 tangible personal property the gross receipts of which are received in the form of CalFresh benefits acquired by the purchaser pursuant to the federal Food and Nutrition Act of 2008 (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code), including subsequent amendments thereto.

(b) When the gross receipts from a sale of tangible personal property are received partly in the form of cash and partly in the form of CalFresh benefits, the amount of the CalFresh benefits shall be attributed first to gross receipts which would have been subject to the taxes imposed by this part if payment were not received in the form of CalFresh benefits.

(c) A retailer shall not add to the sale price of tangible personal property any amount designated as sales tax, use tax, or sales tax reimbursement when the sale is exempt pursuant to this section.

(d) In lieu of separately accounting for gross receipts which are exempt pursuant to this section and taking a deduction on sales tax returns for the exact amount of those gross receipts, the board may provide, for the efficient administration of this part, an alternative method that retailers may use to compute the allowable deduction for the total amount of CalFresh benefits redeemed during the period for which the return is filed, provided that method results in a deduction the amount of which is at least equal to 2 percent of the total amount of CalFresh benefits redeemed.

(e) This section is repealed on the first day of the first calendar month immediately following the effective date of any federal act which repeals those provisions which prohibit the state from participating in the federal Supplemental Nutrition Assistance Program if sales taxes are imposed within the state on purchases made with CalFresh benefits.

6374.

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 meals and food products for human consumption furnished or served to low-income elderly persons at or below cost by a nonprofit organization or governmental agency under a program funded by this state or the United States for such purposes.

6375.
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, tangible personal property made, prepared, assembled, or manufactured by organizations formed and operated for charitable purposes qualifying for the exemption provided by Section 214 known as the "welfare exemption," which are engaged in the relief of poverty and distress, and make the sales and donations as a matter of assistance to the purchasers and donees.

6375.5.
(a) 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, new children's clothing that is sold to a nonprofit organization for its distribution without charge to elementary schoolchildren.
(b) For purposes of this section, "nonprofit organization" means an organization that meets all of the following requirements:
(1) Is organized and operated for charitable purposes.
(2) Has exempt status under Section 23701d.
(3) Is engaged in the relief of poverty and distress.
(4) Distributes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.
(c) This section shall become operative on January 1, 2014.

6376.
(a) From December 1, 1989 to December 31, 1990, there are exempted from 5 percent of the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of material, fixtures, and supplies if the sale, storage, use or other consumption in this state of the material, fixtures, or supplies are obligated pursuant to an engineering construction project contract or a building construction contract entered into for a fixed price prior to the effective date of this section.
(b) From December 1, 1989 to December 31, 1990, inclusive, there is exempted from 5 percent of the taxes imposed by this part, a lease of tangible personal property which is a continuing sale and purchase of that property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the effective date of this section.
(c) For the purposes of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the right to terminate the contract or lease upon notice, whether or not that right is exercised.

6376.1.
(a) On and after July 15, 1991, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a $^1/_4$ percent rate of tax with respect to the following:
(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:
(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.
(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.
(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.
(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.
(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.
(b) From July 15, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:
(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:
(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.
(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.
(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.
(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.
(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.
(c) From July 15, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a $^1/_2$ percent rate of tax with respect to the following:
(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of the following:
(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.
(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.
(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.
(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.
(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.
(d) On and after July 15, 1991, there is exempted from the taxes imposed by this part an amount equal to the tax imposed by this part on July 14, 1991, with respect to the sale or purchase of any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:
(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.
(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of

time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

6376.2.

From July 1, 1993, to the date on which the taxes imposed by Sections 6051.6 and 6201.6 cease to be operative, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a $^{1}/_{2}$ percent rate of tax with respect to the following:

(a) The gross receipts from the sale of, and the storage, use, or other consumption in this state of, the following:

(1) Tangible personal property, if the seller is obligated to furnish or the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to July 1, 1993.

(2) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 1, 1993.

For purposes of this subdivision, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(b) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1993. For purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(c) The possession of, or the exercise of, any right or power over tangible personal property pursuant to a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1993. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

6376.5.

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 meals and food products for human consumption furnished to and consumed by persons 62 years of age or older residing in a condominium and who own equal shares in a common kitchen facility; provided, that the meals and food products are served to such persons on a regular basis.

6377.

(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, any zero-emission technology transit bus sold to a city, county, city and county, transportation or transit district, or other public agency that provides transit services to the public that is eligible for the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project funded by the Air Quality Improvement Program, the General Fund, and the Greenhouse Gas Reduction Fund under the State Air Resources Board.

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

(1) "Articulated bus" means a 54-foot to 60-foot bus with two connected passenger compartments.

(2) "Bus" means a rubber-tire vehicle designed to transport passengers by road with a gross vehicle weight rating greater than 14,000 pounds.

(3) "Cutaway bus" means a vehicle in which a bus body designed to transport passengers is mounted on the chassis of a van or light- or medium-duty truck chassis, and that has a gross vehicle weight rating greater than 14,000 pounds, but not more than 26,000 pounds. A cutaway bus includes an original van or light- or medium-duty truck chassis that has been reinforced or extended. Accommodating some standing passengers does not disqualify a cutaway bus from being considered a transit bus for the purposes of this section.

(4) "Double-decker bus" means a high-capacity bus that has two levels of seating, one over the other, connected by one or more stairways, of a height that is at least 13 feet, and carries between 40 to 80 people.

(5) "Over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment used for long-distance bus services or connecting outlying areas with central cities with limited stops.

(6) "Shuttle bus" means a commercial vehicle with a gross vehicle weight rating of 8,501 pounds or greater, sized Class 2b through Class 8, that transports passengers in a fixed destination route.

(7) "Transit bus" means an articulated bus, bus, cutaway bus, double-decker bus, over-the-road bus, shuttle bus, or trolley bus.

(8) "Trolley bus" means a rubber-tired, electrically powered passenger vehicle operated on city streets drawing power from overhead wires using trolley poles.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by subdivision (a) does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(d) This section shall become inoperative on January 1, 2026, and as of that date is repealed.

6377.1.

(a) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2030, 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, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1) or (2).

(4) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, the generation or production, or storage and distribution, of electric power, or as a research or storage facility for use in connection with those processes.

(5) Qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power.

(b) For purposes of this section:

(1) "Department" means the California Department of Tax and Fee Administration.

(2) "Fabricating" means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(3) "Generation or production" means the activity of making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

(4) "Manufacturing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(5) "Primarily" means 50 percent or more of the time.

(6) "Process" means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been

introduced into the process when the raw materials are stored on the same premises where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(7) "Processing" means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(8) (A) "Qualified person" means:

(i) Prior to January 1, 2018, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ii) On and after January 1, 2018, and before July 1, 2030, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 221111 to 221118, inclusive, 221122, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) Notwithstanding subparagraph (A), "qualified person" shall not include either of the following:

(i) Prior to January 1, 2018, an apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128 or a trade or business conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(ii) On and after January 1, 2018, and before July 1, 2030, an apportioning trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(9) (A) "Qualified tangible personal property" includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) (I) Prior to January 1, 2018, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(II) On and after January 1, 2018, and before July 1, 2030, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes, or the generation or production or storage and distribution of electric power. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) "Qualified tangible personal property" shall not include any of the following:

(i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product.

(11) "Research and development" means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(12) "Storage and distribution" means storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.

(13) (A) "Useful life" for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. "Useful life" for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section. For the purposes of this paragraph, tangible personal property that is deducted under Sections 17201 and 17255 or Section 24356 shall be deemed to have a useful life of one or more years.

(B) The department shall cancel any outstanding and unpaid deficiency determination and any related penalties and interest and shall not issue any deficiency determination or notice of determination, with respect to unpaid sales and use tax on qualified property with a useful life, as defined in subparagraph (A), that was purchased or leased on or after July 1, 2014, and before January 1, 2018. Any amounts paid by a qualified person pursuant to such determination shall be refunded by the department to the qualified person. Any cancellation or refund described in this subparagraph is contingent upon a qualified person making a request to the department, in a manner prescribed by the department, by June 30, 2018.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the department may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the department upon request.

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) The exemption provided by this section shall not apply to either of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars ($200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars ($200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar ($200,000,000) limitation described in subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property 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 tangible personal property at the time the tangible personal property is so purchased, removed, converted, or used, and the cost of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section shall apply to leases of qualified tangible personal property classified as "continuing sales" and "continuing purchases" in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply

to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) (A) No later than each May 1 next following a calendar year for which this section provides an exemption, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the Department of Finance's estimate in paragraph (1) for that same calendar year.

(B) (i) No later than each May 1 next following calendar years 2018 to 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken pursuant to subdivision (a) for sales to, or purchases by, qualified persons described in clause (ii) for the immediately preceding calendar year.

(ii) The report required under this subparagraph shall only include the revenue value of the total dollar amount of exemptions allowed to the following:

(I) A qualified person that is primarily engaged in those lines of business described in Codes 221111 to 221118, inclusive, and 221122 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(II) A qualified person that is both of the following:

(ia) A person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, and 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ib) A person that is an apportioning trade or business as described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business as described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(C) No later than each May 1 next following calendar years 2022 through 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year, and for calendar year 2022, the period shall cover July 1 to December 31, 2022.

(3) (A) An amount that equals the revenue value of the total dollar amount of exemptions, as reported by the department pursuant to subparagraph (B) of paragraph (2), with the concurrence of the Department of Finance, shall be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each June 30 next following the calendar year described in subparagraph (B) of paragraph (2). Any amount attributable to any cancellations the department made of any outstanding and unpaid deficiency determinations and any refunds under subparagraph (B) of paragraph (13) of subdivision (b) shall be excluded from the transfer of the amount described in subparagraph (B). The transfers to the General Fund shall be accrued to the fiscal year in which the revenue loss occurred.

(B) (i) For calendar years 2022 through 2030, inclusive, an amount not to exceed the difference between the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (C) of paragraph (2), and the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (B) of paragraph (2), may be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each July 31 following that calendar year described in subparagraph (C) of paragraph (2). The transfers to the General Fund shall be accrued proportionally to the fiscal year in which the revenue loss occurred.

(ii) The amount transferred under this subparagraph for each fiscal year shall be as determined by the Director of Finance, unless a different amount is otherwise specified in the Budget Act for that fiscal year.

(4) For purposes of this subdivision, the "revenue value" of an amount of exemptions shall mean the estimated revenue loss to the General Fund from the allowance of those exemptions.

(h) This section is repealed on January 1, 2031.

6378.

(a) 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, any of the following:

(1) Tangible personal property purchased for use by a qualified person to be used primarily in teleproduction or other postproduction services.

(2) Tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any property described in paragraph (1).

(b) This exemption shall not apply to any tangible personal property that is used primarily in administration, general management, or marketing.

(c) For purposes of this section:

(1) "Primarily" means tangible personal property used 50 percent or more of the time in an activity described in subdivision (a).

(2) "Qualified person" means any person that is primarily engaged in teleproduction or other postproduction activities that are described in Code 512191 of the North American Industry Classification System Manual published by the United States Office of Management and Budget, 1997 edition.

(3) "Teleproduction or other postproduction services" means services for film or video that include editing, film and video transfers, transcoding, dubbing, subtitling, credits, close captioning, audio production, special effects (visual or sound), graphics, or animation.

(4) "Tangible personal property" includes, but is not limited to, all of the following:

(A) Machinery and equipment, including component parts.

(B) All equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, without limitation, computers, data processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the taxpayers or another party.

(5) "Tangible personal property" does not include furniture, inventory, or equipment used to store products.

(d) No exemption shall be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe, and the retailer subsequently furnishes the board with a copy of the exemption certificate. The exemption certificate shall contain the sales price of the machinery and equipment that is exempt pursuant to subdivision (a).

(e) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by the section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of these laws.

(2) The exemption established by this section shall not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(3) The exemption established by this section shall not apply to any sale or use of property that, within one year from the date of purchase, is either removed from California or converted from an exempt use under subdivision (a) to some other use not qualifying for the exemption.

(f) If a purchaser certifies in writing to the seller that the property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and within one year from the date of purchase, the purchaser (1) removes that property outside California, (2) converts that property for use in a manner not qualifying for the exemption, or (3) uses that property 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 property at the time the property is so removed, converted, or used, and the sales price of the property to the purchaser shall be deemed the gross receipts from that retail sale.

6379.

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 any used mobilehome, as defined in Section 18014 of the Health and Safety Code, which is subject to property tax pursuant to Part 13 (commencing with Section 5800) of Division 1, or any used floating home, defined and subject to tax pursuant to Section 229.

6379.5.

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 catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services printed to the special order of the purchaser and

mailed or delivered by the seller, the seller's agent, or a mailing house, acting as the agent for the purchaser, through the United States Postal Service or by common carrier to any other person at no cost to that person who becomes the owner thereof.

6379.8.

(a) 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, mailing lists, if the contract regarding that mailing list restricts the purchaser to a single use of the mailing list.

(b) For purposes of this section, "mailing list" means a written or printed list, series, set, group, or aggregation of names and addresses of, and occasionally, other information concerning persons, including, but not limited to, potential customers or donors, that is intended for use in circulating material by mail. A mailing list may be in the form of a manuscript list, directory, Cheshire tape, Dick tape, gummed labels, index cards, or other similar means of communication. "Mailing list" also includes a magnetic tape or similar device used to produce written or printed names and addresses by electronic or mechanical means.

6380.

(a) 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, qualified property for use in space flight.

(b) For purposes of this section:

(1) "Qualified property" means any of the following:

(A) Tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof.

(B) Tangible personal property to be placed or used aboard any facility, system, vehicle, satellite, or station described in subparagraph (A), regardless of whether that property is to be ultimately returned to this state for subsequent use, storage, or other consumption.

(C) Fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

(2) "Space flight" means any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind.

(c) The exemption established by this section shall not be denied by reason of a failure, postponement, or cancellation of a launch of a space vehicle, satellite, space facility, or space station of any kind, or the destruction of any launch vehicle or any component thereof, but the exemption shall not apply to any material that is not intended to be launched into space.

6381.

There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any tangible personal property to:

(a) The United States, its unincorporated agencies and instrumentalities;

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(c) The American National Red Cross, its chapters and branches.

6384.

Notwithstanding any other provision of law the tax imposed under this part shall apply to the gross receipts from the sale of any tangible personal property to contractors purchasing such property either as the agents of the United States or for their own account and subsequent resale to the United States for use in the performance of contracts with the United States for the construction of improvements on or to real property in this State.

6385.

(a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to a common carrier, shipped by the seller via the purchasing carrier's facilities under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.

(b) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than aircraft fuel and petroleum products, purchased by a foreign air carrier and transported by the foreign air carrier's facilities to a foreign destination for use by the air carrier in the conduct of its business as a common carrier by air of persons or property. To qualify for this exemption, the foreign air carrier shall furnish to the seller a certificate in writing that the property shall be transported and used in the manner required in this subdivision. The certificate shall be substantially in the form prescribed by the department. A seller is not liable for the sales tax if the seller accepts the certificate in good faith. If the seller does not have the certificate at the time the department requests the seller to submit the certificate to the department, the seller shall be given a reasonable time to request the foreign air carrier to provide the seller with the certificate. The foreign air carrier shall maintain records in this state, such as a copy of a bill of lading, an air waybill, or cargo manifest, documenting its transportation of the tangible personal property to a foreign destination.

(c) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of fuel and petroleum products to a water common carrier for immediate shipment outside this state for consumption in the conduct of its business as a common carrier after the first out-of-state destination. To qualify for the exemption the common carrier shall furnish to the seller an exemption certificate in writing stating the quantity of fuel and petroleum products claimed as exempt which is to be consumed after reaching the first out-of-state destination. That certificate shall bear the purchaser's valid seller's permit number or valid fuel exemption registration number and shall be substantially in the form prescribed by the department. Acceptance in good faith of that certificate shall relieve the seller from liability for the sales tax.

(d) "First out-of-state destination," as used in this section, means the first point reached outside this state by a common carrier in the conduct of its business as a common carrier at which cargo or passengers are loaded or discharged, cargo containers are added or removed, fuel is transferred, or docking fees are charged. "First out-of-state destination," as used in this section, also includes the entry point of the Panama Canal when the carrier is only transiting the canal in the conduct of its business as a common carrier.

(e) "Common carrier," as used in this section, with respect to water transportation, shall be deemed to include any vessel engaged, for compensation, in transporting persons or property in interstate or foreign commerce.

(f) "Foreign air carrier," as used in this section, means a foreign air carrier as defined in Section 40102 of Title 49 of the United States Code.

(g) "Immediate shipment," as used in this section, means that the delivery of the fuel and petroleum products by the seller is directly into a ship for transportation outside this state and not for storage by the purchaser or any third party.

(h) A common carrier claiming exemption under subdivision (c) who is not required to hold a valid seller's permit shall be required to register with the department and obtain a fuel exemption registration number and shall be required to file returns as the department may prescribe if either the department notifies the carrier that returns must be filed or the carrier is liable for taxes based upon consumption of fuel erroneously claimed as exempt under this section. A common carrier required to hold a fuel exemption registration number shall be subject to all applicable provisions of this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251).

(i) A common carrier claiming an exemption under subdivision (c), upon request, shall make available to the department records, including, but not limited to, a copy of a log abstract or a cargo manifest, documenting its transportation of the fuel or petroleum product to an out-of-state destination and the amount claimed as exempt. If the carrier fails to provide these records upon request, the department may revoke the carrier's fuel exemption registration number.

(j) The department may require any carrier claiming an exemption under this section and required to obtain a fuel exemption registration number to place with it that security as the department may determine pursuant to Section 6701.

(k) Pursuant to subdivisions (a), (b), and (c), any use of the property by the purchasing carrier, other than that incident to the delivery of the property to the carrier and the transportation of the property by the carrier to the first out-of-state destination and subsequent use in the conduct of its business as a common carrier, or a failure of the carrier to document its transporting the property to the first out-of-state destination, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

(l) For the purpose of complying with Section 41, the Legislature finds and declares all of the following with respect to the exemption extended by the act adding this subdivision:

(1) The specific goal that the exemption will continue to achieve is to ensure fueling will continue to be a robust economic activity in the state and adhere to tax policy and rationale of first substantial use occurring out of state.

(2) Detailed performance indicators measuring whether the exemption meets the goal described in paragraph (1) are the following:

(A) The average monthly maritime fuel price at all domestic and international Pacific seaports.

(B) The average monthly maritime fuel price at California seaports.

(C) Maritime fuel deliveries at California seaports.

(3) On or before January 1, 2026, the Legislative Analyst's Office shall analyze the performance indicators described in paragraph (2) and shall report its findings, pursuant to Section 9795 of the Government Code, to the Legislature.

(m) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

6385.
(a) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than fuel and petroleum products, to a common carrier, shipped by the seller via the purchasing carrier's facilities under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier.
(b) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property, other than aircraft fuel and petroleum products, purchased by a foreign air carrier and transported by the foreign air carrier's facilities to a foreign destination for use by the air carrier in the conduct of its business as a common carrier by air of persons or property. To qualify for this exemption, the foreign air carrier shall furnish to the seller a certificate in writing that the property shall be transported and used in the manner required in this subdivision. The certificate shall be substantially in the form prescribed by the department. A seller is not liable for the sales tax if the seller accepts the certificate in good faith. If the seller does not have the certificate at the time the department requests the seller to submit the certificate to the department, the seller shall be given a reasonable time to request the foreign air carrier to provide the seller with the certificate. The foreign air carrier shall maintain records in this state, such as a copy of a bill of lading, an air waybill, or cargo manifest, documenting its transportation of the tangible personal property to a foreign destination.
(c) "Common carrier," as used in this section, with respect to water transportation, shall be deemed to include any vessel engaged, for compensation, in transporting persons or property in interstate or foreign commerce.
(d) "Foreign air carrier," as used in this section, means a foreign air carrier as defined in Section 40102 of Title 49 of the United States Code.
(e) Pursuant to subdivisions (a) and (b), any use of the property by the purchasing carrier, other than that incident to the delivery of the property to the carrier and the transportation of the property by the carrier to an out-of-state destination and subsequent use in the conduct of its business as a common carrier, or a failure of the carrier to document its transporting the property to an out-of-state destination, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.
(f) This section shall become operative on January 1, 2029.

6386.
There are exempted from the computation of the amount of the sales tax the gross receipts from the sale in this state of tangible personal property to a holder of a valid seller's permit issued under Section 6067 when the property is used by the purchaser outside of this state in his performance of a contract to improve real property and, as a result of such use, is incorporated into and becomes a part of real property located outside of this state. This exemption shall apply only if the purchaser certifies in writing to the seller, in such form as the board may prescribe, that the property will be used in a manner and for a purpose herein specified.

6387.
There are exempted from the computation of the amount of the sales tax the gross receipts from sales of tangible personal property purchased for use solely outside this State and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation, and actually delivered to a port outside the continental limits of the United States prior to making any use thereof.

6388.
Where a new or remanufactured truck, truck tractor, semitrailer, or trailer, any of which has an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach or a new or remanufactured auxiliary dolly, is purchased from a dealer located outside this state for use without this state and is delivered by the manufacturer or remanufacturer to the purchaser within this state, and the purchaser drives or moves the vehicle from the manufacturer's or remanufacturer's place of business in this state to any point outside this state within 30 days from and after the date of the delivery, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption of the vehicle within the state, if the purchaser furnishes the following to the manufacturer or remanufacturer:
(a) Written evidence of an out-of-state registration for the vehicle.
(b) The purchaser's affidavit attesting that he or she is not a resident of California and that he or she purchased the vehicle from a dealer at a specified location without the state for use outside this state.
(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within 30 days of the date of the delivery of the vehicle to him or her.

6388.3.
The State Board of Equalization shall prepare and distribute a standard form or forms for the purchaser affidavit required by Sections 6388 and 6388.5.

6388.5.
(a) Notwithstanding Section 6388, if a new, used, or remanufactured truck or a new, used, or remanufactured trailer or semitrailer, any of which has an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new, used, or remanufactured truck or a new, used, or remanufactured trailer or semitrailer, any of which has an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use, or other consumption of the vehicle within the state, if the purchaser or the purchaser's agent furnishes all of the following to the manufacturer, remanufacturer, or dealer:
(1) (A) Written evidence of an out-of-state license and registration for the vehicle.
(B) If the vehicle is subject to the permanent trailer identification plate program under Section 5014.1 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Unified Carrier Registration System filing may be substituted for the written evidence described in subparagraph (A).
(C) If the vehicle is registered under the International Registration Plan pursuant to Section 8052 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Unified Carrier Registration System filing may be substituted for the written evidence described in subparagraph (A).
(2) The purchaser's affidavit attesting that the purchaser purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.
(3) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to the purchaser.
(b) For the purpose of complying with Section 41, the Legislature declares the following with respect to the extension of the exemption by this section and the application of this section to the sale of a used trailer or semitrailer:
(1) (A) The goal of this section, as amended by Chapter 226 of the Statutes of 2019 and the act adding this subdivision, is to bring, and continue to bring, parity to the law regulating interstate commerce and to allow commercial trucks to meet the same requirements as commercial trailers that are purchased in the state for use either entirely outside the state or strictly in interstate commerce.
(B) The goal of this section, as amended by the act adding this subdivision, is also to bring parity to the law with respect to used trailers and semitrailers.
(2) The goal of this policy is to increase sales of commercial trucks and used trailers and semitrailers that have an unladen weight of 6,000 pounds or more that will be used in interstate commerce.
(c) This section shall become inoperative on January 1, 2029, and as of that date is repealed.

6388.5.
(a) Notwithstanding Section 6388, if a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more that has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 30 days from and after the date of delivery, or whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or

more that has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, or dealer to the purchaser within this state, and the purchaser drives or moves the vehicle to any point outside this state within 75 days from and after the date of delivery, there are exempted from the taxes imposed by this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use, or other consumption of the vehicle within the state, if the purchaser or the purchaser's agent furnishes all of the following to the manufacturer, remanufacturer, or dealer:

(1) (A) Written evidence of an out-of-state license and registration for the vehicle.

(B) If the vehicle is subject to the permanent trailer identification plate program under Section 5014.1 of the Vehicle Code and is used exclusively in interstate or foreign commerce, or both, written evidence of the purchaser's or lessee's United States Department of Transportation number or Unified Carrier Registration System filing may be substituted for the written evidence described in subparagraph (A).

(2) The purchaser's affidavit attesting that the purchaser purchased the vehicle from a dealer at a specified location for use exclusively outside this state, or exclusively in interstate or foreign commerce, or both.

(3) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within the appropriate period of either 30 days or 75 days of the date of the delivery of the vehicle to the purchaser.

(b) This section shall become operative on January 1, 2029.

6390.

There are exempted from the computation of the amount of the sales tax the rentals payable under a lease of tangible personal property (a) when such rentals are required to be included in the measure of the use tax or (b) when such property is situated outside this state.

6391.

There are exempted from the computation of the amount of the sales tax the rentals payable under a lease of tangible personal property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to August 1, 1965, and the lessor did not elect under Sections 6094 or 6244 to pay use tax measured by the amount of the rental charge. The lessor shall be deemed not to be obligated for any period of time for which he has the unconditional right to terminate the lease upon notice, whether or not the right is exercised.

6396.

There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside this state by the retailer by means of: (a) facilities operated by the retailer, or (b) delivery by the retailer to a carrier, customs broker or forwarding agent, whether hired by the purchaser or not, for shipment to such out-of-state point.

For purposes of this section, the term "carrier" shall mean a person or firm engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. The term "forwarding agent" shall mean a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

6401.

The storage, use, or other consumption in this state of property, the gross receipts from the sale of which the purchaser establishes to the satisfaction of the board were included in the measure of the sales tax, is exempted from the use tax; provided, however, that this exemption does not extend to the possession of, or the exercise of any right or power over, tangible personal property by a lessee under a lease.

6402.

The storage, use or other consumption in this State of property purchased from any unincorporated agency or instrumentality of the United States, except (a) any property reported to the Surplus Property Board of the United States, or to any agency succeeding to the functions of that board, as surplus property by any owning agency and (b) any property included in any contractor inventory, is exempted from the use tax.

"Surplus property," "owning agency," and "contractor inventory" as used in this section have the meanings ascribed to them in that act of the Congress of the United States known as the "Surplus Property Act of 1944."

6403.

The storage, use, or other consumption in this state of property donated by any seller to any organization described in Section 170(b)(1)(A) of the Internal Revenue Code and located in California, is exempt from the use tax. A museum shall not be a qualifying donee organization under this section unless the museum is a nonprofit museum described in subdivision (c) of Section 6366.4, and uses the donated property exclusively for display purposes within a museum.

6404.

(a) The loan by any retailer of any tangible personal property to any school district for an educational program conducted by the district is exempt from the use tax.

(b) The loan by any retailer of any motor vehicle to the University of California or to the California State University for the exclusive use in an approved driver education teacher preparation certification program conducted by the university or the state university is exempt from the use tax.

(c) The loan by any retailer of a motor vehicle to be used exclusively for driver training in an accredited private or parochial secondary school in a driver education and training program approved by the State Department of Education as a regularly conducted course of study is exempt from the use tax.

(d) The loan by any retailer of any motor vehicle to a veterans hospital or such other nonprofit facility or institution to provide instruction in the operation of specially equipped motor vehicles to disabled veterans is exempt from the use tax.

(e) If the retailer makes any other use of the property except retention, demonstration, or display while holding it for sale in the regular course of business, the use is taxable to the retailer under Chapter 3 (commencing with Section 6201) as of the time the property is first so used, and the sales price of the property to the retailer is the measure of the tax.

6405.

Notwithstanding Section 6246, the storage, use, or other consumption in this state of the first eight hundred dollars ($800) of tangible personal property purchased in a foreign country by an individual from a retailer and personally hand-carried into this state from the foreign country within any 30-day period is exempt from the use tax. This section shall not apply to property sent or shipped to this state.

6406.

A credit shall be allowed against, but shall not exceed, the taxes imposed on any person by Chapter 3 (commencing with Section 6201) of this part, by any ordinance enacted pursuant to Part 1.5 (commencing with Section 7200), by any ordinance enacted pursuant to Part 1.6 (commencing with Section 7251), and by any ordinance enacted pursuant to Article 2 (commencing with Section 37021) of Part 17 of this division by reason of the storage, use, or other consumption of tangible personal property in this state to the extent that the person has paid a retail sales or use tax, or reimbursement therefor, imposed with respect to that property by any other state, political subdivision thereof, or the District of Columbia prior to the storage, use, or other consumption of that property in this state. The credit shall be apportioned to the taxes against which it is allowed in proportion to the amounts of those taxes.

A credit, otherwise permitted by the foregoing provisions of this section, shall not be allowed against taxes which are measured by periodic payments made under a lease, to the extent that the taxes imposed by any other state, political subdivision thereof, or the District of Columbia were also measured by periodic payments made under a lease for a period prior to the storage, use, or other consumption of the property in this state.

6407.

The possession of, or the exercise of any right or power over, tangible personal property under a lease of such property is exempt from the use tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by the lease prior to August 1, 1965. The lessee shall be deemed not to be obligated for any period of time for which he has the unconditional right to terminate the lease upon notice, whether or not the right is exercised.

6408.

The storage, use, or other consumption in this state of medical health information literature purchased by any organization formed and operated for charitable purposes which qualifies for the exemption provided by Section 214 (known as the "welfare exemption"), which is engaged in the dissemination of medical health information, is exempted from the use tax; provided, however, that such purchases are made from a national office, or another branch of that national office, of the same organization.

6409.

The storage, use, or other consumption in this state of health and safety educational materials and insignia routinely sold in connection with health and safety and first aid classes, purchased or sold by any national organization formed

and operated for charitable purposes which qualifies for the exemption provided by Section 214 (known as the "welfare exemption"), which is engaged in the dissemination of health and safety information, is exempted from the use tax; provided, however, that such purchases are made from a national office or another branch or chapter of such national office of the same organization.

6410.
The storage, use, or other consumption in this state of new or used trailers or semitrailers which involves the moving or operation laden of those trailers or semitrailers in accordance with a one-trip permit issued pursuant to Section 4003.5 of the Vehicle Code is exempted from the use tax.

6411.
(a) The storage, use, or other consumption in this state of tangible personal property becoming a component part of any railroad equipment in the course of repairing, cleaning, altering, or improving that railroad equipment outside of this state, and charges made for labor and services rendered with respect to that repairing, cleaning, altering, or improving, are exempt from the use tax.
(b) For purposes of this section, "railroad equipment" includes locomotives, freight and passenger cars, maintenance of way equipment, and any other equipment riding on flanged wheels and owned or used by a common carrier engaged in interstate or foreign commerce, or by any person for the purpose of leasing that equipment to a common carrier engaged in interstate or foreign commerce.

6414.
(a) The storage, use, or other consumption in this state of medicinal cannabis or medicinal cannabis product shall be exempt from the use tax in either of the following circumstances:
(1) The medicinal cannabis or medicinal cannabis product is donated by a cannabis retailer licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code to a medicinal cannabis patient.
(2) The medicinal cannabis or medicinal cannabis product is donated by a person licensed under Division 10 (commencing with Section 26000) of the Business and Professions Code to a cannabis retailer for subsequent donation to a medicinal cannabis patient.
(b) (1) The exemption specified in subdivision (a) shall apply only if the cannabis retailer certifies in writing to the licensee that donates the medicinal cannabis or medicinal cannabis product, in such a form as the department may prescribe, that the medicinal cannabis and medicinal cannabis product will be used in a manner and for a purpose specified in subdivision (a). The licensee that donates the medicinal cannabis or medicinal cannabis product shall keep a copy of the certification for no less than seven years. The certification in writing shall relieve the licensee that donates the medicinal cannabis or medicinal cannabis product of liability for use tax only if it is taken in good faith.
(2) If a licensee uses the donated medicinal cannabis or medicinal cannabis product in some manner or for some purpose other than those specified in subdivision (a), the licensee shall be liable for the payment of use tax, the measure of tax to the licensee shall be deemed that licensee's purchase price for similar product, and the licensee shall be subject to having their license suspended by the Department of Cannabis Control pursuant to Section 26031 of the Business and Professions Code.
(c) "Medicinal cannabis" and "medicinal cannabis product" shall have the same meaning as those terms are defined in Section 26001 of the Business and Professions Code.
(d) "Cannabis retailer" shall have the same meaning as that term is defined in Section 34010.
(e) "Medicinal cannabis patient" shall mean a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.
(f) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.
(Amended by Stats. 2024, Ch. 920, Sec. 1. (AB 2555) Effective September 29, 2024. Repealed as of January 1, 2030, by its own provisions.)

6421.
(a) If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this chapter from the computation of the amount of the sales tax, and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property at the time of such use, and the cost of the property to him shall be deemed the gross receipts from such retail sale. The certificate shall relieve the seller from liability for the sales tax only if it is taken in good faith.
(b) For purposes of this section, "use" is the same as defined in Section 6009 without the exclusion defined in Section 6009.1.

6422.1.
The board may provide for exemption certificates and other tax clearance certificates to be issued by it or by retailers selling vehicles as defined in Article 1 (commencing with Section 6271) of Chapter 3.5, commercial coaches as defined in Section 18001.8 of the Health and Safety Code or mobilehomes as defined by Section 18008 of the Health and Safety Code. The certificates shall be used to allow a completion of registration of a vehicle by the Department of Motor Vehicles or a commercial coach or mobilehome by the Department of Housing and Community Development. The certificates may indicate that the board finds that no use tax is due or is likely to become due with respect to the storage, use, or other consumption of the vehicle, commercial coach, or mobilehome, or that the tax has been paid or is to be paid in a manner not requiring the withholding of a registration or transfer of registration. The certificates shall be in such form as the board may prescribe and shall be executed, issued and accepted for clearance of registration on such conditions as the board may prescribe. The issuance, alteration, forgery, or use of any such certificate in a manner contrary to the requirements of the board constitutes a misdemeanor.

6423.
(a) A purchaser certifying under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid shall do so in a form prescribed by the board.
(b) If the purchaser provides the certificate referred to in subdivision (a) and uses the fuel in a manner that does not entitle the purchaser to a direct refund or credit against his or her income tax for the federal excise tax paid or if the purchaser does not receive such a refund or credit, the purchaser shall be liable for sales or use tax measured by the amount of federal excise tax paid to the extent the seller has not remitted sales or use tax measured by that amount. The certificate shall relieve the seller from liability for any sales or use tax due only if it is taken in good faith.
(c) Any person, including any officer or employee of a corporation, who certifies under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid on fuel when that person knows at the time of purchase that he or she shall not be entitled to the refund or credit is liable to the state for the amount of sales or use tax that would be due if he or she had not so certified. In addition to the tax, interest, and other penalties, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500), whichever is greater, for purchases made for personal gain or to evade payment of taxes.
(d) Any person, including any officer or employee of a corporation, who, for the purpose of evading payment to the seller of a portion of the tax applicable to the transaction, certifies under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid on fuel when that person knows at the time of purchase that he or she is not entitled to such a refund or credit is guilty of a misdemeanor punishable as provided in Section 7153.

6451.
The taxes imposed by this part are due and payable to the board quarterly on or before the last day of the month next succeeding each quarterly period.

6452.
(a) On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in the form as prescribed by the board, which may include, but not be limited to, electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.
(b) For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax.
(c) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

6452.05.

(a) Beginning January 1, 2020, on or before the last day of the month next following each quarterly period, in addition to the returns due pursuant to Section 6452, a retailer of aircraft jet fuel shall provide a quarterly information return, in the form prescribed by the department, which may include, but not be limited to, electronic media showing the information required for this state to comply with the Federal Aviation Administration's "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 Fed. Reg. 66282 (Nov. 7, 2014)), as it read on November 7, 2014, and any other information that the department determines to be necessary to comply with those policies and procedures.

(b) A retailer of aircraft jet fuel who fails or refuses to timely furnish an information return, or other data required by the department pursuant to subdivision (a), shall pay a penalty of five thousand dollars ($5,000).

(c) The information return required under this section shall not include any tax remittance and does not constitute a return required under Section 6452.

(d) The department shall collect information from the returns filed pursuant to subdivision (a) and shall post the following information each quarter on the department's internet website:

(1) The amount of reported revenue derived from the sale, storage, use, or consumption of aircraft jet fuel in the state from taxes imposed pursuant to Section 35 of Article XIII of the California Constitution and Sections 6051.2, 6051.3, 6201.2, and 6201.3 of this code.

(2) The amount of reported revenue derived from the sale, storage, use, or consumption of aircraft jet fuel with respect to taxes imposed by a city, county, city and county, or other governmental entity in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), for the purposes of local compliance with the Federal Aviation Administration's "Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel" (79 Fed. Reg. 66282 (Nov. 7, 2014)), as it read on November 7, 2014.

6452.1.

(a) Notwithstanding Section 6451, every person that purchases tangible personal property, the storage, use, or other consumption of which is subject to qualified use tax, as defined in subdivision (d), that is otherwise required to report and remit that tax pursuant to this part, may elect to report and remit qualified use tax on an acceptable tax return.

(b) (1) A person that reports qualified use tax on an acceptable tax return is deemed to have made the election authorized by this section.

(2) (A) In the case of a married individual filing a separate California personal income tax return, an election may be made to report either one-half of the qualified use tax or the entire qualified use tax on his or her separate California personal income tax return.

(B) If an individual elects to report one-half of the qualified use tax, that election will not be binding with respect to the remaining one-half of the qualified use tax owed by that individual and that individual's spouse.

(c) An election to report qualified use tax on an acceptable tax return shall be irrevocable. An acceptable tax return that contains use tax shall be considered a tax return for purposes of this part.

(d) For purposes of this section:

(1) "Acceptable tax return" means an original return that is filed pursuant to Article 1 (commencing with Section 18501) and Article 2 (commencing with Section 18601) of Chapter 2 of Part 10.2, Section 18633 or 18633.5, or Article 3 (commencing with Section 23771) of Chapter 4 of Part 11.

(2) (A) Except as provided in subparagraph (B), "qualified use tax" means either of the following:

(i) For one or more single nonbusiness purchases of individual items of tangible personal property each with a sales price of less than one thousand dollars ($1,000), either of the following:

(I) The use tax imposed under this part, Article XIII of the California Constitution, in conformity with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) that has not been paid to a retailer holding a seller's permit or certificate of registration-use tax.

(II) The estimated amount of use tax as calculated by the board. The board shall annually calculate the estimated amount of use tax due according to a person's adjusted gross income and by July 30 of each calendar year make available to the Franchise Tax Board those amounts in the form of a use tax table as part of the accompanying instructions of the acceptable tax return.

(ii) For one or more single nonbusiness purchases of individual items of tangible personal property each with a sales price of one thousand dollars ($1,000) or more, or for any tangible personal property purchased for use in a trade or business, the amount of use tax imposed under this part, Article XIII of the California Constitution, the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) that has not been paid to a retailer holding a seller's permit or certificate of registration-use tax.

(B) "Qualified use tax" does not include:

(i) Use tax imposed on the storage, use, or other consumption of a mobilehome or a commercial coach that is required to be registered annually pursuant to the Health and Safety Code or use tax imposed on the storage, use, or other consumption of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code.

(ii) Use tax imposed on the storage, use, or other consumption of a vehicle, vessel, or aircraft.

(iii) Use tax imposed on a lease of tangible personal property.

(iv) Use tax imposed on the storage, use, or other consumption of cigarettes, tobacco products, or cigarettes and tobacco products for which the purchaser is registered with the board as a cigarette consumer, a tobacco products consumer, or a cigarette and tobacco products consumer.

(e) (1) If a person elects to report qualified use tax on an acceptable tax return, that person shall report and remit the qualified use tax by reporting the amount due based on all taxable purchases of tangible personal property made during the taxable year for which the acceptable tax return is required to be filed. A person that has made one or more single nonbusiness purchases of individual items of tangible personal property each with a sales price of less than one thousand dollars ($1,000) may satisfy his or her tax liability for those purchases by using the use tax table shown in the accompanying instructions of the acceptable tax return.

(2) The qualified use tax shall be reported on and remitted with an acceptable tax return that is required to be filed for the taxable year in which the liability for the qualified use tax was incurred.

(f) (1) The penalties and interest imposed under this part, in conformity with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) shall apply to use tax reported as qualified use tax on an acceptable return.

(2) Any claims for refunds or credits of any use tax reported as qualified use tax on an acceptable tax return shall be made in accordance with Chapter 7 (commencing with Section 6901) of this part.

(3) Qualified use tax shall be considered to be timely reported and remitted for purposes of this part, in conformity with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), if the qualified use tax is reported on and remitted with an acceptable tax return in accordance with the provisions of this section.

(g) Notwithstanding a person's payment of qualified use tax on an acceptable tax return, the board is not precluded from making any determinations for understatements of qualified use tax against that person in accordance with this chapter. However, with respect to one or more single nonbusiness purchases of individual items of tangible personal property each with a sales price of less than one thousand dollars ($1,000), the board shall be precluded from making any such determination against any person who uses the use tax table for purposes of satisfying his or her use tax liability when the person uses that table in accordance with the accompanying instructions.

(h) (1) Of payments and credits shown on the return, together with any other credits associated with that person's tax year, of a person that reports qualified use tax on an acceptable tax return, an amount equal to the qualified use tax liability reported on that acceptable tax return in accordance with this section shall be applied to that liability.

(2) This subdivision shall apply to purchases of tangible personal property made on or after January 1, 2015, in taxable years beginning on or after January 1, 2015.

(i) (1) This section does not apply to a person who is otherwise required to hold a seller's permit or to register with the State Board of Equalization pursuant to Part 1 (commencing with Section 6001) of this division.

(2) Except as otherwise provided, this section applies to purchases of tangible personal property made on or after January 1, 2010, in taxable years beginning on or after January 1, 2010.

(3) The amendments made by Chapter 14 of the Statutes of 2011 shall apply to purchases of tangible personal property made on or after January 1, 2011, in taxable years beginning on or after January 1, 2011.

6452.2.

(a) For reporting periods beginning on or after January 1, 2012, notwithstanding Section 6451 and subdivision (b) of Section 6455, the qualified use tax of an eligible purchaser, as defined in this section, is due and payable to the board on or before April 15 following the close of the calendar year in which the liability for use tax was incurred.
(b) "Eligible purchaser" means a person that purchases tangible personal property, the storage, use, or other consumption of which is subject to qualified use tax, as defined in this section, and that is either of the following:

(1) Eligible to report use tax on an acceptable tax return, but does not elect to do so.

(2) Not required to file an acceptable tax return pursuant to Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), and that is not a holder of a use tax direct payment permit as described in Section 7051.3 or is not otherwise registered or required to be registered with the board to report sales or use tax.

(c) "Qualified use tax" for purposes of this section, means the amount of use tax imposed under this part, Article XIII of the California Constitution, in conformity with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) that has not been paid to a retailer holding a seller's permit or certificate of registration-use tax. "Qualified use tax" does not include the use tax described in subparagraph (B) of paragraph (2) of subdivision (d) of Section 6452.1.
(d) "Acceptable tax return" has the same meaning as that term is used in paragraph (1) of subdivision (d) of Section 6452.1.

6453.
For purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period and, in the case of a person who is liable for the sales tax and is not a seller, the gross receipts of such person for the period in which the liability was incurred. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him or her, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, except as provided in Section 6452.1, the return shall show the total sales price of the property purchased by him or her, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.
The return shall also show the amount of the taxes for the period covered by the return and any other information which the board deems necessary for the proper administration of this part.

6454.
Except as provided in Sections 6479.3 and 6479.31, a person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the board.

6455.
(a) The board, if it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require returns and payment of the amount of taxes for quarterly periods other than calendar quarters depending upon the principal place of business of the seller, retailer or purchaser as the case may be, or for designated periods other than quarterly periods.
(b) On or before the last day of the month following each designated period, a return for the preceding designated period shall be filed with the board in such form as the board may prescribe.
(c) Any retailer or other person who fails or refuses to furnish any return required by law to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

6456.
(a) Under regulations prescribed by the board, if:
(1) A tax liability under this part was understated by a failure to file a return required to be filed under this part, by the omission of an amount properly includable therein, or by erroneous deductions or credits claimed on a return, and the understatement of tax liability is attributable to one spouse; or any amount of the tax reported on a return was unpaid and the nonpayment of the reported tax liability is attributable to one spouse,
(2) The other spouse establishes that he or she did not know of, and had no reason to know of, that understatement or nonpayment, and
(3) Taking into account whether or not the other spouse significantly benefited directly or indirectly from the understatement or the nonpayment and taking into account all other facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax attributable to that understatement or nonpayment, then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) to the extent that the liability is attributable to that understatement or nonpayment of tax.
(b) For purposes of this section, the determination of the spouse to whom items of understatement or nonpayment are attributable shall be made without regard to community property laws.
(c) This section shall apply to all calendar quarters subject to the provisions of this part, but shall not apply to any calendar quarter that is more than five years from the final date on the board-issued determination, five years from the return due date for nonpayment on a return, or one year from the first contact with the spouse making a claim under this section; or that has been closed by res judicata, whichever is later.
(d) For purposes of paragraph (2) of subdivision (a), "reason to know" means whether or not a reasonably prudent person would have had reason to know of the understatement or nonpayment.
(e) For purposes of this section, with respect to a failure to file a return or an omission of an item from the return, "attributable to one spouse" may be determined by whether a spouse rendered substantial service as a retailer of taxable items to which the understatement is attributable. If neither spouse rendered substantial services as a retailer, then the attribution of applicable items of understatement shall be treated as community property. An erroneous deduction or credit shall be attributable to the spouse who caused that deduction or credit to be entered on the return.
(f) Under procedures prescribed by the board, if, taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under subdivision (a), the board may relieve the other spouse of that liability.

6457.
Section 6453 shall not be applicable with respect to a lease of tangible personal property, but the lessor shall report the rentals paid by the lessee during the preceding reporting period; a lessee shall report the rentals payable in the preceding reporting period upon which tax has not been paid to his lessor required to collect the tax. The return shall also show the amount of the taxes for the period covered by the return and such other information as the board deems necessary for the proper administration of this part.

6459.
(a) (1) Except as provided in subdivisions (b) and (c), the board for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

(2) Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

(b) (1) The board may grant an extension for more than one month if both of the following conditions occur:

(A) A budget for the state has not been adopted by July 1.

(B) The person requesting the extension is a creditor of the state who has not been paid because of the state's failure to timely adopt a budget.

(2) Any extension granted under this subdivision shall expire no later than the last day of the month following the month in which the budget is adopted or one month from the due date of the return or payment, whichever comes later.

(3) Any person to whom an extension has been granted under this subdivision shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment. However, no interest shall be due on that portion of the payment equivalent to the amount due to the person from the state on the due date of the payment.

(c) (1) In the case of a disaster, the board, for a period not to exceed three months, may extend the time for making any report or return or paying any tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or before the period for which the extension may be granted.

(2) Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension until the date of payment.

(3) For purposes of this section, "disaster" means fire, flood, storm, tidal wave, earthquake, or similar public calamity, whether or not resulting from natural causes.

6459.5.
(a) Subject to subdivision (c), if the Governor issues a state of emergency proclamation, the department may extend the time, for a period not to exceed three months, for making any report or return or paying any tax required under this part for any person in an area identified in the state of emergency proclamation.
(b) If the department makes an extension pursuant to subdivision (a), any person in an area identified in a state of emergency proclamation shall not be required to file a request for the extension.
(c) The department may make the extension in subdivision (a) only during the first 12 months following the issuance of the state of emergency proclamation or the duration of the state of emergency, whichever is less.

6470.
The provisions of this article do not apply to persons filing returns for other than quarterly periods. The provisions of this article apply to taxes imposed under ordinances adopted pursuant to Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), or Article 2 (commencing with Section 37021) of Part 17 of this division in the same manner and to the same extent that the provisions of this article apply to taxes imposed under this part.

6471.
(a) Upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen thousand dollars ($17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, make prepayments as prescribed in this section.
(1) In the first, third, and fourth calendar quarters, the person shall prepay not less than 90 percent of the amount of state and local tax liability for each of the first two monthly periods of each quarterly period.
(2) In the second calendar quarter, the person shall make a first prepayment of 90 percent of the amount of state and local tax liability for the first monthly period of the quarterly period and a second prepayment of either of the following:
(A) Ninety percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 90 percent of the amount of state and local tax liability for the first 15 days of the third monthly period of the quarterly period.
(B) Ninety percent of the amount of state and local tax liability for the second monthly period of the quarterly period, plus 50 percent of 90 percent of the amount of state and local tax liability for the second monthly period of the quarterly period.
(b) Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business that was in operation during all of that quarterly period, may satisfy the above monthly prepayment requirements for the first, third, and fourth calendar quarters by payment of an amount equal to one-third of the measure of tax liability reported on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.
These persons may satisfy their prepayment requirements for the second calendar quarter by making a first prepayment of an amount equal to one-third of the measure of tax liability reported, and a second prepayment of an amount equal to one-half of the measure of tax liability reported, on the return or returns filed for that quarterly period of the preceding year multiplied by the state and local tax rate in effect during the month for which the prepayment is made.
Prepayments shall be made during the quarterly periods designated by the board and during each succeeding quarterly period until further notified in writing by the board.

6471.4.
Any person required to make prepayment pursuant to Article 1.5 (commencing with Section 6480) may not be required to make additional prepayment pursuant to this article, provided that more than 75 percent of the gross receipts of that person are from the retail sale of motor vehicle fuel, diesel fuel, aircraft jet fuel, or any combination of those fuels.

6471.6.
The department, in its discretion, may relieve any person from the requirement to make prepayments pursuant to Section 6471 if both of the following apply:
(a) The person is a dealer required to pay any sales or use tax, as applicable, to the Department of Motor Vehicles pursuant to Section 6295.
(b) During the prior calendar year, more than 75 percent of the gross receipts of that person are from retail sales of motor vehicles required to be registered under the Vehicle Code, except for a recreational vehicle that is either truck-mounted, permanently towable on the highways without a permit, or a park trailer, as those terms are defined in Section 18010 of the Health and Safety Code.

6472.
Except in the case of persons required to remit amounts due in accordance with Article 1.2 (commencing with Section 6479.3), for purposes of Section 6471, a prepayment shall be accompanied by a report of the amount of the prepayment in a form prescribed by the board and shall be made to the board as follows:
(a) In the first, third, and fourth calendar quarters, on or before the 24th day next following the end of each of the first two monthly periods of each quarterly period.
(b) In the second calendar quarter, as follows:
(1) The first prepayment on or before the 24th day next following the end of the first monthly period of the quarterly period.
(2) The second prepayment on or before the 24th day of the third monthly period of the quarterly period for the second monthly period and the first 15 days of the third monthly period of the quarterly period.

6473.
The amount of the prepayment shall constitute a credit against the amount of the taxes due and payable for the quarterly period in which the prepayment became due.

6474.
In determining whether a person's estimated measure of tax liability averages seventeen thousand dollars ($17,000) or more per month for purposes of Section 6471.5, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

6476.
Any person required to make a prepayment pursuant to Section 6471 who fails to make a timely prepayment but makes such prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due, shall also pay a penalty of 6 percent of the amount of prepayment.

6477.
Any person required to make a prepayment pursuant to Section 6471 or Section 6471.5 who fails to make a prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due and who files a timely return and payment for the quarterly period in which the prepayment became due shall pay a penalty of 6 percent of the amount equal to 90 percent of the tax liability, as prescribed in those sections, for each of the periods during that quarterly period for which a required prepayment was not made.

6478.
(a) If a failure to make a prepayment as described in Section 6477 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent instead of 6 percent.
(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.
(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 6484, 6485, 6511, 6514, and 6591.
(d) The 10 percent negligence penalty shall become due and payable and shall be ascertained and determined in the same manner as the deficiency determination under Article 2 (commencing with Section 6481) of this chapter. The provisions of Article 5 (commencing with Section 6561) of this chapter shall be applicable with respect to the finality of the determination and the right to petition for redetermination.

6479.
Notification by the board, provided for in Section 6471, may be served personally or by mail in the manner prescribed in Section 6486 for service of notice of a deficiency determination.

6479.3.
(a) Except as provided in subdivision (k), any person whose estimated tax liability under this part averages ten thousand dollars ($10,000) or more per month, as determined by the department pursuant to methods of calculation prescribed by the department, shall remit amounts due by an electronic funds transfer under procedures prescribed by the department. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.
(b) Any person whose estimated tax liability under this part averages less than ten thousand dollars ($10,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the department.
(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in

Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.
(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the department. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.
(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.
(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.
(f) Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the department under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.
(g) In determining whether a person's estimated tax liability averages ten thousand dollars ($10,000) or more per month, the department may consider tax returns filed pursuant to this part and any other information in the department's possession.
(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.
(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.
(j) The department shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.
(k) (1) On and after January 1, 2022, a person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code, may remit amounts due by a means other than electronic funds transfer, if the department deems it necessary to facilitate collection of amounts due.
(2) A person licensed to engage in commercial cannabis activity under Division 10 (commencing with Section 26000) of the Business and Professions Code that failed to remit amounts due by means of electronic funds transfer on and after January 1, 2022, and before January 1, 2023, is not subject to or is relieved of any of the penalties imposed by this section for that failure.

6479.31.
(a) Any return, declaration, statement, or other document required to be made under this part that is filed using electronic media shall be filed and authenticated pursuant to any method or form the board may prescribe.
(b) Notwithstanding any other law, any return, declaration, statement, or other document otherwise required to be signed that is filed by the taxpayer using electronic media in a form as required by the board shall be deemed to be a signed, valid original document, including upon reproduction to paper form by the board.
(c) Electronic media includes, but is not limited to, computer modem, magnetic media, optical disk, facsimile machine, or telephone.
(d) Payment is deemed timely for electronically filed returns if the transmission is completed on or before the due date of the return.

6479.4.
If the board finds that a person's failure to make payment by an appropriate electronic funds transfer in accordance with board procedures is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that person shall be relieved of the penalty provided in subdivision (e) of Section 6479.3.

6479.5.
(a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).
(b) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.
(c) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.
(d) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.
(e) "Fedwire transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Section 6479.3 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

6480.
(a) For purposes of the imposition of the prepayment of sales tax on motor vehicle fuel or aircraft jet fuel pursuant to this article, the terms "aircraft jet fuel," "aircraft jet fuel dealer," "aviation gasoline," "entry," "in this state," "motor vehicle fuel," "person," "removal," "sale," and "supplier" are defined pursuant to Part 2 (commencing with Section 7301), except as provided in subdivision (b).
(b) For purposes of this article, "motor vehicle fuel" does not include aviation gasoline for use in propelling aircraft.
(c) For purposes of the imposition of the prepayment of sales tax on diesel fuel pursuant to this article, the terms "diesel fuel," "entry," "in this state," "removal," "person," and "supplier," are defined pursuant to Part 31 (commencing with Section 60001).
(d) "Wholesaler" includes every person other than a supplier, dealing in motor vehicle fuel, aircraft jet fuel, or diesel fuel. "Wholesaler" does not include anyone dealing in motor vehicle fuel or diesel fuel in the capacity of an operator of a service station. "Wholesaler" does not include anyone dealing in aircraft jet fuel in the capacity of an aircraft jet fuel dealer.
(e) With respect to diesel fuel and aircraft jet fuel, "sale" means:
(1) The transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of aircraft jet fuel or diesel fuel (other than aircraft jet fuel or diesel fuel in a terminal) to a purchaser for a consideration.
(2) The transfer of the inventory position in the aircraft jet fuel or diesel fuel in a terminal if the purchaser becomes the positionholder with respect to the taxable fuel.
(f) For purposes of this article, aircraft jet fuel will be subject to the prepayment of sales tax at such time and in such manner as if it were subject to diesel fuel tax under the Diesel Fuel Tax Law in Part 31 (commencing with Section 60001), except that in the case of bulk transfers, aircraft jet fuel is not subject to the prepayment of sales tax as to the removal of diesel fuel in this state from any refinery as described in paragraph (1) of subdivision (a) of Section 60052, the entry of diesel fuel into this state as described in paragraph (1) of subdivision (b) of Section 60052, or the removal of diesel fuel in this state as described in subdivision (c) of Section 60052.

6480.1.
(a) At any time that motor vehicle fuel tax or diesel fuel tax is imposed or would be imposed, but for the dyed diesel fuel exemption in paragraph (1) of subdivision (a) of Section 60100, or the train operator exemption in paragraph (7) of subdivision (a) of Section 60100 or paragraph (11) of subdivision (a) of Section 7401, or, pursuant to subdivision (f) of Section 6480, would be deemed to be imposed, on any removal, entry, or sale in this state of motor vehicle fuel, aircraft jet fuel, or diesel fuel, the supplier shall collect prepayment of retail sales tax from the person to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is sold. However, if no sale occurs at the time of imposition of motor vehicle fuel tax or

diesel fuel tax, the supplier shall prepay the retail sales tax on that motor vehicle fuel, aircraft jet fuel, or diesel fuel. The prepayment required to be collected by the supplier constitutes a debt owed by the supplier to this state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a supplier or wholesaler who has consumed the fuel has paid the use tax to the board. Each supplier shall report and pay the prepayment amounts to the board, in a form as prescribed by the board, in the period in which the fuel is sold. On each subsequent sale of that fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of sale. Each supplier shall provide his or her purchaser with an invoice for, or other evidence of, the collection of the prepayment amounts which shall be separately stated thereon.

(b) (1) A wholesaler shall collect prepayment of the retail sales tax from the person to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is sold. Each wholesaler shall provide his or her purchaser with an invoice for or other evidence of the collection of the prepayment amounts, which shall be separately stated thereon.

(2) Each wholesaler shall report to the board, in a form as prescribed by the board and for the period in which the motor vehicle fuel, aircraft jet fuel, or diesel fuel was sold, all of the following:

(A) The number of gallons of fuel sold and the amount of sales tax prepayments collected by the wholesaler.

(B) The number of tax-paid gallons purchased and the amount of sales tax prepayments made by the wholesaler.

(C) In the event that the amount of sales tax prepayments collected by the wholesaler is greater than the amount of sales tax prepayments made by the wholesaler, then the excess constitutes a debt owed by the wholesaler to the state until paid to the board, or until satisfactory proof has been submitted that the retailer of the fuel has paid the tax to the board.

(c) A supplier or wholesaler who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the motor vehicle fuel, aircraft jet fuel, or diesel fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a prepayment paid by the retailer or a supplier or wholesaler who has consumed the motor vehicle fuel, aircraft jet fuel, or diesel fuel to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes due and payable for the period in which the sale was made. Failure of the supplier or wholesaler to report prepayments or the supplier's or wholesaler's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, supplier, or wholesaler, either on a temporary or permanent basis or otherwise. To be entitled to the credit, the retailer, supplier, or wholesaler shall retain for inspection by the board any receipts, invoices, or other documents showing the amount of sales tax prepaid to his or her supplier, together with the evidence of payment.

(e) The rate of the prepayment required to be collected during the period from July 1, 1986, through March 31, 1987, shall be four cents ($0.04) per gallon of motor vehicle fuel distributed or transferred.

(f) The rate of prepayment required to be collected for motor vehicle fuel, aircraft jet fuel, and diesel fuel as established by the board in effect on January 1, 2013, shall remain in effect through June 30, 2013.

(g) On July 1 of each succeeding year, the prepayment rate per gallon for motor vehicle fuel, rounded to the nearest one-half of one cent ($0.005), of the required prepayment shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales tax) as reported by an industry publication of all grades of gasoline sold through a self-service gasoline station. The board shall make its determination of the rate no later than March 1 of the same year as the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than May 1, notify every supplier, wholesaler, and retailer of motor vehicle fuel. In the event the price of fuel decreases or increases or an exemption from sales tax for sales of fuel is enacted, and the established rate results in or could result in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(h) On July 1 of each succeeding year, the prepayment rate per gallon for aircraft jet fuel, rounded to the nearest one-half of one cent ($0.005), shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales and state excise taxes) as determined by the board based on published industry reports. The board shall make its determination of the rate no later than March 1 of the same year as the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than May 1, notify every supplier, wholesaler, and retailer of aircraft jet fuel. In the event the price of aircraft jet fuel decreases or increases, and the established rate results in prepayments that consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(i) On July 1 of each succeeding year, the prepayment rate per gallon for diesel fuel, rounded to the nearest one-half of one cent ($0.005), shall be established by the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, 6051.5, 6051.8, 7202, and 7203.1, and Section 35 of Article XIII of the California Constitution on the arithmetic average selling price (excluding sales and state excise taxes) as determined by the board based on published industry reports. The board shall make its determination of the rate no later than March 1 of the same year as the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than May 1, notify every supplier, wholesaler, and retailer of diesel fuel. In the event the rate of sales tax imposed on sales of diesel fuel increases or decreases or the price of diesel fuel decreases or increases, and the established rate results in or could result in prepayments that consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(j) (1) Notwithstanding any other provision of this section, motor vehicle fuel sold by a supplier or wholesaler to a qualified purchaser who, pursuant to a contract with the State of California or its instrumentalities, resells that fuel to the State of California or its instrumentalities shall be exempt from the prepayment requirements.

(2) A qualified purchaser who acquires motor vehicle fuel for subsequent resale to the State of California or its instrumentalities pursuant to this subdivision shall furnish to the supplier or wholesaler from whom the fuel is acquired an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe. The supplier or wholesaler shall retain the certificate in his or her records in support of the exemption. To qualify for the prepayment exemption, both of the following conditions shall apply:

(A) The qualified purchaser does not take possession of the fuel at any time.

(B) The fuel is delivered into storage tanks owned or leased by the State of California or its instrumentalities via facilities of the supplier or wholesaler, or by common or contract carriers under contract with the supplier or wholesaler.

(3) For purposes of this subdivision, "qualified purchaser" means a wholesaler who does not have or maintain a storage facility or facilities for the purpose of selling motor vehicle fuel.

6480.2.

(a) If the board determines that it is necessary for the efficient administration of this part, the board may require a supplier or wholesaler to provide the board with a list of purchasers to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel was sold.

(b) In addition to any other reports required under this article, the board may, by rule and otherwise, require additional, other, or supplemental reports, in any form which the board may require, from suppliers or wholesalers with respect to their sales of motor vehicle fuel, aircraft jet fuel, or diesel fuel.

(c) Any supplier or wholesaler who fails to comply with this section is guilty of a misdemeanor punishable as provided in Section 7153.

6480.3.

The supplier or wholesaler shall file his or her prepayment form together with a remittance of the prepayment amounts, if any, required to be collected pursuant to Section 6480.1 payable to the State Board of Equalization, on or before the last day of the month following the monthly period to which the prepayment form or each prepayment relates.

6480.4.

(a) Any supplier or wholesaler who fails to make a timely remittance to the board of the prepayment amounts, if any, required pursuant to Sections 6480.1 and 6480.3 shall also pay a penalty of 10 percent of the amount of the prepayment due but not paid, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date the prepayment became due and payable to the state until the date of payment.

(b) The penalty amount specified in subdivision (a) shall be 25 percent if the supplier or wholesaler knowingly or intentionally fails to make a timely remittance.

6480.6.

(a) The following persons who have paid prepayment amounts either directly to the board or to the person from whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel was purchased shall be refunded those amounts:

(1) Any person who exports the fuel for subsequent sale outside this state.

(2) Any person who sells the fuel which is exempt from the sales or use tax pursuant to Sections 6352, 6357, 6381, and 6396.
(3) Any person who has lost the fuel through fire, flood, theft, leakage, evaporation, shrinkage, spillage, or accident, prior to any retail sale.
(4) Any supplier who has removed fuel from an approved terminal at the terminal rack, but only to the extent that the supplier can show that tax on the same amount of fuel has been paid more than one time by the same supplier.
(5) Any person who is unable to collect the prepayment from the purchaser insofar as the sales of the fuel are represented by accounts which have been found to be worthless and charged off for income tax purposes, or, if the person is not required to file income tax returns, accounts which have been charged off in accordance with generally accepted accounting principles. If partial payments have been made, the payments shall be prorated between amounts due for fuel and amounts due for the related prepayment. If any of those accounts are thereafter in whole or in part collected by the seller, the gallons of fuel represented by the amounts collected shall be included in the first return filed after that collection and the amount of the prepayment thereon paid with the return.

(b) In lieu of a refund, the board may authorize a credit to be taken by the person to whom the refund is due upon his or her prepayment form or sales and use tax return.

6480.7.

(a) The board may require any supplier or wholesaler subject to this article to place with the board any security that the board determines is necessary to ensure compliance with this article. The amount of the security shall be fixed by the board but shall not be greater than three times the estimated average liability of suppliers or wholesalers required to file returns for monthly periods, determined in any manner that the board deems proper, or five hundred thousand dollars ($500,000), whichever amount is less. These amounts apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the maximum amounts. The security required pursuant to this section is in addition to the bond or bonds required pursuant to Section 7486.

(b) The board may sell the security at public auction if it becomes necessary to so do in order to recover any tax or any amount required to be collected or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail. If service is by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his or her address as it appears in the records of the board. However, security in the form of a bearer bond issued by the United States or the State of California which has a prevailing market price may be sold by the board at a private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amounts due shall be returned to the supplier or wholesaler who placed the security.

6480.9.

(a) A person qualified under subdivision (b) may issue a certificate to a seller with respect to the amount of sales tax required to be prepaid pursuant to Section 6480.1 when purchasing diesel fuel from the seller. The certificate shall be completed in accordance with any instructions or regulations as the board may prescribe, and shall clearly specify that the person will purchase the volume of diesel fuel that the person reasonably expects he or she will sell that qualifies for the exemption under Section 6357.1. A seller that receives a properly completed certificate from a person qualified under subdivision (b) shall not be required to collect the prepayment of the retail sales tax otherwise required in Section 6480.1 on that volume of the diesel fuel sold pursuant to the certificate.

(b) A person is qualified for purposes of this section if both of the following conditions are met:
(1) The person sold diesel fuel that was used by the consumer in a manner that qualified, or would have qualified for an exemption under Section 6357.1, and in the prior year, those sales totaled more than 25 percent of the person's total taxable sales.
(2) The person's sales consist primarily of either bulk deliveries of fuel or of fuel sales through a cardlock, keylock, or other unattended mechanism, or both. For purposes of the preceding sentence, "bulk deliveries" means transfers of fuel into storage tanks of 500 gallons or more.

(c) A person issuing a certificate pursuant to this section is liable for sales tax that is imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) and sales tax that is imposed under Section 6051.2 or 6201.2, or under Section 35 of Article XIII of the California Constitution.

(d) A person issuing a certificate pursuant to this section shall be liable for sales tax on any portion of the gross receipts derived from the sale of fuel that is not sold in a manner that qualifies for an exemption under Section 6357.1.

(e) A person liable for the sales tax under subdivision (c) or (d) of this section shall report and pay that sales tax with the return for the reporting period in which the person sells the fuel.

(f) Any person who gives a certificate pursuant to this section for purchases of diesel fuel that he or she knows at the time of purchase do not qualify for the exemption from the prepayment pursuant to this section for the purpose of evading payment of the prepayment of the retail sales tax is guilty of a misdemeanor punishable as provided in Section 7153. In addition, the person shall be liable to the state for a penalty of one thousand dollars ($1,000) for each certificate issued for personal gain or to evade the payment of taxes.

6481.

If the board is not satisfied with the return or returns of the tax or the amount of tax, or other amount, required to be paid to the state by any person, it may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 6487, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

6482.

The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

6483.

In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in Sections 6591 and 6907.

6484.

If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 per cent of the amount of the determination shall be added thereto.

6485.

If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or authorized rules and regulations, a penalty of 25 per cent of the amount of the determination shall be added thereto.

6485.1.

Any purchaser of a vehicle, vessel, or aircraft who registers it outside the State of California for the purpose of evading the payment of taxes due under this part shall be liable for a penalty of 50 percent of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft.

6486.

The department shall give to the retailer or person storing, using, or consuming tangible personal property written notice of its determination. The notice shall be served in one of the following manners:

(a) By placing the notice in a sealed envelope, with postage paid, addressed to the retailer or person storing, using, or consuming tangible personal property at their address as it appears in the records of the department. Service made pursuant to this subdivision shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation, or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason.

(b) By personally delivering the notice to the person to be served. Service made pursuant to this subdivision is complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

(c) (1) By delivering the notice electronically via secure transmission when either of the following applies:
(A) The taxpayer requests the notice of determination to be sent electronically via secure transmission.

(B) The department has evidence that the taxpayer no longer receives mail at the address of record and has previously provided an address for electronic mail.

(2) Service provided pursuant to paragraph (1) shall be deemed complete at the time the department electronically transmits the notice via the taxpayer's secure web portal, without extension of time for any reason.

6487.

(a) For taxpayers filing returns, other than a return filed pursuant to Section 6452.1, on other than an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be served within three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be served within eight years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

(b) For taxpayers filing returns on an annual basis, except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be served within three years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be served within eight years after the last day of the calendar month following the one-year period for which the amount is proposed to be determined.

(c) The limitation specified in this section does not apply in case of a sales tax proposed to be determined with respect to sales of property for the storage, use, or other consumption of which notice of a deficiency determination has been or is served pursuant to subdivision (a) or (b) or pursuant to Section 6486, 6515, or 6536. The limitation specified in this section does not apply in case of an amount of use tax proposed to be determined with respect to storage, use, or other consumption of property for the sale of which notice of a deficiency determination has been or is served pursuant to subdivision (a) or (b) or pursuant to Section 6486, 6515, or 6536.

6487.05.

(a) Notwithstanding Section 6487, the period during which a deficiency determination may be served to a qualifying retailer is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined. For purposes of this section, a "qualifying retailer" is a retailer that meets all of the following conditions:

(1) The retailer is located outside this state, and has not previously registered with the department.

(2) The retailer is engaged in business in this state, as defined in Section 6203.

(3) The retailer voluntarily registers with the department.

(4) The retailer has not been previously contacted by the department or its agents regarding the provisions of Section 6203.

(5) As determined by the department, the retailer's failure to file a return or failure to report or pay the tax or amount due required by law was due to reasonable cause and was not a result of negligence or intentional disregard of the law, or because of fraud or an intent to evade the provisions of this part.

(b) If the department or its designee finds that the retailer's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the retailer's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the retailer shall be relieved of the penalties imposed pursuant to this part. Any retailer seeking relief of penalty shall file a statement under penalty of perjury setting forth the facts upon which they base their claim for relief.

6487.06.

(a) Notwithstanding Section 6487, the period during which a deficiency determination may be served to a qualifying purchaser is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

(b) For purposes of this section, a "qualifying purchaser" is a person that voluntarily files an individual use tax return for tangible personal property that is purchased from a retailer outside of this state for storage, use, or other consumption in this state, and that meets all of the following conditions:

(1) The purchaser resides or is located within this state and has not previously done any of the following:

(A) Registered with the department.

(B) Filed an individual use tax return with the department.

(C) Reported an amount on their individual California income tax return.

(2) The purchaser is not engaged in business in this state as a retailer, as defined in Section 6015.

(3) The purchaser has not been contacted by the department regarding failure to report the use tax imposed by Section 6202.

(4) The department has made a determination that the purchaser's failure to file an individual use tax return or to otherwise report or pay the use tax imposed by Section 6202 was due to reasonable cause and was not caused by reason of negligence, intentional disregard of the law, or by an intent to evade the taxes imposed by this part.

(c) If the department makes a determination that the purchaser's failure to timely report or remit the taxes imposed by this part is due to reasonable cause or due to circumstances beyond the purchaser's control, the purchaser may be relieved of any penalties imposed by this part. Any purchaser seeking relief from penalties imposed by this part shall file a statement, signed under penalty of perjury, setting forth the facts that form the basis for the claim for relief.

(d) This section shall not apply to purchases of vehicles, vessels, or aircraft as defined in Article 1 (commencing with Section 6271) of Chapter 3.5.

6487.07.

(a) Notwithstanding Section 6487, a deficiency determination may be issued to a qualifying retailer only for those liabilities arising under this part for sales made on and after April 1, 2016.

(b) For purposes of this section, a "qualifying retailer" is a retailer that meets all of the following conditions:

(1) The retailer is not registered or has not registered with the department under this part prior to December 1, 2018.

(2) The retailer had not filed sales or use tax returns or made sales or use tax payments prior to being contacted by the department.

(3) The retailer voluntarily registers under Chapter 2 (commencing with Section 6051) or Chapter 3 (commencing with Section 6201), as applicable, files completed tax returns for all tax reporting periods for which a determination may be issued under this section, within 90 days after the effective date of this act, and pays in full the taxes due or applies for an installment agreement, but only if final payment under the terms of that installment payment agreement is paid no later than December 31, 2021.

(4) The retailer is or was engaged in business in this state solely because the retailer used a marketplace facilitator, as defined in Section 6041, to facilitate sales for delivery in this state and the marketplace facilitator stored the retailer's inventory in this state.

(c) A qualifying retailer shall be relieved of the penalties imposed pursuant to this part with respect to sales made from April 1, 2016, to March 31, 2019, inclusive.

6487.1.

In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be served within four months after written request therefor, in the form required by the department, by the fiduciary of the estate or trust or by any other person liable for the tax or any portion thereof.

6487.2.

(a) A notice of determination issued pursuant to Section 6486, 6515, or 6536 to an individual who was a general partner, as shown on the department's records, and who, prior to the period covered by the determination, withdrew from the partnership, causing a change in ownership, and failed to notify the department, shall be served within four years after the last day of the calendar month following the quarterly period in which the change of ownership occurred.

(b) An individual who was a general partner, as shown on the department's records, who withdraws from a partnership without notifying the department of the change in ownership, shall not be liable for any unpaid, self-assessed liability of the partnership that becomes due at least three years after the last day of the calendar month following the quarterly period in which the change in ownership occurred.

(c) Subdivisions (a) and (b) shall not apply to either of the following:

(1) Cases of fraud or intent to evade this part or other administrative or interpretive regulations.

(2) Any partners who retain an ownership interest in a corporation that is a successor to the partnership.

(d) For purposes of this part, change in ownership means that a new "person," as defined in Section 6005, is created by the action of the former owner by means of a sale, an incorporation, an addition or elimination of one or more partners, or the termination of a spouse's ownership or community property interest due to legal separation or divorce.

(e) For purposes of this section, "individual" includes only natural persons.

6487.3.

(a) (1) For persons that elect to report qualified use tax in accordance with Section 6452.1, except in the case of fraud, intent to avoid this part or authorized rules and

regulations issued by the department, or the gross understatement of qualified use taxes, every notice of a deficiency determination with respect to the qualified use tax shall be served within three years after the last day for which an acceptable tax return is due or filed, whichever occurs later.

(2) In the case of a gross understatement of qualified use tax, every notice of a deficiency determination with respect to the qualified use tax shall be served within six years after the last day for which an acceptable tax return is due or filed, whichever occurs later.

(3) For purposes of this subdivision, a "gross understatement of qualified use tax" is a deficiency that is in excess of 25 percent of the amount of qualified use tax reported on a person's acceptable tax return. In the case of married individuals filing separate California personal income tax returns, the total amount of qualified use tax reported will be considered in determining whether there is a gross understatement of qualified use tax.

(4) For purposes of this section, "acceptable tax return" means a timely filed original return that is filed pursuant to Article 1 (commencing with Section 18501), Article 2 (commencing with Section 18601), Section 18633, Section 18633.5 of Chapter 2 (commencing with Section 18501) of Part 10.2, or Article 3 (commencing with Section 23771) of Chapter 4 of Part 11.

(b) This section applies to reporting of purchases of tangible personal property made on or after January 1, 2010, in taxable years beginning on or after January 1, 2010.

6488.
If before the expiration of the time prescribed in Section 6487 for serving a notice of deficiency determination the taxpayer has consented in writing to service of the notice after such time, the notice may be served at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

6511.
If any person fails to make a return, the board shall make an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of tangible personal property sold or purchased by the person, the storage, use, or other consumption of which in this state is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come in its possession. Upon the basis of this estimate the board shall compute and determine the amount of tax or other amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in Section 6487, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

6512.
In making a determination the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on underpayments and overpayments shall be computed in the manner set forth in Sections 6591 and 6907.

6513.
The amount of the determination, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the quarterly period for which the amount or any portion thereof should have been returned until the date of payment.

6514.
If the failure of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 per cent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 10 per cent penalty provided in Section 6511.

6514.1.
Any purchaser of a vehicle, vessel, or aircraft who registers it outside the State of California for the purpose of evading the payment of taxes due under this part shall be liable for a penalty of 50 percent of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft.

6515.
Promptly after making its determination, the department shall give to the person written notice of the estimate, determination, and penalty, the notice to be served in the manner prescribed for service of notice of a deficiency determination.

6536.
If the board believes that the collection of any tax or any amount of tax required to be collected and paid to the state or of any determination or other amount required to be paid to the state will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected or other amount, noting that fact upon the determination. The amount determined is immediately due and payable.

6537.
If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within the 10 days, and the delinquency penalty and the interest provided in Section 6591 shall attach to the amount of the tax or the amount of the tax required to be collected.

6538.
The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 5 of this chapter. He shall, however, file the petition for redetermination with the board within 10 days after the service upon him of notice of the determination. The person shall also within the 10-day period deposit with the board such security as it may deem necessary to insure compliance with this part. The security may be sold by the board in the manner prescribed by Section 6701.

6538.5.
In accordance with such rules and regulations as the board may prescribe, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:
(a) To establish that the determination is excessive; or
(b) To establish that the sale of property that may be seized after issuance of the jeopardy determination or any part thereof shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person; or
(c) To request the release of all or a part of the property to the person; or
(d) To request a stay of collection activities.
The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual and legal grounds upon which it is founded. No security need be posted to file the application and to obtain this hearing. However, if the person does not deposit within the 10-day period prescribed in Section 6538, such security as the board may deem necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for administrative hearing, the board may allow a filing of the application and grant the person an administrative hearing. The filing of an application pursuant to this section shall not affect provisions of Section 6537 relating to the finality date of the determination or to penalty or interest.

6539.
Any notice required by this article shall be served in the manner prescribed for service of notice of a deficiency determination.

6561.
Any person against whom a determination is made under Article 2 (commencing with Section 6481) or 3 (commencing with Section 6511) or any person directly interested may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of that period.

6561.5.
Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

6562.
If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the person has so requested in his petition,

shall grant the person an oral hearing and shall give him 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

6563.

(a) The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 6485 or Section 6514 applies to the amount of the determination as originally made or as increased, the claim for increase must be asserted during one of the following applicable periods:

(1) In the case of any taxpayer whose reported gross receipts and total sales price of property sold or purchased by him or her is less than ten million dollars ($10,000,000) in each calendar quarter of the period or periods to which the determination applies, within three years after the first deficiency determination or within three years after the time tax records requested by the board were made available, whichever is later.

(2) In the case of any other taxpayer, within eight years after the first deficiency determination or within eight years after the time tax records requested by the board were made available, whichever is later.

(b) If the taxpayer and the board mutually agree, the time limits specified in subdivision (a) may be waived.

(c) The board shall specify the information on which it bases its increase.

6564.

The order or decision of the board upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

6565.

All determinations made by the board under Articles 2 or 3 of this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 per cent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

6566.

Any notice required by this article shall be served in the manner prescribed for service of notice of a deficiency determination.

6591.

(a) Any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of this chapter, within the time required shall pay a penalty of 10 percent of the tax or amount of the tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(b) Any person who fails to file a return in accordance with the due date set forth in Section 6451 or the due date established by the board in accordance with Section 6455, shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the taxes for which the return is required, exclusive of any prepayments, for any one return.

6591.3.

(a) An accuracy-related penalty shall be imposed under this part if a person fails to accurately disclose information in the information return required by Section 6452.05 such that the information return is substantially inconsistent with the return required under Section 6452, and that person shall pay a penalty of five thousand dollars ($5,000) for each return not accurately filed.

(b) The accuracy-related penalty imposed by this section shall not be assessed if the penalty of Section 6452.05 is imposed.

6591.5.

(a) (1) For interest required to be paid to the state upon underpayments of tax to the state, " modified adjusted rate per annum" means the adjusted annual rate established pursuant to subdivision (c), plus three percentage points.

(2) For interest required to be paid by the state upon overpayments of tax, "modified adjusted rate per annum" means the adjusted annual rate established pursuant to subdivision (d).

(b) "Modified adjusted rate per month, or fraction thereof" means the modified adjusted rate per annum divided by 12.

(c) The rate established for interest to be paid upon underpayments of tax shall be determined in accordance with the provisions of Section 6621 of the Internal Revenue Code which establish the underpayment rate, except that the determination specified in Section 6621(b) of the Internal Revenue Code shall be modified to be determined semiannually as follows:

(1) The rate for January shall apply for the following July 1 to December 31, inclusive.

(2) The rate for July shall apply for the following January 1 to June 30, inclusive.

(d) (1) Except as provided in paragraph (2), the rate established for interest to be paid by the state upon overpayments of tax shall be equal to the bond equivalent rate of 13-week treasury bills auctioned, rounded to the nearest full percent (or if a multiple of one-half of 1 percent, the rate shall be increased to the next highest full percent), as follows:

(A) The bond equivalent rate of 13-week treasury bills established at the first auction held during the month of January shall apply for the following July 1 to December 31, inclusive.

(B) The bond equivalent rate of 13-week treasury bills established at the first auction held during the month of July shall apply for the following January 1 to June 30, inclusive.

(2) For the period July 1, 1991, through June 30, 1992, the rate to be paid by the state upon overpayments of tax shall be equal to the bond equivalent rate of 13-week treasury bills established at the auction held on July 1, 1991, rounded to the nearest full percent (or if a multiple of one-half of 1 percent, the rate shall be increased to the next highest full percent).

(e) For purposes of this part, and any other provision of law referencing this method of computation, in computing the amount of any interest required to be paid by the state or by the taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be computed as simple interest, not compound interest.

6591.6.

(a) If the department finds, taking into account all facts and circumstances, that it is inequitable to compute interest at the modified adjusted rate per month or fraction thereof, as defined in subdivision (b) of Section 6591.5, interest shall be computed at the modified adjusted daily rate from the date on which the tax or prepayment was due until the date of payment, if all of the following occur:

(1) The payment of tax or the prepayment was made one business day after the date the tax or prepayment was due.

(2) The person was granted relief from all penalties that applied to that payment of tax or prepayment.

(3) The person files a request for an adjustment.

(b) For purposes of this section, "modified adjusted daily rate" means the modified adjusted rate per annum as defined in subdivision (a) of Section 6591.5 determined on a daily basis by dividing the modified adjusted rate per annum by 365.

(c) For purposes of this section, "business day" means any day other than a Saturday, Sunday, or any day designated as a state holiday.

(d) This section shall not apply to any payment made pursuant to a deficiency determination, a determination where no return has been filed, or a jeopardy determination issued by the department.

(e) This section shall only apply to electronic payments or prepayments of taxes.

6592.

(a) (1) If the department finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the penalties provided by Sections 6452.05, 6476, 6477, 6479.3, 6480.4, 6511, 6565, 6591, 7051.2, 7073, and 7074.

(2) If the department finds, with respect to the information return required by Section 6452.05, that a person's failure to accurately disclose information is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the relevant penalty provided by Section 6591.3.

(b) Except as provided in subdivisions (c) and (d), a person seeking to be relieved of the penalty shall file with the department a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(c) (1) Subject to paragraph (2), the department may grant relief of the penalty for any person in an area identified in a state of emergency proclamation made by the Governor for the period the state of emergency proclamation is effective, regardless of whether the person has filed a statement with the department pursuant to subdivision (b).

(2) The department may grant the relief in paragraph (1) only during the first 12 months following the issuance of the state of emergency proclamation or the duration of the state of emergency, whichever is less.

(d) The department shall establish criteria that provides for efficient resolution of requests for relief pursuant to this section.

6592.5.
Any person who is granted relief from the penalty imposed by Section 6476 or 6477 shall pay, in addition to any prepayment, interest at the "modified adjusted rate per month, or fraction thereof" established pursuant to subdivision (b) of Section 6591.5, from the date on which the prepayment would have been due until the date of payment.

6593.
(a) If the department finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 6459, 6480.4, 6480.8, 6513, 6591, and 6592.5.
(b) Except as provided in subdivision (c), a person seeking to be relieved of the interest shall file with the department a statement under penalty of perjury setting forth the facts upon which that person bases the claim for relief.
(c) (1) Subject to paragraph (2), the department may grant relief of the interest for any person in an area identified in a state of emergency proclamation made by the Governor for the period the state of emergency proclamation is effective, regardless of whether the person has filed a statement with the department pursuant to subdivision (b).
(2) The department may grant the relief in paragraph (1) only during the first 12 months following the issuance of the state of emergency proclamation or the duration of the state of emergency, whichever is less.

6593.5.
(a) The department, in its discretion, may relieve all or any part of the interest imposed on a person by this part under the following circumstances:
(1) Where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the department acting in their official capacity.
(2) Where failure to pay sales or use tax was the direct result of an error or delay by a state agency that collects the tax on behalf of the California Department of Tax and Fee Administration.
(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.
(c) Any person seeking relief under this section shall file with the department a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the department may require.
(d) The department may grant relief only for interest imposed on tax liabilities that arise during taxable periods commencing on or after July 1, 1999.

6594.
Notwithstanding any other provision of this part, no interest or penalties shall be assessed against any person for failure to make payments of any taxes on leases of personal property to the United States government while the board is enjoined from collecting such taxes by order of the United States District Court for the Central District of California in the case of United States of America v. California State Board of Equalization, No. CV 79-03359-R, provided that payment of any applicable taxes is made within 60 days after the board is no longer enjoined from collecting such taxes.

6596.
(a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed by Sections 6051 and 6201 and any penalty or interest added thereto.
(b) For the purpose of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:
(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to tax under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.
(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to tax, or stating the conditions under which the activity or transaction is subject to tax.
(3) In reasonable reliance on the board's written advice, the person did not do either of the following:
(A) Charge or collect from his or her customers amounts designated as sales tax reimbursement or use tax for the described activity or transaction.
(B) Pay a use tax on the storage, use, or other consumption in this state of tangible personal property.
(4) The liability for taxes applied to a particular activity or transaction which occurred before either of the following:
(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.
(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, which renders the board's earlier written advice no longer valid.
(c) Any person seeking relief under this section shall file with the board:
(1) A copy of the person's written request to the board and a copy of the board's written advice.
(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.
(3) Any other information which the board may require.
(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

6597.
(a) (1) Any person who knowingly collects sales tax reimbursement, as defined in Section 1656.1 of the Civil Code, or who knowingly collects use tax pursuant to Chapter 3 (commencing with Section 6201), and who fails to timely remit that sales tax reimbursement or use tax to the California Department of Tax and Fee Administration, shall be liable for a penalty of 40 percent of the amount not timely remitted.
(2) (A) This subdivision shall not apply to any person whose liability for the unremitted sales tax reimbursement or use tax described in paragraph (1) averages one thousand five hundred dollars ($1,500) or less per month or does not exceed 25 percent of the total amount of tax liability for which the sales tax reimbursement or use tax was collected for the period in which tax was due, whichever is greater.
(B) If a person's failure to make a timely remittance of sales tax reimbursement or use tax is due to a reasonable cause or circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the penalty imposed by this subdivision.
(b) For purposes of this section:
(1) "Reasonable cause or circumstances beyond the person's control" includes, but is not limited to, any of the following:
(A) The occurrence of a death or serious illness of the person or the person's next of kin that caused the person's failure to make a timely remittance.
(B) The occurrence of an emergency, as defined in Section 8558 of the Government Code that caused the person's failure to make a timely remittance.
(C) A natural disaster or other catastrophe directly affecting the business operations of the person that caused the person's failure to make a timely remittance.
(D) The California Department of Tax and Fee Administration failed to send returns or other information to the correct address of record, that caused the person's failure to make a timely remittance.
(E) The person's failure to make a timely remittance occurred only once over a three-year period, or once during the period in which the person was engaged in business, whichever time period is shorter.
(F) The person voluntarily corrected errors in remitting sales tax reimbursement or use tax collected that were made in previous reporting periods and remitted payment of the liability owed as a result of those errors prior to being contacted by the California Department of Tax and Fee Administration regarding possible errors or discrepancies.
(2) "Sales tax reimbursement" shall also include any sales tax that is advertised, held out, or stated to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer.
(c) This section shall apply to any determination made by the California Department of Tax and Fee Administration pursuant to Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 4 (commencing with Section 6536).
(d) The amendments made by the act adding this subdivision shall apply to determinations made on or after January 1, 2025.

6701.
The department, whenever it deems it necessary to ensure compliance with this part, may require any person subject thereto, to place with it any security that the department may determine. Any security in the form of cash, government bonds,

or insured deposits in banks or savings and loan institutions shall be held by the department in trust to be used solely in the manner provided by this section and Section 6815. The amount of the security shall be fixed by the department but, except as noted below, shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in the manner that the department deems proper, or fifty thousand dollars ($50,000), whichever amount is the lesser. In case of a person who, pursuant to Section 6070 of this part, has been given notice of hearing to show cause why their permit or permits should not be revoked, or a person whose permit or permits has been revoked or suspended, the amount of the security shall not be greater than three times the average liability of persons filing returns for quarterly periods or five times the average liability of persons required to file returns for monthly periods, or fifty thousand dollars ($50,000), whichever amount is the lesser. The limitations herein provided apply regardless of the type of security placed with the department. The amount of the security may be increased or decreased by the department subject to the limitations herein provided. Security held by the department shall be released after a three-year period in which the person has filed all returns and paid all tax to the state or any amount of tax required to be collected and paid to the state within the time required. The department may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who placed the security in the manner prescribed for service of a notice of a deficiency determination. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

6702.

(a) If any person is delinquent in the payment of the amount required to be paid by him or her or in the event a determination has been made against him or her which remains unpaid, the board may, not later than three years after the payment became delinquent, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department, or agency, the notice shall be given to the officer, department, or agency prior to the time it presents the claim of the delinquent taxpayer to the Controller. After receiving the notice the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier. All persons so notified shall forthwith after receipt of the notice advise the board of all those credits, other personal property, or debts in their possession, under their control, or owing by them.

(b) If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or a state or federal savings and loan association or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the notice to be effective shall state the amount, interest, and penalty due from the person, and shall be delivered or mailed to the branch or office of the bank or a state or federal savings and loan association at which the deposit is carried or at which the credits or personal property is held. A bank, state or federal savings and loan association, or a state or federal credit union withholding any deposit or other credits or personal property required to be withheld in which the delinquent taxpayer and another person or persons have an interest, or held in the name of a third party or parties in which the delinquent taxpayer is ultimately determined to have no interest, is not liable therefor to any of the persons who have an interest in the deposit or other credits or personal property unless the deposit or other credits or personal property is released or transferred to the delinquent taxpayer.

(c) In the case of a deposit or other credits or personal property for which the transfer or other disposition is prevented, the depository institution required to prevent transfer or other disposition shall send a notice by first-class mail to each person named on a deposit, other credits, or personal property included in the notice from the board, provided a current address for each person is available to the institution. This notice shall inform each person as to the reason for preventing transfer or disposition of the deposit or other credits or personal property, the amount thereof which is prevented from transfer or other disposition, and the date by which that amount is to be remitted to the board. An institution may assess the deposit or other credits or personal property of each person receiving this notice a reasonable service charge not to exceed three dollars ($3).

(d) Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank or a state or federal savings and loan association, the aggregate amount of deposits, credits, or personal property to be withheld shall be an amount equal to two times the amount of the tax, interest, or penalty due from the person. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of that transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

6703.

(a) Subject to the limitations in subdivisions (b) and (c), the department may by notice of levy, served personally, by first-class mail, or by electronic transmission or other electronic technology, require all persons having in their possession, or under their control, any credits or other personal property belonging to a retailer or other person liable for any amount under this part to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from such retailer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the department at such times as it may designate. The notice of levy shall have the same effect as a levy pursuant to a writ of execution.

(b) The person served shall continue to withhold pursuant to the notice of levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The amount of each payment due or becoming due to the retailer or other person liable during the period of the levy.

(d) For the purposes of this section, the term “payments” does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code. The term “payments” does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the retailer or other person liable for the tax.

(3) Any other payments or credits due or becoming due the retailer or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered, mailed, or served by electronic transmission or other electronic technology to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

6704.

(a) Notwithstanding Article 7 (commencing with Section 706.151) of Chapter 5 of Title 9 of Part 2 of the Code of Civil Procedure, if the board determines upon receiving information from a retailer or other person liable for any amount under this part that the person’s employer withheld earnings for taxes pursuant to Section 6703 and failed to remit the withheld earnings to the board, the employer shall be liable for the amount not remitted. The board’s determination shall be based on payroll documents or other substantiating evidence furnished by the person liable for the tax.

(b) Upon its determination, the board shall mail notice to the employer at its last known address that upon failure to remit the withheld earnings to the board within 15 days of the date of its notice to the employer, the employer shall be liable for that amount which was withheld and not remitted.

(c) If the employer fails to remit the amount withheld to the board upon notice, that amount for which the employer is liable shall be determined, collected, and paid as though it were a tax deficiency. The amount may be assessed at any time prior to seven years from the first day that the unremitted amount, in the aggregate, was first withheld. Interest shall accrue on that amount from the first day that the unremitted amount, in the aggregate, was first withheld.

(d) When the determination against the employer is final and due and payable, the person’s account shall be immediately credited with an amount equal to that determined amount as though it were a payment received by the board on the first date that the unremitted amount, in the aggregate, was first withheld by the employer.

(e) Collection against the person liable for the tax is stayed for both the following amount and period:

(1) An amount equal to the amount determined by the board under subdivision (a).

(2) The earlier of the time the credit is applied to the person’s account pursuant to subdivision (d) or the determination against the employer is withdrawn or revised and the person is notified by the board thereof.

(f) If under this section an amount that was withheld and not remitted to the board is final and due and payable by the employer and credited to the person's account, this remedy shall be the exclusive remedy for the person to recover that amount from the employer.
(g) This section shall apply to determinations made by the board on or after the effective date of the act adding this section.

6711.
At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the recording of an abstract under Section 6738 or the recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of the State of California to collect the amount delinquent together with penalties and interest.

6712.
The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

6713.
In the action a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure without the showing required by Section 485.010 of the Code of Civil Procedure.

6714.
In the action a certificate by the board showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of tax, of the delinquency of the amounts set forth, and of the compliance by the board with all the provisions of this part in relation to the computation and determination of the amounts.

6715.
In any action relating to the use tax brought under this part process may be served according to the Code of Civil Procedure and the Civil Code of this State or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by the retailer in this State. In the latter case a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

6736.
If any amount required to be paid to the state under this part is not paid when due, the board may, within 10 years after the amount is due, file in the office of the Clerk of the Superior Court of Sacramento County, or any county, a certificate specifying the amount required to be paid, interest and penalty due, the name and address as it appears on the records of the board of the person liable, the compliance of the board with this part in relation to the determination of the amount required to be paid, and a request that judgment be entered against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate.

6737.
The clerk of the court immediately upon the filing of the certificate shall enter a judgment for the people of the State of California against the person in the amount required to be paid, together with interest and penalty as set forth in this certificate. The clerk of the court may file the judgment in a loose-leaf book entitled, "Special Judgments for State Retail Sales or Use Tax."

6738.
An abstract of the judgment or a copy of the judgment may be filed for record with the county recorder of any county. From the time of the filing, the amount required to be paid, together with the interest and penalty set forth constitutes a lien upon all the real property in the county owned by the person liable until the lien acquired by that person expires. The lien has the force, effect, and priority of a judgment lien and shall continue for 10 years from the date of the judgment so entered by the clerk of the court unless sooner released or otherwise discharged. The lien may, within 10 years from the date of the judgment, or within 10 years from the date of the last extension of the lien, be extended by filing for record in the office of the county recorder of any county an abstract or copy of the judgment. From the time of filing the lien shall be extended to the property in the county for 10 years unless sooner released or otherwise discharged.

6739.
Execution shall issue upon the judgment upon request of the board in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

6740.
(a) If the board determines that the amount of tax, interest, and penalties are sufficiently secured by a lien on other property or that the release or subordination of the lien imposed under this article will not jeopardize the collection of the amount of the tax, interest, and penalties, the board may at any time release all or any portion of the property subject to the lien from the lien or may subordinate the lien to other liens and encumbrances.
(b) If the board finds that the liability represented by the lien imposed under this article, including any interest accrued thereon, is legally unenforceable, the board may release the lien.
(c) A certificate by the board to the effect that any property has been released from a lien or that the lien has been subordinated to other liens and encumbrances is conclusive evidence that such property has been released or that the lien has been subordinated as provided in the certificate.

6756.
The amounts required to be paid by any person under this part together with interest and penalties shall be satisfied first in any of the following cases:
(a) Whenever the person is insolvent.
(b) Whenever the person makes a voluntary assignment of his assets.
(c) Whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.
(d) Whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under this part are levied upon by process of law.
This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.
The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

6757.
(a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. The lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.
(b) For the purpose of this section, amounts are "due and payable" on the following dates:
(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;
(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;
(3) For amounts determined under Section 6536 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;
(4) For all other amounts, the date the assessment is final.
(c) The lien provided by this section shall not arise during any period that Section 362 of the United States Bankruptcy Code applies to the person against whom the lien would otherwise apply.

6776.
At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or the Department of the California Highway Patrol and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution and shall be levied within five working days following receipt of the warrant.

6777.
The board may pay or advance to the sheriff, marshal, or the Department of the California Highway Patrol, the same fees, commissions, and expenses for services as are provided by law for similar services rendered pursuant to a writ of

execution. The board, and not the court, shall approve the fees for publication in a newspaper.

6778.
The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him by virtue of the warrant or in any other manner provided in this part for the collection of the tax.

6796.
At any time within three years after any person is delinquent in the payment of any amount, the board may forthwith collect the amount in the following manner: The board shall seize any property, real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.
Any seizure made to collect a sales tax due shall be only of property of the retailer not exempt from execution under the provisions of the Code of Civil Procedure.

6797.
Notice of the sale and the time and place thereof shall be given to the delinquent person and to all persons who have an interest of record in the property in writing at least 20 days before the date set for the sale in the following manner: The notice shall be personally served or enclosed in an envelope addressed to the person, in case of a sale for use taxes due, at his or her last known address or place of business, and, in case of a sale for sales taxes due, at his or her last known residence or place of business in this state. If not personally served, the notice shall be deposited in the United States mail, postage prepaid. The notice shall be published pursuant to Section 6063 of the Government Code, in a newspaper of general circulation published in the city in which the property or a part thereof is situated if any part thereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property or a part thereof is located. Notice shall also be posted in both of the following manners:
(a) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the property is to be sold.
(b) One conspicuous place on the property.
The notice shall contain a description of the property to be sold, a statement of the amount due, including taxes, interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due is paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

6798.
At the sale the board shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

6799.
If upon the sale the moneys received exceed the total of all amounts, including interest, penalties, and costs due the state, the board shall return the excess to the person liable for the amounts and obtain his or her receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest or lien, the board shall withhold any excess pending a determination of the rights of the respective parties to the excess moneys by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the board shall deposit the excess moneys with the Controller, as trustee for the owner, subject to the order of the person liable for the amount, his or her heirs, successors, or assigns.

6811.
If any person liable for any amount under this part sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

6812.
(a) If the purchaser of a business or stock of goods fails to withhold from the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price, valued in money.
(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice, to the purchaser at his or her address as it appears on the records of the board, of the amount that must be paid as a condition of issuing the certificate.
(2) For purposes of paragraph (1), the latest of the following dates shall apply:
(A) The date the board receives a written request from the purchaser for a certificate.
(B) The date of the sale of the business or stock of goods.
(C) The date the former owner's records are made available for audit.
(c) Failure of the board to mail the notice referred to in subdivision (b) will release the purchaser from any further obligation to withhold from the purchase price as above provided. The last date upon which the obligation of the successor may be enforced shall be not later than three years after the date the board is notified of the purchase of the business or stock of goods.

6813.
The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board. Such security is not subject to the limitations contained in Section 6701.

6814.
(a) The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a deficiency determination, not later than three years after the date the board is notified of the purchase of the business or stock of goods. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 6561) of Chapter 5 of this part. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. The provisions of this chapter with respect to the collection of any amount required to be paid under this part shall apply when the notice becomes final.
(b) (1) If the board finds that a successor's failure to withhold a sufficient amount of the purchase price to cover the amount owed by the former owner is due to reasonable cause and circumstances beyond the successor's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, the successor may be relieved of any penalty included in the notice of successor liability.
(2) Any successor seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

6815.
If at the time a business is discontinued the board holds security pursuant to Section 6701 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions, such security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the business is discontinued.

6826.
The board shall report to the Controller the amount of collections under this part, and he shall keep a record thereof.

6827.
The remedies of the State provided for in this chapter are cumulative, and no action taken by the board or Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

6828.
In all proceedings under this chapter the board may act on behalf of the people of the State of California.

6829.
(a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid taxes and interest and penalties on those taxes, if

the officer, member, manager, partner, or other person willfully fails to pay or to cause to be paid any taxes due from the corporation, partnership, limited partnership, limited liability partnership, or limited liability company pursuant to this part.
(b) The officer, member, manager, partner, or other person shall be liable only for taxes that became due during the period they had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those taxes.
(c) Personal liability may be imposed pursuant to this section, only if the department can establish that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company had included tax reimbursement in the selling price of, or added tax reimbursement to the selling price of, tangible personal property sold in the conduct of its business, or when it can be established that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company consumed tangible personal property and failed to pay the tax to the seller or has included use tax on the billing and collected the use tax or has issued a receipt for the use tax and failed to report and pay use tax.
(d) For purposes of this section, "willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.
(e) Except as provided in subdivision (f), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701).
(f) A notice of deficiency determination under this section shall be served within three years after the last day of the calendar month following the quarterly period in which the department obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the department, this filing shall not constitute actual knowledge by the department under this section.

6830.
(a) For the purpose of identifying persons or businesses who may owe taxes or other amounts, or for the purpose of collecting taxes, interest, additions to tax, and penalties, the board may enter into agreement with one or more private persons, companies, associations, or corporations providing these services outside this state with respect to the identification of persons or businesses who may owe taxes or other amounts, or the collection of taxes, interest, additions to tax, and penalties. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid. The compensation may be added to the amount required to be identified or collected by the collection agency or provider of these services from the tax debtor. The board shall provide the necessary information for the contractor to fulfill its obligation under that agreement.
(b) With the approval of the board, the contractor may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the board.

6831.
The board shall not be subject to subdivisions (c) and (d) of Section 16307 of the Corporations Code unless, at the time of application for a seller's permit, the applicant furnishes to the board a written partnership agreement that provides that all business assets shall be held in the name of the partnership.

6832.
(a) The board may, in its discretion, enter into a written installment payment agreement with a person for the payment of any taxes due, together with interest thereon and any applicable penalties, in installments over an agreed period. With mutual consent, the board and the taxpayer may alter or modify the agreement.
(b) Upon failure of a person to fully comply with the terms of an installment payment agreement with the board, the board may terminate the agreement by mailing a notice of termination to the person. The notice shall include an explanation of the basis for the termination and inform the person of his or her right to request an administrative review of the termination. Fifteen days after the mailing of the notice, the installment payment agreement shall be void, and the total amount of the tax, interest, and penalties due shall be immediately payable.
(c) The board shall establish procedures for an administrative review for persons requesting that review whose installment payment agreements are terminated under subdivision (b). The collection of taxes, interest, and penalties that are the subject of the terminated installment payment agreement may not be stayed during this administrative review process.
(d) Subdivision (b) shall not apply to any case where the board finds collection of the tax to be in jeopardy.
(e) Except in the case of fraud, if an installment payment agreement is entered into within 45 days from the due date of the tax, and the person complies with the terms of the installment payment agreement, the board shall relieve the penalty imposed pursuant to Section 6565.

6832.5.
On or before July 1, 2000, the board shall provide each taxpayer who has an installment payment agreement in effect under Section 6832 with an annual statement setting forth the initial balance at the beginning of the year, the payments made during the year, and the remaining balance as of the end of the year.

6832.6.
In the case of liability for use tax arising from the board's auxiliary collection provisions pursuant to Article 3 (commencing with Section 6291) of Chapter 3.5, or use tax liability arising from purchases described in Section 6405, the board shall provide notice to purchasers in simple and nontechnical language of its authorization under Section 6832 to enter into an agreement to accept the payment of use tax in installments. The notice shall be mailed to purchasers concurrently with the mailing of the return, notice of determination, or notice of redetermination.

6833.
(a) A collection cost recovery fee shall be imposed on any person that fails to pay an amount of tax, interest, penalty, or other amount due and payable under this part. The collection cost recovery fee shall be in an amount less than or equal to the California Department of Tax and Fee Administration costs for collection, as reasonably determined by the California Department of Tax and Fee Administration. The collection cost recovery fee shall be imposed only if the California Department of Tax and Fee Administration has mailed its demand notice, to that person for payment, that advises that continued failure to pay the amount due may result in collection action, including the imposition of a collection cost recovery fee.
(b) Interest shall not accrue with respect to the collection cost recovery fee provided by this section.
(c) The collection cost recovery fee imposed pursuant to this section shall be collected in the same manner as the collection of any other tax imposed by this part.
(d) (1) If the California Department of Tax and Fee Administration finds that a person's failure to pay any amount under this part is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person shall be relieved of the collection cost recovery fee provided by this section.
(2) Any person seeking to be relieved of the collection cost recovery fee shall file with the California Department of Tax and Fee Administration a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.
(e) Subdivision (a) shall be operative with respect to a demand notice for payment which is mailed on or after January 1, 2011.
(f) Collection cost recovery fee revenues shall be deposited in the same manner as revenues derived from any other tax imposed by this part.

6834.
(a) Notwithstanding Sections 706.071, 706.073, 706.080, 706.101, and 706.105 of the Code of Civil Procedure, the California Department of Tax and Fee Administration may serve earnings withholding orders for taxes and any other notice or document required to be served or provided in connection with an earnings withholding order for taxes according to Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure to government and private employers by electronic transmission or other electronic technology.
(b) Upon consent of the employer, the California Department of Tax and Fee Administration may provide service by electronic transmission or other electronic technology under this section.
(c) Notwithstanding Sections 706.071, 706.073, 706.080, 706.101, 706.125, and 706.126 of the Code of Civil Procedure, the California Department of Tax and Fee Administration may receive the employer's return, as described in Section 706.126 of the Code of Civil Procedure, by electronic transmission or other electronic technology.

(d) This section shall apply in the same manner and with the same force and effect and to the full extent as if this section had been incorporated in full into Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.
(e) This section shall apply to notices served or provided on or after the effective date of the act adding this section.

6835.
(a) The board may enter into an agreement with the Internal Revenue Service or any other state imposing a sales and use tax, or a similar tax, for the purpose of collecting delinquent tax debts with respect to amounts assessed or imposed under this part, provided the agreements do not cause the net displacement of civil service employees. The agreement may provide, at the discretion of the board, the rate of payment and the manner in which compensation for services shall be paid.
(b) At the discretion of the board, the Internal Revenue Service or the other state collecting the tax debt pursuant to subdivision (a) may, as part of the collection process, refer the tax debt for litigation by its legal representatives in the name of the board.
(c) For purposes of this section, "displacement" includes layoff, demotion, involuntary transfer to a new class, involuntary transfer to a new location requiring a change of residence, and time base reductions. "Displacement" does not include changes in shifts or days off, nor does it include reassignment to any other position within the same class and general location.

6850.
(a) The board may enter into an agreement to collect any delinquent tax debt due to the Internal Revenue Service or any other state imposing a sales and use tax, or similar tax, if, pursuant to Section 6835, the Internal Revenue Service or such a state has entered into an agreement to collect delinquent tax debts due to the board.
(b) Upon written notice to the debtor from the board, any amount referred to the board under subdivision (a) shall be treated as final and due and payable to the State of California, and shall be collected from the debtor by the board in any manner authorized under the law for collection of a delinquent sales and use tax liability, including, but not limited to, the recording of a notice of state tax lien under Article 2 (commencing with Section 7170) of Chapter 14 of Division 7 of Title 1 of the Government Code, and the issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.
(c) This part shall apply to amounts referred under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.
(d) The activities required to implement and administer this section shall not interfere with the primary mission of the board to administer this part.
(e) In no event shall a collection under this section be construed as a payment of sales and use taxes imposed under this part, or in accordance with Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251), of Division 2.

6901.
(a) If the department determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department and shall certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited by the department on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or the person's successors, administrators, or executors, if a determination by the department is made in any of the following cases:
(1) Any amount of tax, interest, or penalty was not required to be paid.
(2) Any amount of prepayment of sales tax, interest, or penalty paid pursuant to Article 1.5 (commencing with Section 6480) of Chapter 5 was not required to be paid.
(3) Any amount that is approved as a settlement pursuant to Section 7093.5.
(b) Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1 (commencing with Section 6201) of Chapter 3 shall be credited or refunded by the state to the purchaser. Any determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days after the effective date of that determination.

6901.5.
When an amount represented by a person to a customer as constituting reimbursement for taxes due under this part is computed upon an amount that is not taxable or is in excess of the taxable amount and is actually paid by the customer to the person, the amount so paid shall be returned by the person to the customer upon notification by the Board of Equalization or by the customer that such excess has been ascertained. In the event of his or her failure or refusal to do so, the amount so paid, if knowingly or mistakenly computed by the person upon an amount that is not taxable or is in excess of the taxable amount, shall be remitted by that person to this state. Notwithstanding subdivision (b) of Section 6904, those amounts remitted to the state shall be credited by the board on any amounts due and payable under this part on the same transaction from the person by whom it was paid to this state and the balance, if any, shall constitute an obligation due from the person to this state.

6902.
(a) (1) For persons required to file returns on other than an annual basis, except as provided in subdivision (b) no refund shall be approved by the board after three years from the last day of the month following the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), or Article 4 (commencing with Section 6536) of Chapter 5 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within that period.
(2) For persons required to file returns on an annual basis, except as provided in subdivision (b) no refund shall be approved by the board after three years from the last day of the calendar month following the one-year period for which the overpayment was made, or with respect to determinations made under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), or Article 4 (commencing with Section 6536) of Chapter 5, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period unless a claim for credit is filed with the board within that period, or unless the credit relates to a period for which a waiver is given pursuant to Section 6488.
(b) A refund may be approved by the board for any period for which a waiver is given under Section 6488 if a claim therefor is filed with the board before the expiration of the period agreed upon.

6902.1.
(a) Upon receipt of proof to its satisfaction that, in connection with the sale, through a dealer and not on the dealer's own account, of a used mobilehome on which the registration was transferred during the period from January 1, 1977 to January 1, 1980, and on which use tax has been paid on items not part of a mobilehome as a vehicle as set forth in Sections 6012.2 and 6276.1, the State Board of Equalization shall refund such overpayment to the purchaser of the mobilehome.
(b) Notwithstanding the provisions of Section 6902, any purchaser entitled to a refund pursuant to subdivision (a) may file a claim for refund until December 31, 1982.

6902.2.
(a) (1) In lieu of claiming the credit allowed by Section 17053.49 or 23649, a person who has paid sales tax reimbursement to a retailer or use tax on a purchase or purchases of property for which a credit may be allowed pursuant to those sections, may file a claim for refund equal to the credit amount that would otherwise be allowed pursuant to those sections. Any claim so filed shall be submitted to the board on a form prescribed by the board, shall be filed no earlier than the date a claim could have been made for a tax credit or carryover of a credit under Section 17053.49 or 23649, whichever is applicable, and shall be for an amount not in excess of the amount of the credit that could have been used to reduce the "net tax," as defined in Section 17039, or the "tax," as defined in Section 23036. Any credit carried over pursuant to Section 17053.49 or Section 23649 may not be refunded under this section until the credit carried over could be applied to reduce the "net tax" (as defined in Section 17039) or the "tax" (as defined in Section 23036), as applicable. Under no circumstances may any claim for refund exceed the "net tax," as defined by Section 17039, or the "tax," as defined by Section 23036, after the allowance of any credits authorized by Section 17039 or 23036. A claim for refund shall, unless the sale or use of the property is otherwise exempt under this part, be accompanied by proof of payment of the tax to a retailer, including, but not limited to, a copy of an invoice or purchase contract that indicates the following:
(A) The date on which the purchase occurred.
(B) A description of the property purchased.
(C) The price paid for the property.

(D) The amount of tax paid with respect to the purchase.

(2) In the case of a person who has self-reported use tax to the board, the claim for refund shall also indicate the amount of use tax paid and the period for which that tax was remitted.

(3) Any person who claims a refund under this section shall make an irrevocable election to waive the equivalent amount of credit allowed under Section 17053.49 or 23649. Any refund claimed under this section shall be in lieu of claiming any credit under Section 17053.49 or 23649. Any person electing to file a claim for refund pursuant to this section shall provide a copy of the personal or corporation tax return on which the tax liability was assessed for which the in-lieu refund is being claimed under this section.

(b) No interest shall be paid on any refund made pursuant to this section.

(c) Notwithstanding Section 6961, the board may recover any refund or part thereof that is erroneously made pursuant to this section. In recovering any erroneous refund made pursuant to this section, the board, in its discretion, may issue a deficiency determination in accordance with Article 2 (commencing with Section 6481) or Article 4 (commencing with Section 6536) of Chapter 5. Except in the case of fraud, that determination shall be made within three years from the last day of the month following the quarterly period in which the board approved the refund.

(d) The board shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the board and the Franchise Tax Board, of the persons who during the year have claimed a refund of sales or use tax under this section and the amount of the refund issued to each person.

(e) Any refund approved by the board pursuant to this section shall be payable from the General Fund.

6902.3.

Notwithstanding Section 6902, a refund of an overpayment of any tax, penalty, or interest collected by the board by means of levy, through the use of liens, or by other enforcement procedures, shall be approved if a claim for refund is filed within three years of the date of overpayment.

6902.4.

(a) The limitation period specified in Section 6902 shall be suspended during any period of a person's life that the person is financially disabled.

(b) (1) For purposes of subdivision (a), a person is financially disabled if the person is unable to manage his or her financial affairs by reason of medically determinable physical or mental impairment of the person that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A person shall not be considered to have an impairment unless proof of the existence thereof is furnished in the form and manner as the board may require.

(2) A person shall not be treated as financially disabled during any period that the person's spouse or any other person is authorized to act on behalf of the person in financial matters.

(c) This section applies to periods of disability commencing before, on, or after the effective date of the act adding this section, but does not apply to any claim for refund that, without regard to this section, is barred by operation or rule of law, including res judicata, as of the effective date of the act adding this section.

6902.5.

(a) For the purposes of this section:

(1) "Qualified taxpayer" means a person who is a qualified taxpayer within the meaning of paragraph (17) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695, paragraph (19) of subdivision (b) of Section 17053.98 or 23698, or paragraph (20) of subdivision (b) of Section 17053.98.1 or 23698.1.

(2) "Affiliate" means a qualified taxpayer's affiliated corporation that has been assigned any portion of the credit amount by the qualified taxpayer pursuant to subdivision (c) of Section 23685, subdivision (c) of Section 23695, subdivision (c) of Section 23698, or subdivision (c) of Section 23698.1.

(3) "Credit amount" means an amount equal to the tax credit amount that would otherwise be allowed to a qualified taxpayer pursuant to Section 17053.85, 17053.95, 17053.98, 17053.98.1, 23685, 23695, 23698, or 23698.1, but for the election made pursuant to this section.

(4) "Production period" means the production period as defined in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695, in paragraph (14) of subdivision (b) of Section 17053.98 or 23698, or in paragraph (15) of subdivision (b) of Section 17053.98.1 or Section 23698.1.

(5) (A) "Qualified sales and use taxes" means any state sales and use taxes imposed by Part 1 (commencing with Section 6001), on the operative date of the act adding this section.

(B) Notwithstanding subparagraph (A), "qualified sales and use taxes" does not mean taxes imposed by Section 6051.2, 6051.5, 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), or Section 35 of Article XIII of the California Constitution.

(b) (1) A qualified taxpayer may, in lieu of claiming the credit allowed by Section 17053.85, 17053.95, 17053.98, 17053.98.1, 23685, 23695, 23698, or 23698.1, make an irrevocable election to apply the credit amount against qualified sales and use taxes imposed on the qualified taxpayer in accordance with this section.

(2) An affiliate may, in lieu of claiming the assigned portion of the credit allowed by Section 23685, 23695, 23698, or 23698.1, make an irrevocable election to apply the assigned portion of the credit amount against qualified sales and use taxes imposed on the affiliate in accordance with this section.

(c) (1) A qualified taxpayer or affiliate shall submit to the California Department of Tax and Fee Administration an irrevocable election, in a form as prescribed by the California Department of Tax and Fee Administration, which shall include, but not be limited to, the following information:

(A) Representation that the claimant is a qualified taxpayer or an affiliate.

(B) Statement of the dates on which the production period began and ended.

(C) The credit amount, and if an affiliate, the portion of the credit amount assigned to it and documentation supporting the assignment of that portion of the credit amount.

(D) The amount of qualified sales and use taxes the claimant remitted to the California Department of Tax and Fee Administration during the period commencing on the first day of the calendar quarter commencing immediately before the beginning of the production period, and ending on the date the claimant was required to file its most recent sales and use tax return with the California Department of Tax and Fee Administration.

(E) A copy of the credit certificate issued pursuant to subparagraph (C) of paragraph (2) of subdivision (g) of Section 17053.85 or 23685 or subparagraph (D) of paragraph (3) of subdivision (g) of Section 17053.95, 17053.98, 23695, 23698, or subparagraph (C) of paragraph (3) of subdivision (g) of Section 17053.98.1 or 23698.1.

(2) The election shall be filed on or before the date on which the qualified taxpayer or affiliate would first be allowed to claim a credit pursuant to Section 17053.85, 17053.95, 17053.98, 17053.98.1, 23685, 23695, 23698, or 23698.1 on its tax return.

(3) (A) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, subdivision (d) and paragraph (1) of subdivision (e) shall only apply to those in-lieu credit amounts that do not exceed five million dollars ($5,000,000) for that taxable year.

(B) For those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, that are in excess of five million dollars ($5,000,000) for that taxable year, subdivision (f) shall apply.

(d) (1) The claimant may elect to obtain a refund of qualified sales and use taxes paid during the period described in subparagraph (D) of paragraph (1) of subdivision (c). If the claimant elects to obtain a refund of qualified sales and use taxes, the claimant shall file a claim for refund with the irrevocable election described in subdivision (c). The refund amount shall not exceed, for a qualified taxpayer, the credit amount, or for an affiliate, the portion of the credit amount assigned to it.

(2) No interest shall be paid on any amount refunded or credited pursuant to paragraph (1).

(e) (1) If the claimant does not elect to obtain a refund or in the case where the credit amount, or assigned portion, exceeds the amount of its claim for refund for the qualified sales and use taxes, the claimant may, for the reporting periods in the five years following the last reporting period as described in subparagraph (D) of paragraph (1) of subdivision (c), offset any remaining credit amount, or assigned portion, against the qualified sales and use taxes imposed during those reporting periods.

(2) Notwithstanding paragraph (1), the total amount of refunds or credit offsets claimed under subdivision (d) and paragraph (1) of this subdivision in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for a taxable year beginning on or after January 1, 2020, and before January 1, 2022, shall not exceed five million dollars ($5,000,000).

(f) Notwithstanding subdivision (d) and paragraph (1) of subdivision (e), for those amounts for which an irrevocable election is made in lieu of tax credits allowed pursuant to Section 17053.85, 17053.95, 17053.98, 23685, 23695, or 23698 that would otherwise be allowed for any taxable year beginning on or after January 1, 2020, and before January 1, 2022, that are in excess of five million dollars ($5,000,000) for that taxable year, both of the following shall apply:

(1) The claimant may elect to obtain a refund of the qualified sales and use taxes paid or offset that excess credit amount, or assigned portion against the

qualified sales and use taxes imposed, during the reporting periods that occur during the 2021 calendar year. The total amount of refunds or credit offsets claimed under this paragraph, subdivision (d), and paragraph (1) of subdivision (e) shall not exceed five million dollars ($5,000,000) in the 2021 calendar year for each claimant.

(2) If the claimant has not exhausted the excess credit amount, or assigned portion, as provided by paragraph (1), the claimant may offset the remaining excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the five years following and including the reporting period beginning on and after January 1, 2022.

(g) Notwithstanding any other provision of this section or any other law, for the 2024, 2025, and 2026 calendar years, all of the following shall apply:

(1) The total amount of refunds or credit offsets under subdivision (d) and paragraph (1) of subdivision (e) in lieu of tax credits allowed pursuant to Sections 17053.85, 17053.95, 17053.98, 17053.98.1, 23685, 23695, 23698, and 23698.1 shall not exceed five million dollars ($5,000,000) in each of the 2024, 2025, and 2026 calendar years for each claimant.

(2) For refunds or credit offsets claimed under subdivision (d) and paragraph (1) of subdivision (e) for which an irrevocable election is made in lieu of tax credits allowed pursuant to Sections 17053.85, 17053.95, 17053.98, 17053.98.1, 23685, 23695, 23698, and 23698.1 that are in excess of five million dollars ($5,000,000), both of the following shall apply:

(A) The claimant may elect to obtain a refund of the qualified sales and use taxes paid or offset that excess credit amount, or assigned portion against the qualified sales and use taxes imposed, during the reporting periods that occur during the 2024, 2025, and 2026 calendar years. The total amount of refunds or credit offsets claimed under this paragraph, subdivision (d), and paragraph (1) of subdivision (e), shall not exceed five million dollars ($5,000,000) in each of the 2024, 2025, and 2026 calendar years for each claimant.

(B) If the claimant has not exhausted the excess credit amount, or assigned portion, as provided by subparagraph (A), the claimant may offset the remaining excess credit amount, or assigned portion, against the qualified sales and use taxes imposed during the reporting periods in the five years following and including the reporting period beginning on and after January 1, 2027.

(3) For purposes of this subdivision, "claimant" means a qualified taxpayer together with its affiliates.

(h) Section 6961 shall apply to any refund, or part thereof, that is erroneously made and any credit, or part thereof, that is erroneously allowed pursuant to this section.

(i) The California Department of Tax and Fee Administration shall provide an annual listing to the Franchise Tax Board, in a form and manner agreed upon by the California Department of Tax and Fee Administration and the Franchise Tax Board, of the qualified taxpayers, or affiliates that have been assigned a portion of the credit allowed under Section 23685 pursuant to subdivision (c) of Section 23685, Section 23695 pursuant to subdivision (c) of Section 23695, Section 23698 pursuant to subdivision (c) of Section 23698, or Section 23698.1 pursuant to subdivision (c) of Section 23698.1, who, during the year, have made an irrevocable election pursuant to this section and the credit amount, or portion of the credit amount, claimed by each qualified taxpayer or affiliate.

(j) The California Department of Tax and Fee Administration may prescribe rules and regulations for the administration of this section.

(k) The amendments made to this section by Chapter 8 of the Statutes of 2020 shall not apply to irrevocable elections made before June 29, 2020.

(l) The amendments made to this section by Chapter 3 of the Statutes of 2022 shall apply to irrevocable elections made on and after June 29, 2020.

(m) (1) The limitations set forth in subdivision (g) for the 2025 calendar year only shall not apply if, pursuant to paragraph (1) of subdivision (k) of Section 17039.4 and paragraph (1) of subdivision (j) of Section 23036.4, the Director of Finance determines that General Fund money over the multiyear forecast is sufficient without the revenue impact of the net operating loss suspension and credit limitation, and pursuant to legislation in the annual Budget Act to not apply the limitations set forth in subdivision (g).

(2) The limitations set forth in subdivision (g) for the 2026 calendar year only shall not apply if, pursuant to paragraph (2) of subdivision (k) of Section 17039.4 and paragraph (2) of subdivision (j) of Section 23036.4, the Director of Finance determines that General Fund money over the multiyear forecast is sufficient without the revenue impact of the net operating loss suspension and credit limitation, and pursuant to legislation in the annual Budget Act to not apply the limitations set forth in subdivision (g).

(n) The amendments made to this section by the act adding this subdivision shall not apply to irrevocable elections made before the operative date of the act adding this section.

6902.6.

(a) A claim for refund that is otherwise valid under Sections 6902 and 6904 that is made in the case in which the amount of tax determined has not been paid in full shall be deemed to be a timely filed claim for refund with respect to all subsequent payments applied to that determination.

(b) For purposes of this section, "amount of tax determined" means an amount of tax, interest, or penalty, with respect to a single determination made under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), or Article 4 (commencing with Section 6536) of Chapter 5.

(c) This section shall apply only to claims for refunds made on or after the effective date of the act adding this section.

6902.7.

(a) For purposes of this section:

(1) "Qualified small business employer" means a person that is a qualified small business employer within the meaning of paragraph (3) of subdivision (b) of Section 17053.72 or paragraph (3) of subdivision (b) of Section 23627.

(2) "Credit amount" means an amount equal to the credit amount that would otherwise be allowed to a qualified small business employer pursuant to Section 17053.72 or 23627, but for the irrevocable election made pursuant to Section 6902.8.

(3) "Qualified sales or use taxes" means any sales and use taxes imposed by Part 1 (commencing with Section 6001) and Section 35 of Article XIII of the California Constitution, local sales and use taxes imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and local transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(b) The department shall allow a qualified small business employer that received a tentative credit reservation pursuant to Section 6902.8 and that made an irrevocable election pursuant to Section 6902.8 to apply the small business hiring credit amount against qualified sales and use taxes imposed on the qualified small business employer, as follows:

(1) For monthly filers, the credit shall apply to amounts due and payable for the month commencing on March 1, 2021, ending on March 31, 2021, and due April 30, 2021.

(2) For quarterly filers, the credit shall apply to amounts due and payable for the quarter commencing on January 1, 2021, ending on March 31, 2021, and due April 30, 2021.

(3) For annual filers, fiscal year filers, or a qualified small business owner on any other reporting basis, the credit shall apply to amounts due and payable on the first return due on or after April 30, 2021.

(c) Any excess credit shall be carried over and shall not be refunded, as follows:

(1) In the case where the credit amount exceeds the sales and use taxes due and payable as described in subdivision (b), the department shall apply the excess credit against amounts due and payable for periods following those described in subdivision (b) on returns due and filed on or before April 30, 2026.

(2) Any remaining excess credit amount after April 30, 2026, shall not be refunded and shall be forfeited.

(d) No interest shall be paid on any amount credited pursuant to subdivisions (b) or (c).

(e) Section 6961 shall apply to any credit, or part thereof, that is erroneously allowed pursuant to this section.

(f) Notwithstanding Section 7056, the department shall provide information to the Franchise Tax Board, in a form and manner agreed upon by the department and the Franchise Tax Board, regarding the qualified small business employers that have been assigned a credit allowed under Sections 17053.72 and 23627, and have made an irrevocable election pursuant to Section 6902.8, and the credit amount claimed by each qualified small business employer.

(g) The department may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this section. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption.

(h) The Small Business Hiring Credit Fund is hereby created in the State Treasury for the sole purpose of applying the small business hiring credits allowed by this section and Section 6902.9. Any unused money remaining in the fund shall be transferred to the General Fund by June 1, 2027.

6902.8.

(a) Unless the context otherwise requires, the definitions set forth in Sections 17053.72 and 23627 govern the construction of this section.

(b) A qualified small business employer shall submit an application to the department in a form and manner prescribed by the department for a tentative credit reservation amount for the small business hiring tax credit allowed to a qualified small business employer pursuant to Section 17053.72 or 23627, or both.
(c) The application shall include the following:
(1) The net increase in qualified employees, as determined in subdivision (c) of Section 17053.72 or subdivision (c) of Section 23627.
(2) (A) Whether the credit will be applied under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both.
(B) Whether the qualified small business employer makes an irrevocable election to apply the credit against qualified sales and use taxes pursuant to Section 6902.7 in lieu of claiming the credit allowed by Section 17053.72 or 23627. The election shall not be amended.
(3) Any other information as deemed necessary by the department.
(d) (1) Qualified small business employers shall submit, and the department shall accept, applications for tentative credit reservation amounts during the period beginning December 1, 2020, and ending January 15, 2021, or any earlier date determined by the department when the maximum cumulative total allocation limit in subdivision (e) is reached.
(2) Applications shall not be accepted by the department after January 15, 2021, or any other date determined by the department.
(3) The date and time an application is received shall be determined by the department. The determination of the department with respect to the date and time an application is received may not be reviewed in any administrative or judicial proceeding.
(e) (1) The aggregate amount of credit that may be allocated pursuant to Sections 6902.7, 17053.72, and 23627 shall not exceed the cumulative total of one hundred million dollars ($100,000,000).
(2) The department shall allocate a tentative credit reservation to qualified small business employers on a first-come, first-served basis. For each application received, the total amount of credit available for allocation shall be reduced by an amount equal to the allocated tentative credit reservation amount.
(3) The tentative credit reservation amount shall be equal to the net increase in qualified employees as reported on the application multiplied by one thousand dollars ($1,000) and shall not exceed one hundred thousand dollars ($100,000) per qualified small business employer.
(4) The department shall promptly, no more than 30 days after the application is received, notify the applicant of the tentative credit reservation amount. The amount allocated shall not constitute a determination by the department with respect to any of the requirements of this section or eligibility for the credit authorized by Section 6902.7, 17053.72, or 23627.
(5) The department shall periodically provide on its website the aggregate allocated tentative credit reservation amount under Sections 6902.7, 17053.72, and 23627, and remaining credit amount available for allocation.
(f) Notwithstanding Section 7056, the department shall provide the Franchise Tax Board, in the form and manner agreed upon by the department and the Franchise Tax Board, any and all information provided by each applicant pursuant to subdivision (c) and any other information deemed necessary by the department and the Franchise Tax Board to administer and enforce this section, and Sections 17053.72 and 23267.
(g) The department may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer, and enforce its duties under this section. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption.

6902.9.
(a) For purposes of this section:
(1) “Converted entity” means a qualified small business employer that changed its business form to a different entity type and continues its operation.
(2) “Credit amount” means an amount equal to the credit amount that would otherwise be allowed to a qualified small business employer pursuant to Section 17053.71 or 23628 but for the irrevocable election made pursuant to Section 6902.10.
(3) “Qualified sales or use taxes” means sales and use taxes imposed by Part 1 (commencing with Section 6001) and Section 35 of Article XIII of the California Constitution, local sales and use taxes imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and local transactions and use taxes imposed in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).
(4) “Qualified small business employer” has the same meaning as defined in Section 17053.71 or 23628.
(b) The department shall allow a qualified small business employer that received a tentative credit reservation pursuant to Section 6902.10 and that made an irrevocable election pursuant to Section 6902.10 to apply the small business hiring credit amount against qualified sales and use taxes imposed on the qualified small business employer as follows:
(1) For monthly filers, the credit shall apply to amounts due and payable for the month commencing on March 1, 2022, ending on March 31, 2022, and due on April 30, 2022.
(2) For quarterly filers, the credit shall apply to amounts due and payable for the quarter commencing on January 1, 2022, ending on March 31, 2022, and due on April 30, 2022, including prepayments for the quarter required pursuant to Article 1.1 (commencing with Section 6470) of Chapter 5.
(3) For annual filers, fiscal year filers, or a qualified small business employer or converted entity on any other reporting basis, the credit shall apply to amounts due and payable on the first return due on or after April 30, 2022.
(c) Any excess credit shall be carried over and shall not be refunded as follows:
(1) If the credit amount exceeds the sales and use taxes due and payable, as described in subdivision (b), the department shall apply the excess credit against amounts due and payable for periods following those described in subdivision (b) on returns due and filed on or before April 30, 2027, including prepayments required pursuant to Article 1.1 (commencing with Section 6470) of Chapter 5.
(2) Any remaining excess credit amount after April 30, 2027, shall not be refunded and shall be forfeited.
(d) A qualified small business employer that becomes a converted entity subsequent to making the election to apply the credit against qualified sales and use taxes pursuant to Section 6902.10 may transfer any small business hiring credit and excess credit amounts to the converted entity and apply those amounts against the qualified sales and use taxes of the converted entity as specified in subdivisions (b) and (c).
(e) Interest shall not be paid on an amount credited pursuant to subdivision (b), (c), or (d).
(f) Section 6961 shall apply to a credit, or part thereof, that is erroneously allowed pursuant to this section.
(g) Notwithstanding Section 7056, the department shall provide information to the Franchise Tax Board, in a form and manner agreed upon by the department and the Franchise Tax Board, regarding both of the following:
(1) The qualified small business employers and converted entities that have been assigned a credit allowed under Sections 17053.71 and 23628 and have made an irrevocable election pursuant to Section 6902.10.
(2) The credit amount claimed by each qualified small business employer and converted entity.
(h) (1) Notwithstanding Section 13018 of the Unemployment Insurance Code, the Employment Development Department shall, upon request, provide the department in the form and manner agreed upon by the department and the Employment Development Department, any and all information deemed necessary by the department to administer and enforce this section and Section 6902.10.
(2) The department may share information provided pursuant to this subdivision with the Franchise Tax Board, upon request, as necessary to administer and enforce Sections 17053.71 and 23628.
(i) The department may prescribe, adopt, and enforce emergency regulations as necessary to implement, administer, and enforce its duties under this section. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption.

6902.10.
(a) Unless the context otherwise requires, the definitions set forth in Sections 17053.71 and 23628 govern the construction of this section.
(b) A qualified small business employer shall submit an application to the department in a form and manner prescribed by the department for a tentative credit reservation amount for the small business hiring tax credit allowed to a qualified small business employer pursuant to Section 17053.71 or 23628, or both.
(c) The application shall include all of the following:
(1) The net increase in qualified employees, as determined pursuant to subdivision (c) of Section 17053.71 or subdivision (c) of Section 23628.

(2) (A) If the credit will be applied under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both.

(B) If the qualified small business employer makes an irrevocable election to apply the credit against qualified sales and use taxes pursuant to Section 6902.9 in lieu of claiming the credit allowed by Section 17053.71 or 23628. An election under this subparagraph shall be allowed only for a qualified small business employer with an active seller's permit or active certificate of registration-use tax. The election shall not be amended by the qualified small business employer or converted entity.

(3) If the applicant makes the election to apply the credit against qualified sales and use taxes as described in subparagraph (B) of paragraph 2, the qualified small business employer's active seller's permit number or active certificate of registration-use tax number.

(4) Valid state employer identification number of the qualified small business employer.

(5) Any other information and documentation as deemed necessary by the department.

(d) (1) Qualified small business employers shall submit, and the department shall accept, applications for tentative credit reservation amounts during the period beginning November 1, 2021, and ending November 30, 2021, or an earlier date determined by the department when the maximum cumulative total allocation limit in subdivision (e) is reached.

(2) Applications shall not be accepted by the department after November 30, 2021, or any other date determined by the department.

(3) The date and time an application is received shall be determined by the department. The determination of the department with respect to the date and time an application is received shall not be reviewed in any administrative or judicial proceeding.

(e) (1) The aggregate amount of credit that may be allocated pursuant to Sections 6902.9, 17053.71, and 23628 shall not exceed the cumulative total of seventy million dollars ($70,000,000) plus any amount of credit not allocated, and not required to be allocated, pursuant to subdivision (e) of Section 6902.8.

(2) The department shall allocate a tentative credit reservation to qualified small business employers on a first-come-first-served basis. For each application received, the total amount of credit available for allocation shall be reduced by an amount equal to the allocated tentative credit reservation amount.

(3) The tentative credit reservation amount per qualified small business employer shall be equal to the amount calculated pursuant to subparagraph (A) minus the amount calculated pursuant to subparagraph (B).

(A) The amount, not exceeding one hundred fifty thousand dollars ($150,000), that is equal to the net increase in qualified employees, as reported on the application, multiplied by one thousand dollars ($1,000).

(B) If the qualified small business employer received a tentative credit reservation amount pursuant to Section 6902.8, either of the following:

(i) For a qualified small business employer that made an irrevocable election pursuant to Section 6902.8 to apply the credit against qualified sales and use taxes pursuant to Section 6902.7, the credit amounts allocated to the qualified small business employer pursuant to Sections 6902.7 and 6902.8.

(ii) For a qualified small business employer that elected to apply the credit under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both, the tentative credit reservation amount received by the qualified small business employer pursuant to Section 6902.8.

(4) The department shall, within 30 days of receiving the application, notify the applicant of the tentative credit reservation amount. The amount allocated shall not constitute a determination by the department with respect to any of the requirements of this section or eligibility for the credit authorized by Section 6902.9, 17053.71, or 23628.

(5) The department shall periodically provide on its website the aggregate allocated tentative credit reservation amount under Sections 6902.9, 17053.71, and 23628 and the remaining credit amount available for allocation.

(6) The department may revise, on or before March 30, 2022, a qualified small business employer's election to apply a credit against qualified sales and use taxes and instead apply the credit to taxes administered pursuant to Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), or both, if the qualified small business employer's seller's permit or certificate of registration-use tax has been suspended, revoked, canceled, or closed.

(7) (A) The department shall cancel or reduce a qualified small business employer's tentative credit reservation amount if the qualified small business employer fails to provide application information or documentation required by subdivision (c) to the department within 15 calendar days after the department requests the information.

(B) Notwithstanding subparagraph (A), the department may reduce a qualified small business employer's tentative credit reservation amount for clerical errors or upon request by the applicant.

(8) (A) Tentative credit reservation amounts that become available on and after December 1, 2021, and before April 1, 2022, shall be made available to qualified small business employers and converted entities that applied for a tentative credit reservation amount pursuant to subdivision (a) but did not receive a tentative credit reservation amount because the aggregate amount of tentative credit reservations applied for pursuant to Sections 6902.9, 17053.71, and 23628 exceeded the cumulative total described in paragraph (1).

(B) Tentative credit reservation amounts made available pursuant to subparagraph (A) shall be made available to qualified small business employers and converted entities on a first-come-first-served basis based on the order in which the application was received.

(f) Notwithstanding Section 7056, the department shall provide the Franchise Tax Board, in the form and manner agreed upon by the department and the Franchise Tax Board, any and all information provided by each applicant pursuant to subdivision (c) and any other information deemed necessary by the department and the Franchise Tax Board to administer and enforce this section and Sections 17053.71 and 23268.

(g) The department may prescribe, adopt, and enforce emergency regulations as necessary to implement, administer, and enforce its duties under this section. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other law, the emergency regulations adopted by the department may remain in effect for two years from adoption.

6903.

(a) No credit or refund of any amount paid pursuant to Chapter 3 (commencing with Section 6201) shall be allowed to any person on the ground that the storage, use, or other consumption of the property is exempted under Section 6401 unless the person establishes to the satisfaction of the board that his or her vendor has paid the sales tax to the state with respect to the sale of the property.

(b) For purposes of this section, "amount paid pursuant to Chapter 3 (commencing with Section 6201)" does not include any payment or payments made pursuant to a determination made by the board under Articles 2 (commencing with Section 6481) and 3 (commencing with Section 6511) of Chapter 5.

6904.

(a) Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

(b) A claim filed for or on behalf of a class of taxpayers shall do all of the following:

(1) Be accompanied by written authorization from each taxpayer sought to be included in the class.

(2) Be signed by each taxpayer or taxpayer's authorized representative.

(3) State the specific grounds on which the claim is founded.

6905.

Failure to file a claim within the time prescribed in this article constitutes a waiver of any demand against the State on account of overpayment.

6906.

Within 30 days after disallowing any claim in whole or in part the board shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

6907.

Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the calendar month following the month during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

6908.

(a) If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.
(b) If any person who has filed a claim for refund requests the board to defer action on the claim, the board, as a condition to deferring action, may require the claimant to waive interest for the period during which the person requests the board to defer action on the claim.

6909.
(a) The Controller shall transfer the amount of six hundred sixty-five million two hundred sixty-one thousand dollars ($665,261,000) from the General Fund to the Smog Impact Fee Refund Account, which is hereby created in the Special Deposit Fund.
(b) Notwithstanding Section 13340 of the Government Code, the moneys in the Smog Impact Fee Refund Account in the Special Deposit Fund are hereby continuously appropriated, without regard to fiscal years, to the Department of Motor Vehicles for the purpose of making refunds to persons who paid the smog impact fee formerly required by Chapter 3.3 (commencing with Section 6261) upon registering a vehicle in California. Each refund shall also include the amount of any penalties incurred by the payer with respect to the fee, and shall also include interest as specified in Sections 1673.2 and 1673.4 of the Vehicle Code. In addition, the appropriate level of court costs, fees, and expenses in the settlement of the case of Jordan v. Department of Motor Vehicles (1999) 75 Cal.App.4th 449, shall be determined through binding arbitration, and all of those fees, costs, or expenses shall be paid with funds from the account.
(c) The amount of any refund made under Section 1673.2 or Section 1673.4 of the Vehicle Code that is returned to the Department of Motor Vehicles because the recipient's mailing address as shown by the records of the department is incorrect shall be retained in the Smog Impact Fee Refund Account in the Special Deposit Fund until either of the following occurs:
(1) The department is able to ascertain the correct address of the recipient, at which time the refund shall be mailed to that address.
(2) The date upon which those funds are transferred from the Smog Impact Fee Refund Account in the Special Deposit Fund back to the General Fund.
(d) Any unencumbered balance remaining in the account on or after June 30, 2004, shall revert to the General Fund.
(e) The Legislature hereby finds and declares that the amount appropriated under subdivision (b) is a refund of taxes, as described in subdivision (a) of Section 8 of Article XIII of the Constitution, and, as a result, is not included within the "appropriations subject to limitation" of the state, as defined in that subdivision (a).

6931.
No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection under this part of any tax or any amount of tax required to be collected.

6932.
No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Article 1 (commencing with Section 6901).

6933.
Within 90 days after the mailing of the notice of the board's action upon a claim filed pursuant to Article 1 (commencing with Section 6901), the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.
Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of alleged overpayments.

6934.
If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board of its action on the claim, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

6935.
If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any sales or use tax or amount of use tax due and payable from the plaintiff. The balance of the judgment shall be refunded to the plaintiff.

6936.
In any judgment, interest shall be allowed at the modified adjusted rate per annum established for overpayments pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

6937.
A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

6961.
(a) The Controller may recover any refund or part thereof that is erroneously made and any credit or part thereof that is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.
(b) As an alternative to subdivision (a), the board may recover any refund or part thereof that is erroneously made and any credit or part thereof that is erroneously allowed. In recovering any erroneous refunds or credits, the board, in its discretion, may issue a deficiency determination in accordance with Article 2 (commencing with Section 6481) or Article 4 (commencing with Section 6536) of Chapter 5. Except in the case of fraud, the determination shall be made within three years from the last day of the month following the quarterly period in which the board made its certification to the Controller that the amount collected was in excess of the amount legally due.

6962.
The action shall be tried in the County of Sacramento unless the court with the consent of the Attorney General orders a change of place of trial.

6963.
The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials, and appeals are applicable to the proceedings.

6964.
(a) Notwithstanding any other provision of this part, if the department finds that neither the person liable for payment of tax nor any party related to that person has in any way caused an erroneous refund for which an action for recovery is provided under Section 6961, no interest shall be imposed on the amount of that erroneous refund until 30 days after the date on which the department serves a notice of determination for repayment of the erroneous refund to the person. The act of filing a claim for refund shall not be considered as causing the erroneous refund.
(b) This section is operative for any action for recovery under Section 6961 on or after July 1, 1999.

6981.
If any amount has been illegally determined either by the person filing the return or by the department, the department shall set forth that fact in its records, certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made, and authorize the cancellation of the amount upon the records of the department. Any determination by the department pursuant to this section with respect to an amount in excess of fifty thousand dollars ($50,000) shall be available as a public record for at least 10 days after the effective date of that determination.

7051.
The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

7051.1.
The board may adopt rules and regulations which provide for the issuance of a permit to a person who holds a valid seller's permit which allows the purchase of tangible personal property without payment by the retailer of the tax imposed under this part and any reimbursement of the sales tax to the retailer by that person, if all of the following conditions are met:
(a) That person agrees to report and pay the retailer's tax liability directly to the board.

(b) The board determines that such a direct payment permit will facilitate the collection of the tax imposed under this part.
(c) The board determines that the issuance of a direct payment permit is to the mutual convenience of the board, the person to whom the direct payment permit is issued, and the retailers whose tax liability will be reported and paid by that person.
(d) The board determines that the issuance of a direct payment permit will not result in a tax loss either in total or on a cash flow basis. To ensure against a potential cash flow loss, the board may accelerate by not more than 10 days the prepayment due dates of a person.
(e) Any person who is issued a direct payment permit shall include with each tax return required to be filed under this part a schedule upon which all local sales and use tax, and any applicable district transactions and use tax, reported on the return as provided in subdivision (a) is allocated to the cities, counties, city and county, redevelopment agencies, and districts to which the tax would have been allocated if it had been reported and paid by the retailers.

7051.2.
(a) If a holder of a direct payment permit issued by the board pursuant to Section 7051.1 gives an exemption certificate to a retailer for the purpose of paying that retailer's tax liability to the board, and fails or refuses to pay that retailer's tax liability to the board on a timely basis, then in addition to that retailer's tax liability, the direct payment permitholder shall be subject to the same penalty provisions that would apply if that permit holder was the retailer.
(b) If a holder of a direct payment permit issued by the board pursuant to Section 7051.1 does not properly allocate a retailer's local sales and use tax liability, or that retailer's district transactions and use tax liability, if applicable, to the cities, counties, city and county, redevelopment agencies, and districts to which those taxes would have been allocated if properly reported by that retailer, then the direct payment permitholder shall be liable to the state for a penalty of 10 percent of the amount of that retailer's tax liability not properly allocated by the direct payment permitholder for improper allocation due to negligence or intentional disregard of the law.

7051.3.
(a) "Use tax direct payment permit" means a permit issued by the board that allows a taxpayer to self-assess and pay state and local use tax under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and if otherwise applicable, Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) directly to the board.
(b) Every person seeking to pay use taxes directly to the board shall file an application for a use tax direct payment permit. An application for a use tax direct payment permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of the place or places of business where the applicant intends to make direct payment of use tax, and any other information that the board may require. An applicant for a use tax direct payment permit may register as a place to make direct payment of use tax, any of the places of business in this state that the applicant expects to be a place of first use for purchases subject to use tax, in accordance with the requirements of subdivision (d). The application shall be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner; and in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.
(c) Pursuant to an application, a use tax direct payment permit shall be issued to any person who meets all of the following conditions:
(1) The applicant agrees to self-assess and pay directly to the board any use tax liability incurred under this section.
(2) The applicant certifies to the board either of the following:
(A) The applicant is the purchaser for its own use or is the lessee of tangible personal property at a cost of five hundred thousand dollars ($500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit.
(B) The applicant is a county, city, city and county, or redevelopment agency.
(d) Any person who holds a valid use tax direct payment permit shall self-assess and pay directly to the board use taxes due under this part, Part 1.5 (commencing with Section 7200), and if otherwise applicable, Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) for all purchases subject to use tax for which a use tax direct payment exemption certificate was issued, and shall report on the tax return required to be filed by Section 6452, the amount of local use tax applicable to each county, city, city and county, or redevelopment agency in which the first "use," as defined in Section 6009, occurs.
(e) The board shall allow any holder of a use tax direct payment permit to issue a use tax direct payment certificate to any registered retailer or seller subject to all of the following:
(1) The use tax direct payment certificate shall be in a form prescribed by the board, and shall be signed by, and bear the name, address, and permit number of, the holder of the use tax direct payment permit.
(2) Once a use tax direct payment certificate has been issued by a holder of a use tax direct payment permit, it shall remain effective until revised or withdrawn by the holder of the permit or until the retailer or seller has received actual notice that the permit has been revoked by the board.
(3) A use tax direct payment certificate relieves a person selling property from the duty of collecting use tax only if taken in good faith from a person who holds a use tax direct payment permit. A purchaser who issues a use tax direct payment certificate that is accepted in good faith by a seller or retailer of tangible personal property shall be the sole person liable for any sales tax and related interest and penalties with respect to any transaction that is subsequently determined by the board to be subject to sales tax and not use tax.
(4) Any person who holds a use tax direct payment permit and gives a use tax direct payment certificate to a seller or retailer shall, in addition to any applicable use tax liabilities, be subject to the same penalty provisions that apply to a seller or retailer.
(f) It is the intent of the Legislature that the board administer this part in a manner which assures that local use tax be received by the county, city, city and county, or redevelopment agency where the first use occurs.

7051.5.
The board shall prescribe rules and regulations respecting retail grocers who sell both taxable items and exempt food items to provide one or more methods whereby they may report their sales tax liabilities in as simplified a manner as is consistent with law. Such rules and regulations shall be applied equally to all grocers who report their sales tax liabilities thereunder.

7052.
The board may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of this part and may designate representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this part or other laws of this State upon the board.

7053.
Every seller, every retailer as defined in subdivision (b) of Section 6015, and every person storing, using, or otherwise consuming in this State tangible personal property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the board may require.

7054.
The board or any person authorized in writing by it may examine the books, papers, records, and equipment of any person selling tangible personal property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid.

7055.
In administration of the use tax the board may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property the storage, use, or other consumption of which is subject to the tax. The reports shall be filed when the board requires and shall set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the board may require.

7056.
(a) (1) Excepting the information set forth on permits issued under Article 2 (commencing with Section 6066) of Chapter 2, the information set forth on certificates of registration issued pursuant to Section 6226, and the terms of any settlement made pursuant to Section 19442 (as amended by Chapter 138 of the Statutes of 1994), it is unlawful for the board, any person having an administrative duty under this part or any person who obtains access to information contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to make known in any manner whatever the business affairs, operations, or any other information pertaining to any retailer or any other person required to report to the board or pay a tax pursuant to this part, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person.
(2) It is also unlawful for any person, other than an officer or employee of a county, city and county, city, or district, who obtains access to information

contained in, or derived from, sales or transactions and use tax records of the board pursuant to subdivision (b), to retain that information after that person's contract with the county, city and county, city, or district has expired.

(3) Notwithstanding paragraphs (1) and (2), the Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, by the tax officials of Mexico, if a reciprocal agreement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

(b) When requested by resolution of the legislative body of any county, city and county, city, or district, the board shall permit any duly authorized officer or employee of the county, city and county, city, or district, or other person designated by that resolution, to examine all of the sales or transactions and use tax records of the board pertaining to the ascertainment of those sales or transactions and use taxes to be collected for the county, city and county, city, or district by the board pursuant to contract entered into between the board and the county, city and county, city, or district under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)). Except as otherwise provided herein, this subdivision shall not be construed to allow any officer, employee, or other person authorized or designated by a county, city and county, city, or district to examine any sales or transactions and use tax records of any taxpayer. The costs that are incurred by the board in complying with a request made pursuant to this subdivision shall be deducted by the board from those revenues collected by the board on behalf of the county, city and county, city, or district making the request.

(1) The resolution shall certify that any person designated by the resolution, other than an officer or employee, meets all of the following conditions:

(A) Has an existing contract with the county, city and county, city, or district to examine those sales and use tax records.

(B) Is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to an officer or employee of the county, city and county, city, or district who is authorized by the resolution to examine the information.

(C) Is prohibited by that contract from performing consulting services for a retailer during the term of that contract.

(D) Is prohibited by that contract from retaining the information contained in, or derived from, those sales or transactions and use tax records, after that contract has expired.

(2) Information obtained by examination of board records as permitted in this subdivision shall be used only for purposes related to the collection of local sales or transactions and use taxes by the board pursuant to the contract, or for purposes related to other governmental functions of the county, city and county, city, or district set forth in the resolution.

(c) If the board believes that any information obtained pursuant to subdivision (b) has been disclosed to any person not authorized or designated by the resolution of the legislative body of the county, city and county, city, or district, or has been used for purposes not permitted by subdivision (b), then notwithstanding subdivision (b), the board may impose conditions on access to its sales and use tax records which the board considers reasonable, in order to protect the confidentiality of those records.

(d) Predecessors, successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

(e) For purposes of this section, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information which is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

7056.5.

(a) Except as otherwise provided by this article or other express provision of law, the information furnished or secured pursuant to this part shall be used solely for the purpose of administering the tax laws or other laws administered by the person or agency obtaining it. Any willful unauthorized inspection or unwarranted disclosure or use of the information by the person or agency, or the employees and officers thereof, is a misdemeanor. For purposes of this section, "inspection" means any examination of confidential information furnished or secured pursuant to this part.

(b) The board shall notify a taxpayer of any known incidents of willful unauthorized inspection or unwarranted disclosure or use of the taxpayer's confidential tax records, but only if criminal charges have been filed for the willful unauthorized inspection or unwarranted disclosure.

7056.6.

(a) Except as otherwise provided by law, any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns under Chapter 5 (commencing with Section 6451), or any person who for compensation prepares any such return for any other person, and who knowingly or recklessly does either of the following, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned no more than one year, or both, together with the costs of prosecution:

(1) Discloses any information furnished to him or her for, or in connection with, the preparation of the return.

(2) Uses that information for any purpose other than to prepare, or assist in preparing, the return.

(b) Subdivision (a) shall not apply to disclosure of information if that disclosure is made pursuant to the person's consent or pursuant to a subpoena, court order, or other compulsory legal process.

7057.

(a) The board may disclose to state governmental licensing entities identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 494.5 of the Business and Professions Code. "Identifying information" means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the board pursuant to this section, except to administer Section 494.5 of the Business and Professions Code or to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to Section 494.5 of the Business and Professions Code.

(c) For purposes of this section, state governmental licensing entity means a state governmental licensing entity as defined in Section 494.5 of the Business and Professions Code.

7057.5.

(a) The board may disclose to state agencies identifying information of persons appearing on the list of the 500 largest tax delinquencies pursuant to Section 7063 for purposes of administering Section 10295.4 of the Public Contract Code. "Identifying information" means the name, social security number or taxpayer identification number, and the last known address of the persons appearing on the list of the 500 largest tax delinquencies.

(b) A state agency, and any officer, employee, or agent, or former officer, employee, or agent of a state agency, shall not disclose or use any information obtained from the board, pursuant to this section, except to administer Section 10295.4 of the Public Contract Code.

7058.

A certificate by the board or an employee of the board stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing or personal service in accordance with any requirement of this part for the giving of a notice. Unless otherwise specifically required, any notice provided by this part to be mailed or served may be given either by mailing or by personal service in the manner provided for giving notice of a deficiency determination.

7060.

(a) The board, under regulations prescribed by the board, may establish a reward program for information resulting in the identification of underreported or unreported taxes due under this part. Any reward may not exceed 10 percent of the taxes collected as a result of the information provided. Any person employed by or under contract with any state or federal tax collection agency shall not be eligible for a reward provided pursuant to this section.

(b) Within $2^1/_2$ years of the effective date of the act adding this subdivision or within $2^1/_2$ years of the commencement of a program pursuant to subdivision (a), whichever is later, the board shall report to the Legislature on all of the following:

(1) The number of informant letters and telephone calls received during the 2-year period following the effective date of the act adding this subdivision or following the commencement of a program pursuant to subdivision (a), whichever is later.

(2) The amount of additional taxes and penalties assessed and collected as a result of this program and the amount of rewards distributed.

(3) The administrative costs incurred in implementing and operating this program.

(c) Rewards paid pursuant to this section shall be paid from amounts appropriated by the Legislature for that purpose.

7063.

(a) Notwithstanding any other provision of law, the board shall make available as a matter of public record each quarter a list of the 500 largest tax delinquencies in excess of one hundred thousand dollars ($100,000) under this part. For purposes of compiling the list, a tax delinquency means an amount owed to the board which is all of the following:

(1) Based on a determination made under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of Chapter 5 deemed final pursuant to Article 5 (commencing with Section 6561) of Chapter 5, or that is "due and payable" under Article 4 (commencing with Section 6536) of Chapter 5, or self-assessed by the taxpayer.

(2) Recorded as a notice of state tax lien pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, in any county recorder's office in this state.

(3) For an amount of tax delinquent for more than 90 days.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency that is under litigation in a court of law.

(2) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the board and the taxpayer is in compliance with the arrangement.

(3) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(c) Each quarterly list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' last known address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies without providing the prior written notice required by subdivision (d).

7070.

The board shall develop and administer a tax amnesty program for taxpayers subject to Part 1 (commencing with Section 6001), as provided in this article.

7071.

The tax amnesty program shall be conducted for a two month period beginning February 1, 2005 through March 31, 2005, inclusive, or during a timeframe ending no later than June 30, 2005. The program shall apply to tax liabilities due and payable for tax reporting periods beginning before January 1, 2003.

7072.

(a) For any taxpayer who meets the requirements of Section 7073:

(1) The board shall waive all penalties imposed by this part, for the tax reporting periods for which tax amnesty is allowed for the nonreporting or underreporting of tax liabilities or the nonpayment of any taxes previously determined or proposed to be determined.

(2) Except as provided in subdivision (b), no criminal action shall be brought against the taxpayer, for the tax reporting periods for which tax amnesty is requested, for the nonreporting or underreporting of tax liabilities.

(b) This section does not apply to violations of this part for which, as of the first day of the amnesty period specified in Section 7071, (1) the taxpayer is on notice of a criminal investigation by a complaint having been filed against him or her or by written notice having been mailed to him or her that he or she is under criminal investigation, or (2) a court proceeding has already been initiated.

(c) No refund or credit shall be granted of any penalty paid prior to the time the taxpayer makes a request for tax amnesty pursuant to Section 7073.

7073.

(a) This article shall apply to any taxpayer who, during the amnesty period specified in Section 7071, meets all of the following:

(1) Is eligible to participate in the tax amnesty program.

(2) Files a completed amnesty application with the board, signed under penalty of perjury, to participate in the tax amnesty program.

(3) Within 60 days after the conclusion of the tax amnesty period, does all of the following:

(A) Files completed tax returns for all tax reporting periods for which he or she has not previously filed a tax return and files completed amended returns for all tax reporting periods for which he or she underreported his or her tax liability.

(B) Pays in full the taxes and interest due for all periods for which amnesty is requested, or applies for an installment agreement under subdivision (b).

(C) For taxpayers who have not paid in full any tax liabilities due and payable for tax reporting periods beginning before January 1, 2003, pays in full the taxes and interest due for each period for that portion of the proposed determination for each period for which amnesty is requested or applies for an installment payment agreement under subdivision (b).

(4) In the case of any taxpayer that has filed for bankruptcy protection under Title 11 of the United States Code, submits an order from a Federal Bankruptcy Court allowing the taxpayer to participate in the amnesty program.

(b) The board may enter into an installment payment agreement in lieu of the complete payment required under subparagraph (B) of paragraph (3) of subdivision (a), but only if final payment under the terms of that installment payment agreement is due and is paid no later than June 30, 2006. The installment payment agreement shall include interest on the outstanding amount due at the rate prescribed by law. Failure by the taxpayer to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, unless the board determines that the failure was due to reasonable causes, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

(c) If, subsequent to the amnesty period specified in Section 7071, the board issues a deficiency determination upon a return filed pursuant to subdivision (a), or upon any other nonreporting or underreporting of tax liability by any person who could have otherwise been eligible for amnesty, the board shall impose penalties at a rate that is double the rate of penalties described in law and criminal action may be brought under this part only with respect to the difference between the amount shown on that return and the correct amount of tax, or the amount of unreported or underreported tax, whichever the case may be. This action may not invalidate any waivers granted under Section 7072.

(d) If the board issues a deficiency determination under conditions described in subdivision (c), the board may issue that deficiency determination within 10 years from the last day of the calendar month following the quarterly period for which the amount is proposed to be determined.

(e) The application required under paragraph (2) of subdivision (a) shall be in the form and manner specified by the board, but in no case shall a mere payment of any taxes and interest due, in whole or in part, for any period otherwise eligible for amnesty under this part, be deemed to constitute an acceptable amnesty application under this part. For purposes of the preceding sentence, the application of a refund from one period to offset a tax liability for another period otherwise eligible for amnesty shall not be allowed without the filing of an amnesty application under this part.

7074.
(a) Except for taxpayers who have entered into an installment payment agreement pursuant to subdivision (b) of Section 7073, there shall be added to the tax for each period for which amnesty could have been requested:
(1) For amounts that are due and payable on the last date of the amnesty period, an amount equal to 50 percent of the accrued interest payable under Section 6591 for the period beginning on the date in which the tax was due and ending on the last day of the amnesty period specified in Section 7071.
(2) An amount equal to 50 percent of the interest computed under Section 6591 on any final amount, including final deficiencies and self-assessed amounts, for the period beginning on the date in which the tax was due and ending on the last day of the amnesty period specified in Section 7071.
(b) The penalty imposed by this section is in addition to any other penalty imposed under this part.
(c) Article 2 (commencing with Section 6481) does not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

7075.
Any taxpayer who has an existing installment payment agreement under Section 6832 as of the start of the amnesty program, and who does not participate in the amnesty program, may not be subject to the penalty imposed under Section 7074.

7076.
The board shall issue forms and instructions and take other actions needed to implement this article. The provisions contained in subdivision (c) of Section 19735, to the extent feasible and practical, shall also apply to the board.

7077.
The board shall adequately publicize the tax penalty amnesty program so as to maximize public awareness of the participation in the program. The board shall coordinate to the highest degree possible its publicity efforts and other actions taken in implementing this article with similar programs administered by the Franchise Tax Board.

7078.
Subdivision (b) of Section 19736, to the extent feasible and practical, shall also apply to the board.

7076.
(a) The State Board of Equalization shall determine which taxpayer's accounts are eligible for the managed audit program in a manner that is consistent with the efficient use of its auditing resources and the maximum effectiveness of the program.
(b) A taxpayer is not required to participate in the managed audit program.

7076.1.
A taxpayer's account is eligible for the managed audit program only if the taxpayer meets all of the following criteria:
(a) The taxpayer's business involves few or no statutory exemptions.
(b) The taxpayer's business involves a single or small number of clearly defined taxability issues.
(c) The taxpayer is taxed pursuant to this part and agrees to participate in the managed audit program.
(d) The taxpayer has the resources to comply with the managed audit instructions provided by the board.

7076.2.
(a) If the board selects a taxpayer's account for a managed audit, all of the following apply:
(1) The board shall identify all of the following:
(A) The audit period covered by the managed audit.
(B) The types of transactions covered by the managed audit.
(C) The specific procedures that the taxpayer is to follow in determining any liability.
(D) The records to be reviewed by the taxpayer.
(E) The manner in which the types of transactions are to be scheduled for review.
(F) The time period for completion of the managed audit.
(G) The time period for the payment of the liability and interest.
(H) Any other criteria that the board may require for completion of the managed audit.
(2) The taxpayer shall:
(A) Examine its books, records, and equipment to determine if it has any unreported tax liability for the audit period.
(B) Make available to the board for verification all computations, books, records, and equipment examined pursuant to subparagraph (A).
(b) The information provided by the taxpayer pursuant to paragraph (2) of subdivision (a) is the same information that is required for the completion of any other audit that the board may conduct.

7076.3.
Nothing in this article limits the board's authority to examine the books, papers, records, and equipment of a taxpayer under Section 7054.

7076.4.
Upon completion of the managed audit and verification by the board, interest on any unpaid liability shall be computed at one-half the rate that would otherwise be imposed for liabilities covered by the audit period. Payment of the liabilities and interest shall be made within the time period specified by the board. If the requirements for the managed audit are not satisfied, the board may proceed to examine the records of the taxpayer in a manner to be determined by the board under law.

7080.
This article shall be known and may be cited as "The Harris-Katz California Taxpayers' Bill of Rights."

7081.
The Legislature finds and declares that taxes are the most sensitive point of contact between citizens and their government, and that there is a delicate balance between revenue collection and freedom from government oppression. It is the intent of the Legislature to place guarantees in California law to ensure that the rights, privacy, and property of California taxpayers are adequately protected during the process of the assessment and collection of taxes.
The Legislature further finds that the California tax system is based largely on voluntary compliance, and the development of understandable tax laws and taxpayers informed of those laws will improve both voluntary compliance and the relationship between taxpayers and government. It is the further intent of the Legislature to promote improved voluntary taxpayer compliance by improving the clarity of tax laws and efforts to inform the public of the proper application of those laws.
The Legislature further finds and declares that the purpose of any tax proceeding between the State Board of Equalization and a taxpayer is the determination of the taxpayer's correct amount of tax liability. It is the intent of the Legislature that, in furtherance of this purpose, the State Board of Equalization may inquire into, and shall allow the taxpayer every opportunity to present, all relevant information pertaining to the taxpayer's liability.

7082.
The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

7083.
(a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest which would otherwise accrue shall not be affected by the granting of a stay.
(b) The advocate shall report directly to the executive officer of the board.

7084.
(a) The board shall develop and implement a taxpayer education and information program directed at, but not limited to, all of the following groups:
(1) Taxpayers newly registered with the board.
(2) Taxpayer or industry groups identified in the annual report described in Section 7085.
(3) Board audit and compliance staff.
(b) The education and information program shall include all of the following:
(1) Mailings to, or appropriate and effective contact with, the taxpayer groups specified in subdivision (a) which explain in simplified terms the most common areas of noncompliance the taxpayers or industry groups are likely to encounter.
(2) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities as a holder of a

seller's permit or use tax registrant and the most common areas of noncompliance encountered by participants in their business or industry.
(3) Participation in small business seminars and similar programs organized by federal, state, and local agencies.
(4) Revision of taxpayer educational materials currently produced by the board which explain the most common areas of taxpayer nonconformance in simplified terms.
(5) Implementation of a continuing education program for audit and compliance personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

7085.
(a) The board shall perform annually a systematic identification of areas of recurrent taxpayer noncompliance and shall report its findings in its annual report submitted pursuant to Section 15616 of the Government Code.
(b) As part of the identification process described in subdivision (a), the board shall do both of the following:
(1) Compile and analyze sample data from its audit process, including, but not limited to, all of the following:
(A) The statute or regulation violated by the taxpayer.
(B) The amount of tax involved.
(C) The industry or business engaged in by the taxpayer.
(D) The number of years covered in the audit period.
(E) Whether or not professional tax preparation assistance was utilized by the taxpayer.
(F) Whether sales and use tax returns were filed by the taxpayer.
(2) Conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Sales and Use Tax Law which may further facilitate achievement of the legislative findings.
(c) The board shall include in its report recommendations for improving taxpayer compliance and uniform administration, including, but not limited to, all of the following:
(1) Changes in statute or board regulations.
(2) Improvement of training of board personnel.
(3) Improvement of taxpayer communication and education.

7086.
The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include the statement in the annual tax information bulletins which are mailed to taxpayers.

7087.
(a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:
(1) To evaluate individual officers or employees.
(2) To impose or suggest revenue quotas or goals, other than quotas or goals with respect to accounts receivable.
(b) The board shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).
(c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

7088.
(a) The board shall develop and implement a program which will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.
(b) The board shall report to the Legislature on the implementation of this program in its annual report.

7089.
No later than July 1, 1989, the board shall, in cooperation with the State Bar of California, the California Society of Certified Public Accountants, the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard time frames and special review of cases which take more time than the appropriate standard time frame.

7090.
Procedures of the board, relating to protest hearings before board hearing officers, shall include all of the following:
(a) Any hearing shall be held at a reasonable time at a board office which is convenient to the taxpayer.
(b) The hearing may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.
(c) The taxpayer shall be informed prior to any hearing that he or she has a right to have present at the hearing his or her attorney, accountant, or other designated agent.

7091.
(a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:
(1) The taxpayer files a claim for the fee and expenses with the board within one year of the date the decision of the board becomes final.
(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.
(3) The board decides that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, in an amount determined by the board in its sole discretion.
(b) To determine whether the board staff has been unreasonable, the board shall consider whether the board staff has established that its position was substantially justified.
(c) The amount of reimbursed fees and expenses shall be limited to the following:
(1) Fees and expenses incurred after the date of the notice of determination, jeopardy determination, or a claim for refund.
(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those which relate to the issues where the staff was unreasonable.
(d) Any proposed award by the board pursuant to this section shall be available as a public record for at least 10 days prior to the effective date of the award.
(e) The amendments to this section by the act adding this subdivision shall be operative for claims filed on or after January 1, 1999.

7092.
(a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for nontax administration related purposes.
(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.
(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.
(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include sales and use tax violations.
(e) For the purposes of this section:
(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.
(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

7093.5.
(a) It is the intent of the Legislature that the department, its staff, and the Attorney General pursue settlements as authorized under this section with respect to civil tax matters in dispute that are the subject of protests, appeals, or refund claims, consistent with a reasonable evaluation of the costs and risks associated with litigation of these matters.
(b) (1) Except as provided in paragraph (2), no recommendation of settlement shall be submitted to the director for approval unless and until that recommendation has been submitted by the chief counsel to the Attorney General. Within 30 days of receiving that recommendation, the Attorney General shall review the recommendation and advise the chief counsel in writing of their conclusions as to whether the recommendation is reasonable from an overall perspective. The chief counsel shall, with each recommendation of settlement submitted to the director, also submit the Attorney General's written conclusions obtained pursuant to this paragraph.

(2) (A) A settlement of any civil tax matter in dispute involving a reduction of tax or penalties in settlement, the total of which reduction of tax and penalties in settlement does not exceed eleven thousand five hundred dollars ($11,500), may be approved by the director.

(B) Beginning on July 1, 2029, and each fifth fiscal year thereafter, the department shall adjust the amount specified in subparagraph (A) by increasing that amount by a percentage amount equal to the increase in the California Consumer Price Index, as calculated by the Department of Finance, with the resulting amount rounded to the nearest one hundred dollars ($100). The first adjustment pursuant to this subparagraph shall be a percentage amount equal to the increase in the California Consumer Price Index from January 1, 2024, to January 1, 2029. Subsequent fifth fiscal year adjustments shall cover subsequent five-year periods. The incremental change shall be added to the previously adjusted amount.

(c) Whenever a reduction of tax or penalties or total tax and penalties in settlement in excess of five hundred dollars ($500) is approved pursuant to this section, there shall be placed on file, for at least one year, in the office of the director a public record with respect to that settlement. The public record shall include all of the following information:

(1) The name or names of the taxpayers who are parties to the settlement.

(2) The total amount in dispute.

(3) The amount agreed to pursuant to the settlement.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(5) (A) For any settlement approved by the director, except those settlements approved pursuant to paragraph (2) of subdivision (b), the Attorney General's conclusion as to whether the recommendation of settlement was reasonable from an overall perspective.

(B) The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure that, if disclosed, would adversely affect the taxpayer or the national defense.

(d) The director shall not participate in the settlement of tax matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation for settlement shall be approved or disapproved by the director, within 45 days of the submission of that recommendation to the director. Any recommendation for settlement that is not either approved or disapproved by the director within 45 days of the submission of that recommendation shall be deemed approved.

(2) Where the director disapproves a recommendation for settlement, at the discretion of the director and chief counsel, the matter shall be remanded to staff for further negotiation, and may be resubmitted to the director, in the same manner and subject to the same requirements as the initial submission.

(f) All settlements entered into pursuant to this section shall be final and nonappealable, except upon a showing of fraud or misrepresentation with respect to a material fact.

(g) Except as provided in subdivision (c), any settlement considered or entered into pursuant to this section shall constitute confidential tax information for purposes of Section 7056.

(h) The Legislature finds that it is essential for fiscal purposes that the settlement program authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any determination, rule, notice, or guideline established or issued by the department in implementing and administering the settlement program authorized by this section.

(i) The amendments made to this section by the act adding this subdivision shall apply to any settlements approved on or after January 1, 2024.

7093.6.

(a) Beginning January 1, 2003, the director of the department, or their delegates, may compromise any final tax liability.

(b) For purposes of this section, "a final tax liability" means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) Notwithstanding paragraph (1), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and a compromise shall not be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a "qualified final tax liability" means any of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the department finds no evidence that the taxpayer collected sales tax reimbursement or use tax from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5.

(B) A final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising under Article 7 (commencing with Section 6811) of Chapter 6.

(C) That part of a final tax liability for use tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 6481), Article 3 (commencing with Section 6511), and Article 5 (commencing with Section 6561) of Chapter 5, against a taxpayer who is a consumer that is not required to hold a permit under Section 6066.

(3) A qualified final tax liability may not be compromised with any of the following:

(A) A taxpayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the taxpayer is making the offer.

(B) A business that was transferred by a taxpayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(C) A business in which a taxpayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the taxpayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the taxpayer's liability was previously compromised.

(d) The department may, in its discretion, enter into a written agreement that permits the taxpayer to pay the compromise in installments for a period not exceeding one year. The agreement may provide that the installments shall be paid by electronic funds transfers or any other means to facilitate the payment of each installment.

(e) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) may be required to enter into any collateral agreement that is deemed necessary for the protection of the interests of the state. A collateral agreement may include a provision that allows the department to reestablish the liability, or any portion thereof, if the taxpayer has sufficient annual income during the succeeding five-year period. The department shall establish criteria for determining "sufficient annual income" for purposes of this subdivision.

(f) A taxpayer that has received a compromise under paragraph (2) of subdivision (c) shall file and pay by the due date all subsequently required sales and use tax returns for a five-year period from the date the liability is compromised, or until the taxpayer is no longer required to file sales and use tax returns, whichever period is earlier.

(g) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer's present assets or income.

(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.

(2) The department shall have determined that acceptance of the compromise is in the best interest of the state.

(h) A determination by the department that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(i) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the department shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.

(j) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from

paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.
(k) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the director of the department a public record with respect to that compromise. The public record shall include all of the following information:
(1) The name of the taxpayer.
(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
(3) The amount offered.
(4) A summary of the reason why the compromise is in the best interest of the state.
The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. A list shall not be prepared and releases shall not be distributed by the department in connection with these statements.
(l) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:
(1) The department determines that a person did any of the following acts regarding the making of the offer:
(A) Concealed from the department property belonging to the estate of a taxpayer or other person liable for the tax.
(B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record, or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
(m) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
(1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.
(2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
(n) For purposes of this section, “person” means the taxpayer, a member of the taxpayer’s family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
(o) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

7093.6.
(a) The director of the department, or their delegates, may compromise any final tax liability.
(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7280) or related interest, additions to tax, penalties, or other amounts assessed under this part.
(c) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.
(d) For amounts to be compromised under this section, the following conditions shall exist:
(1) The taxpayer shall establish that:
(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.
(B) The taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.
(2) The department shall have determined that acceptance of the compromise is in the best interest of the state.
(e) A determination by the department that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.
(f) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the department shall notify the taxpayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the taxpayer.
(g) When more than one taxpayer is liable for the debt, such as with spouses or partnerships or other business combinations, the acceptance of an offer in compromise from one liable taxpayer shall not relieve the other taxpayers from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.
(h) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars ($500) is approved, there shall be placed on file for at least one year in the office of the director of the department a public record with respect to that compromise. The public record shall include all of the following information:
(1) The name of the taxpayer.
(2) The amount of unpaid tax and related penalties, additions to tax, interest, or other amounts involved.
(3) The amount offered.
(4) A summary of the reason why the compromise is in the best interest of the state.
The public record shall not include any information that relates to trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or violate the confidentiality provisions of Section 7056. No list shall be prepared and no releases distributed by the department in connection with these statements.
(i) A compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:
(1) The department determines that a person did any of the following acts regarding the making of the offer:
(A) Concealed from the department property belonging to the estate of a taxpayer or other person liable for the tax.
(B) Received, withheld, destroyed, mutilated, or falsified a book, document, or record, or made a false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax.
(2) The taxpayer fails to comply with any of the terms and conditions relative to the offer.
(j) A person who, in connection with an offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars ($50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:
(1) Conceals from an officer or employee of this state property belonging to the estate of a taxpayer or other person liable in respect of the tax.
(2) Receives, withholds, destroys, mutilates, or falsifies a book, document, or record, or makes a false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.
(k) For purposes of this section, “person” means the taxpayer, a member of the taxpayer’s family, a corporation, agent, fiduciary, or representative of, or another individual or entity acting on behalf of, the taxpayer, or another corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.
(l) This section shall become operative on January 1, 2028.

7094.
(a) The California Department of Tax and Fee Administration shall release any levy or notice to withhold issued pursuant to this part on any property in the event that the expense of the sale process exceeds the liability for which the levy is made.
(b) (1) (A) The Taxpayers’ Rights Advocate may order the release of any levy or notice to withhold issued pursuant to this part or, within 90 days from the receipt of funds pursuant to a levy or notice to withhold, order the return of any amount up to two thousand three hundred dollars ($2,300) of moneys received, upon his or her finding that the levy or notice to withhold threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.
(B) The amount the Taxpayers’ Rights Advocate may return to each taxpayer subject to a levy or notice to withhold, is limited to two thousand three hundred dollars ($2,300), or the adjusted amount as specified in paragraph (2), in any monthly period.
(C) The Taxpayers’ Rights Advocate may order amounts returned in the case of a seizure of property as a result of a jeopardy determination, subject to the amounts set or adjusted pursuant to this section and if the ultimate collection of the amount due is no longer in jeopardy.

(2) (A) The California Department of Tax and Fee Administration shall adjust the two-thousand-three-hundred-dollar ($2,300) amount specified in paragraph (1) as follows:

(i) On or before March 1, 2016, and on or before March 1 each year thereafter, the California Department of Tax and Fee Administration shall multiply the amount applicable for the current fiscal year by the inflation factor adjustment calculated based on the percentage change in the Consumer Price Index, as recorded by the California Department of Industrial Relations for the most recent year available, and the formula set forth in paragraph (2) of subdivision (h) of Section 17041. The resulting amount will be the applicable amount for the succeeding fiscal year only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (B).

(ii) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (B), the resulting applicable amount, rounded to the nearest multiple of one hundred dollars ($100), shall be operative for purposes of paragraph (1) beginning July 1 of the succeeding fiscal year.

(B) For purposes of this paragraph, "operative threshold" means an amount that exceeds by at least one hundred dollars ($100) the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraph (A) as the operative adjustment to the amount specified in paragraph (1).

(c) The California Department of Tax and Fee Administration shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(d) Except as provided in subparagraph (C) of paragraph (1) of subdivision (b), this section does not apply to the seizure of any property as a result of a jeopardy determination.

7094.1.

(a) Except in any case where the board finds collection of the tax to be in jeopardy, if any property has been levied upon, the property or the proceeds from the sale of the property shall be returned to the taxpayer if the board determines any one of the following:

(1) The levy on the property was not in accordance with the law.

(2) The taxpayer has entered into and is in compliance with an installment payment agreement pursuant to Section 6832 to satisfy the tax liability for which the levy was imposed, unless that or another agreement allows for the levy.

(3) The return of the property will facilitate the collection of the tax liability or will be in the best interest of the state and the taxpayer.

(b) Property returned under paragraphs (1) and (2) of subdivision (a) is subject to the provisions of Section 7096.

7095.

Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

7096.

(a) A taxpayer may file a claim with the board for reimbursement of bank charges and any other reasonable third-party check charge fees incurred by the taxpayer as the direct result of an erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action by the board. Bank and third-party charges include a financial institution's or third party's customary charge for complying with the levy or notice to withhold instructions and reasonable charges for overdrafts that are a direct consequence of the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action. The charges are those paid by the taxpayer and not waived or reimbursed by the financial institution or third party. Each claimant applying for reimbursement shall file a claim with the board that shall be in the form as may be prescribed by the board. In order for the board to grant a claim, the board shall determine that both of the following conditions have been satisfied:

(1) The erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action was caused by board error.

(2) Prior to the erroneous levy or notice to withhold, erroneous processing action, or erroneous collection action, the taxpayer responded to all contacts by the board and provided the board with any requested information or documentation sufficient to establish the taxpayer's position. This provision may be waived by the board for reasonable cause.

(b) Claims pursuant to this section shall be filed within 90 days from the date the bank and third-party charges were incurred by the taxpayer. Within 30 days from the date the claim is received, the board shall respond to the claim. If the board denies the claim, the taxpayer shall be notified in writing of the reason or reasons for the denial of the claim.

7097.

(a) At least 30 days prior to the filing or recording of liens under Chapter 14 (commencing with Section 7150) or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code, the department shall mail to the taxpayer a preliminary notice. The notice shall specify the statutory authority of the department for filing or recording the lien, indicate the earliest date on which the lien may be filed or recorded, and state the remedies available to the taxpayer to prevent the filing or recording of the lien. In the event tax liens are filed for the same liability in multiple counties, only one preliminary notice shall be sent.

(b) The preliminary notice required by this section shall not apply to jeopardy determinations issued under Article 4 (commencing with Section 6536) of Chapter 5.

(c) If the department determines that filing a lien was in error, it shall mail a release to the taxpayer and the entity recording the lien as soon as possible, but no later than seven days, after this determination and the receipt of lien recording information. The release shall contain a statement that the lien was filed in error. In the event the erroneous lien is obstructing a lawful transaction, the department shall immediately issue a release of lien to the taxpayer and the entity recording the lien.

(d) When the department releases a lien erroneously filed, notice of that fact shall be mailed to the taxpayer and, upon the request of the taxpayer, a copy of the release shall be mailed to the major credit reporting companies in the county where the lien was filed.

(e) (1) The department may release or subordinate a lien if the department determines any of the following:

(A) Release or subordination will facilitate the collection of the tax liability.

(B) Release or subordination will be in the best interest of the state and the taxpayer.

(C) Release or subordination will be in the best interest of the state and another person that is not the taxpayer but that holds an interest with the taxpayer in the property that is subject to the lien.

(2) The amendments added to this subdivision do not constitute a change in, and are declaratory of, existing law.

7098.

For the purposes of this part only, the board shall not revoke or suspend a person's permit pursuant to Section 6070 or 6072 unless the board has mailed a notice preliminary to revocation or suspension which indicates that the person's permit will be revoked or suspended by a date certain pursuant to that section. The board shall mail the notice preliminary to revocation or suspension to the taxpayer at least 60 days before the date certain.

7099.

(a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon a finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, as defined for purposes of Section 7156.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceedings brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

7099.1.

(a) (1) With respect to tax advice, the protections of confidentiality that apply to a communication between a client and an attorney, as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, also shall apply to a communication between a taxpayer and any federally authorized tax practitioner to the extent the communication would be considered a privileged communication if it were between a client and an attorney. A federally

authorized tax practitioner has the legal obligation and duty to maintain confidentiality with respect to such communication.

(2) Paragraph (1) may only be asserted in any noncriminal tax matter before the State Board of Equalization.

(3) For purposes of this section:

(A) "Federally authorized tax practitioner" means any individual who is authorized under federal law to practice before the Internal Revenue Service if the practice is subject to federal regulation under Section 330 of Title 31 of the United States Code, as provided by federal law as of January 1, 2000.

(B) "Tax advice" means advice given by an individual with respect to a state tax matter, which may include federal tax advice if it relates to the state tax matter. For purposes of this subparagraph, "federal tax advice" means advice given by an individual within the scope of his or her authority to practice before the federal Internal Revenue Service on noncriminal tax matters.

(C) "Tax shelter" means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of that partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(b) The privilege under subdivision (a) shall not apply to any written communication between a federally authorized tax practitioner and a director, shareholder, officer, or employee, agent, or representative of a corporation in connection with the promotion of the direct or indirect participation of the corporation in any tax shelter, or in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency.

(c) This section shall be operative for communications made on or after the effective date of the act adding this section.

7101.

All fees, taxes, interest, and penalties imposed and all amounts of tax required to be paid to the state under this part, and restitution orders or any other amounts otherwise authorized by law to be collected by the board, or any other amounts imposed by a court of competent jurisdiction to be paid to the board shall, except as provided in Section 6452.1, be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Retail Sales Tax Fund.

7101.3.

Notwithstanding Section 7101, all revenues, less refunds, derived from the taxes imposed to Sections 6051.5 and 6201.5 shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as established pursuant to Section 99008 of the Government Code.

7102.

The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel that would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund, except as modified as follows:

(A) For the 2001–02 fiscal year, those transfers may not be more than eighty-one million dollars ($81,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds eighty-one million dollars ($81,000,000).

(B) For the 2002–03 fiscal year, those transfers may not be more than thirty-seven million dollars ($37,000,000) plus one-half of the amount computed pursuant to this paragraph that exceeds thirty-seven million dollars ($37,000,000).

(C) For the 2003–04 fiscal year, no transfers shall be made pursuant to this paragraph, except that if the amount to be otherwise transferred pursuant to this paragraph is in excess of eighty-seven million four hundred fifty thousand dollars ($87,450,000), then the amount of that excess shall be transferred.

(D) For the 2004–05 fiscal year, no transfers shall be made pursuant to this paragraph, and of the amount that would otherwise have been transferred, one hundred forty million dollars ($140,000,000) shall instead be transferred to the Traffic Congestion Relief Fund as partial repayment of amounts owed by the General Fund pursuant to Item 2600-011-3007 of the Budget Act of 2002 (Chapter 379 of the Statutes of 2002).

(E) For the 2005–06 fiscal year, no transfers shall be made pursuant to this paragraph.

(F) For the 2006–07 fiscal year, the revenues estimated pursuant to this paragraph shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred and allocated as follows:

(i) The first two hundred million dollars ($200,000,000) shall be transferred to the Transportation Deferred Investment Fund as partial repayment of the amounts owed by the General Fund to that fund pursuant to Section 7106.

(ii) The next one hundred twenty-five million dollars ($125,000,000) shall be transferred to the Bay Area Toll Account for expenditure pursuant to Section 188.6 of the Streets and Highways Code.

(iii) Of the remaining revenues, thirty-three million dollars ($33,000,000) shall be transferred to the Public Transportation Account to support appropriations from that account in the Budget Act of 2006.

(iv) The remaining revenues shall be transferred to the Public Transportation Account for allocation as follows:

(I) Twenty percent to the Department of Transportation for purposes of Section 99315 of the Public Utilities Code.

(II) Forty percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code.

(III) Forty percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code.

(G) For the 2007–08 fiscal year, the first one hundred fifty-five million four hundred ninety-one thousand eight hundred thirty-seven dollars ($155,491,837) in revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred quarterly to the Mass Transportation Fund. If revenue in any quarter is less than that amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transferred for the fiscal year is six hundred twenty-one million nine hundred sixty-seven thousand three hundred forty-eight dollars ($621,967,348).

(H) For the 2008–09 fiscal year and every fiscal year thereafter, 50 percent of the revenue estimated pursuant to this paragraph each quarter shall, notwithstanding any other provision of this paragraph or any other provision of law, and except as provided in subparagraph (I), be transferred to the Mass Transportation Fund. Notwithstanding this requirement, for the 2008–09 fiscal year, the amount of three hundred eight million seven hundred thirty-five thousand dollars ($308,735,000) for each of the first three quarters, and the amount of one hundred fifteen million twenty-nine thousand dollars ($115,029,000) for the fourth quarter, shall be transferred to the Mass Transportation Fund. If revenue for any quarter is less than the specified amount, the transfer in the subsequent quarter or quarters shall be increased so that the total transfer for the fiscal year is one billion forty-one million two hundred thirty-four thousand dollars ($1,041,234,000).

(I) For the 2009–10 to 2012–13 fiscal years, inclusive, all revenue estimated pursuant to this paragraph shall, notwithstanding any other provision of this paragraph or any other provision of law, be transferred quarterly to the Mass Transportation Fund.

(2) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate, resulting from increasing, after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the $4^3/_4$-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the California Department of Tax and Fee Administration with the concurrence of the Department of Finance, and shall be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund.

(4) (A) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(B) Notwithstanding subparagraph (A), if the Director of Finance determines that the California Department of Tax and Fee Administration has allocated more revenue to the Local Revenue Fund for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, than required by subparagraph (A), the total amount of revenue credited

to the Local Revenue Fund for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, for allocation to cities and counties as prescribed by statute shall be considered to have fulfilled the requirements of subparagraph (A), and an allocation adjustment for this period shall not be made.

(5) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(6) Notwithstanding paragraph (5), if the Director of Finance determines that the California Department of Tax and Fee Administration has allocated more revenue to the Public Safety Account for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, than required by paragraph (5), the total amount of revenue credited to the Public Safety Account for taxable sales that occurred during the period of July 1, 2011, through June 30, 2016, shall be considered to have fulfilled the requirements of paragraph (5), and an allocation adjustment for this period shall not be made.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3) of subdivision (a) shall be estimated by the California Department of Tax and Fee Administration, with the concurrence of the Department of Finance, and shall be made quarterly.

(d) Notwithstanding the designation of the Public Transportation Account as a trust fund pursuant to subdivision (a), the Controller may use the Public Transportation Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. The loans shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate.

(e) The Legislature may amend this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers the purposes of this section.

7102.1.

(a) On and after April 1, 2023, and before April 1, 2024, the California Department of Tax and Fee Administration, with the concurrence of the Department of Finance, shall, on a quarterly basis, estimate the revenues, less refunds, that, if not for Section 6357.4, would have been derived under this part at the $4^{3}/_{4}$-percent rate, excluding the portion of the $4^{3}/_{4}$-percent rate that is deposited in the State Treasury and credited to the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15, from the imposition of sales and use taxes on fuel, as defined for purposes of the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)).

(b) The Controller shall, on a quarterly basis, transfer the estimated amount from the Retail Sales Tax Fund to the Public Transportation Account, a trust fund in the State Transportation Fund.

(c) The quarterly estimates required by subdivision (a) shall be based on taxable transactions from October 1, 2022, to September 30, 2023, inclusive.

7103.

(a) For purposes of this section:

(1) "City" means a city within the geographic boundaries of a county.

(2) "Confirmed historic venue" means a historic venue that has received a confirmation by the department pursuant to subdivision (g).

(3) "County" means the County of Alameda, the County of Santa Clara, and the County of Los Angeles.

(4) "Fund" means the Historic Venue Restoration and Resiliency Fund created pursuant to subdivision (c).

(5) "Historic venue" means a venue in the state that meets all of the following criteria:

(A) The venue meets any of the following criteria:

(i) The venue contains a structure built before 1940.

(ii) The venue contains a structure officially designated by the United States National Park Service or the United States Department of the Interior as a National Historic Landmark.

(iii) The venue is located at a site continuously used for live, ticketed events for more than 50 years.

(B) The venue has total fixed seating capacity of at least 15,000 people.

(C) The venue hosts live entertainment or sporting events.

(D) The venue is owned by a public entity.

(6) "Qualified event" means a live event at a confirmed historic venue to which tickets are offered for public sale.

(b) Notwithstanding any other law, a return filed with the department to report gross receipts for sales tax purposes shall, for each confirmed historic venue, segregate the taxable sales made at a qualified event on a line or a separate form, as prescribed by the department, if the place of sale in this state is on or within the real property of a confirmed historic venue on the day of a qualified event that occurred on or before June 30, 2029.

(c) (1) The Historic Venue Restoration and Resiliency Fund is hereby created in the State Treasury.

(2) Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated without regard to fiscal year and allocated pursuant to subdivisions (e) and (f).

(d) (1) The department shall, for each confirmed historic venue, report the total amount of taxable sales made at a qualified event that were segregated on the returns filed for the prior fiscal year pursuant to subdivision (b) to the Department of Finance on or before November 1 of each year.

(2) (A) The total taxable sales made at a qualified event that were reported pursuant to paragraph (1) shall be subject to review, which may be a review of a sample of returns, by the department for errors.

(B) The department shall note any errors identified in the review and the approximate impact of those errors on the total taxable sales made at a qualified event that were in the report to the Department of Finance required by this subdivision to allow an adjusted total taxable sales amount to be determined.

(e) (1) An amount equal to 5 percent of the total amount of taxable sales, or adjusted taxable sales, for the prior fiscal year reported to the Department of Finance by the department pursuant to subdivision (d) shall be included in the next annual Governor's Budget for deposit into the fund for the Controller to allocate to cities and counties pursuant to subdivision (f).

(2) (A) No later than 15 days after enactment of the annual Budget Act, the Department of Finance shall, for each confirmed historic venue located within the geographic boundaries of a city or county, report to the Controller the amounts to be allocated from the fund to each city and county.

(B) The amounts to be allocated pursuant to subparagraph (A) to each city and county shall be in proportion to the taxable sales subject to subdivision (b) derived from qualified events at each confirmed historic venue identified by that city or county.

(3) No later than 30 days after the enactment of the annual Budget Act, the amount appropriated by the Legislature to the Controller pursuant to this subdivision shall be transferred by the Controller to the fund.

(f) (1) Beginning January 1, 2025, the Controller shall annually allocate, as promptly as feasible, the moneys in the fund to each city or county pursuant to the report required by paragraph (2) of subdivision (e).

(2) (A) A city or county shall distribute funds received pursuant to this subdivision only for any of the following purposes and pursuant to subparagraph (B):

(i) Capital infrastructure improvements and preservation of a confirmed historic venue.

(ii) Preventive maintenance of a confirmed historic venue related to patrons safety.

(iii) Technological improvements at a confirmed historic venue.

(iv) Security enhancements at a confirmed historic venue.

(v) Bringing a confirmed historic venue into compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(vi) Energy efficiency improvements at a confirmed historic venue.

(vii) Upgrades related to implementation of federal and state policies at a confirmed historic venue.

(B) A city or county shall distribute funds to each confirmed historic venue within the geographic boundaries of that city or county in accordance with the amounts allocated by the Controller for that purpose pursuant to paragraph (1).

(g) (1) (A) A city or county shall identify a historic venue within its jurisdiction to the department, in a form and manner prescribed by the department, for a confirmation as a historic venue.

(B) (i) Subject to clause (ii), if the venue identified pursuant to subparagraph (A) is a historic venue, the department shall issue a confirmation to the city or county as promptly as feasible.

(ii) The department shall not issue a confirmation pursuant to clause (i) if a city or county is currently receiving revenue transmitted pursuant to subdivision (f) with respect to the historic venue.

(2) A city or county, or its designee, that receives a confirmation from the department pursuant to paragraph (1) shall, at least 10 days before a qualified event scheduled to take place at a confirmed historic venue within the geographic boundaries of that city or county, notify any retailers subject to subdivision (b) that the city or county, or its designee, knows, or has reason to know, will be making sales during that qualified event of their reporting obligation pursuant to subdivision (b).

(h) On or before November 1 of each year, the department shall deliver a report to the Assembly Committee on Revenue and Taxation and the Senate Committee on Governance and Finance concerning both of the following:

(1) The identity of any confirmed historic venue and the city or county that identified that venue pursuant to subdivision (g).

(2) (A) The amount of revenue allocated in the preceding fiscal year pursuant to this section to a city or county with respect to each confirmed historic venue.

(B) On or before September 1 of each year, the Controller shall provide to the department the information required to be included in the report pursuant to subparagraph (A).

(i) This section shall remain operative only until November 1, 2030, and as of that date is repealed.

7104.

(a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7326.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2003–04 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2003, and ending on June 30, 2008, the Controller shall make all of the following transfers and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars ($169,500,000), except that the transfer for the final quarter shall be ninety-three million four hundred thousand dollars ($93,400,000), for a total transfer of three billion three hundred thirteen million nine hundred thousand dollars ($3,313,900,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds transferred under this paragraph shall be made available as follows:

(A) To the Department of Transportation, 50 percent for purposes of subdivision (a) or (b) of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) To the Controller, 25 percent for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) To the Controller, 25 percent for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. For the 2007–08 fiscal year, these funds are continuously appropriated to the Controller for purposes of this subparagraph.

(3) To the Department of Transportation for expenditure for programming for transportation capital improvement projects subject to all of the provisions governing the State Transportation Improvement Program, 40 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent of the amount remaining after the transfer required under paragraph (1).

(4) To the Controller for apportionment to the counties, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be allocated in accordance with the following formulas:

(A) Seventy-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(B) Twenty-five percent of the funds payable under this paragraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(5) To the Controller for apportionment to cities, including a city and county, 20 percent of the amount remaining after the transfer required under paragraph (1), except that in the 2006–07 and 2007–08 fiscal years, no transfer may be made under this paragraph. Funds transferred under this paragraph shall be apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under paragraph (4) or (5) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under paragraph (4) or (5) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) "Maintenance" means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) "Reconstruction" includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) "Storm damage repair" is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to paragraph (4) or (5) of subdivision (c).

(2) In order to receive any allocation pursuant to paragraph (4) or (5) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code), may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, inclusive, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period

shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

(g) The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

(h) (1) For the purpose of allocating funds under paragraph (4) or (5) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(2) The amendments made to Section 11005.3 by the act adding this paragraph shall not apply to a population determination under paragraph (1).

(i) This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2008, whichever date is later, and as of the January 1 immediately following that date is repealed.

7104.1.

Notwithstanding any other provision of law, the requirements imposed on cities and counties by subdivision (f) of Section 7104 shall not apply for any fiscal year in which the transfer of revenues from the General Fund to the Transportation Investment Fund is suspended pursuant to Article XIX B of the California Constitution and funds consequently are not made available for allocation to cities or counties pursuant to paragraphs (4) and (5) of subdivision (c) of Section 7104.

7104.2.

(a) The Transportation Investment Fund (hereafter the fund) in the State Treasury is hereby continued in existence. All revenues transferred to the fund pursuant to Article XIX B of the California Constitution beginning with the 2008–09 fiscal year shall be available for expenditure as provided in this section. Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7326.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2008–09 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter, commencing with the 2008–09 fiscal year, the Controller shall make all of the following transfers and apportionments from the fund:

(1) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the revenues deposited in the fund. Funds transferred under this paragraph shall be made available as follows:

(A) Twenty-five percent for purposes of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(B) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99314 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99314 of the Public Utilities Code. These funds are continuously appropriated to the Controller for purposes of this subparagraph.

(C) Thirty-seven and one-half percent to the Controller, for allocation pursuant to Section 99313 of the Public Utilities Code. Funds allocated under this subparagraph shall be subject to all of the provisions governing funds allocated under Section 99313 of the Public Utilities Code. These funds are continuously appropriated to the Controller for purposes of this subparagraph.

(D) Notwithstanding subparagraphs (A), (B), and (C), for the 2009–10 to 2012–13 fiscal years, inclusive, all funds transferred under this paragraph shall be made available only for purposes of Section 99315 of the Public Utilities Code, subject to appropriation by the Legislature.

(2) To the Department of Transportation for expenditure for transportation capital improvement projects subject to all of the rules governing the State Transportation Improvement Program, 40 percent of the revenues deposited in the fund.

(3) To the Controller for apportionment pursuant to subparagraphs (A) and (B), 40 percent of the revenues deposited in the fund.

(A) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state.

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this subparagraph, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Of the amount available under this paragraph, 50 percent shall be apportioned by the Controller to cities, including a city and county, in the proportion that the total population of the city bears to the total population of all the cities in the state.

(d) Funds received under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(1) In the case of a city, into the city account that is designated for the receipt of state funds allocated for transportation purposes.

(2) In the case of a county, into the county road fund.

(3) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for transportation purposes.

(e) Funds allocated to a city, county, or city and county under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be used only for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair. For purposes of this section, the following terms have the following meanings:

(1) "Maintenance" means either or both of the following:

(A) Patching.

(B) Overlay and sealing.

(2) "Reconstruction" includes any overlay, sealing, or widening of the roadway, if the widening is necessary to bring the roadway width to the desirable minimum width consistent with the geometric design criteria of the department for 3R (reconstruction, resurfacing, and rehabilitation) projects that are not on a freeway, but does not include widening for the purpose of increasing the traffic capacity of a street or highway.

(3) "Storm damage repair" is repair or reconstruction of local streets and highways and related drainage improvements that have been damaged due to winter storms and flooding, and construction of drainage improvements to mitigate future roadway flooding and damage problems, in those jurisdictions that have been declared disaster areas by the President of the United States, where the costs of those repairs are ineligible for emergency funding with Federal Emergency Relief (ER) funds or Federal Emergency Management Administration (FEMA) funds.

(f) (1) Cities and counties shall maintain their existing commitment of local funds for street and highway maintenance, rehabilitation, reconstruction, and storm damage repair in order to remain eligible for the allocation of funds pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(2) In order to receive any allocation pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (c), the city or county shall annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during the 1996–97, 1997–98, and 1998–99 fiscal years, as reported to the Controller pursuant to Section 2151 of the Streets and Highways Code. For purposes of this paragraph, in calculating a city's or county's annual general fund expenditures and its average general fund expenditures for the 1996–97, 1997–98, and 1998–99 fiscal years, any unrestricted funds that the city or county may expend at its discretion, including vehicle in-lieu tax revenues and revenues from fines and forfeitures, expended for street and highway purposes shall be considered expenditures from the general fund. One-time allocations that have been expended for street and highway purposes, but which may not be available on an ongoing basis, including revenue provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5 of the Government Code), may not be considered when calculating a city's or county's annual general fund expenditures.

(3) For any city incorporated after July 1, 1996, the Controller shall calculate an annual average of expenditure for the period between July 1, 1996, and December 31, 2000, inclusive, that the city was incorporated.

(4) For purposes of paragraph (2), the Controller may request fiscal data from cities and counties in addition to data provided pursuant to Section 2151, for the 1996–97, 1997–98, and 1998–99 fiscal years. Each city and county shall furnish the data to the Controller not later than 120 days after receiving the

request. The Controller may withhold payment to cities and counties that do not comply with the request for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under subparagraph (A) or (B) of paragraph (3) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in subparagraph (A) or (B) of paragraph (3) of subdivision (c).

(g) For the purpose of allocating funds under subparagraph (A) or (B) of paragraph (3) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 2008, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3.

(h) (1) Notwithstanding any other law, the quarterly apportionments scheduled to be made in October 2009 and January 2010 pursuant to paragraph (3) of subdivision (c) shall be suspended and deferred until May 31, 2010.

(2) For the purpose of meeting the cash obligations associated with ongoing budgeted costs, a city or county may make use of any cash balance in its city or county road fund, including that resulting from the receipt of funds pursuant to the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code (hereafter bond act)) for local street and road maintenance, during the period of this suspension, without the use of this cash being reflected as an expenditure of bond act funds, provided the cash is replaced once this suspension is repaid. Nothing in this paragraph shall change the fact that expenditures must be accrued and reflected from the appropriate funding sources for which the moneys were received and meet all requirements of those funding sources.

(i) Notwithstanding any other provision of law, the Controller may use the funds in the Transportation Investment Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Any such loan shall be exempt from paragraph (2) of subdivision (b) of Section 16310 of the Government Code. Interest shall be paid on all moneys loaned to the General Fund and shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which the money is loaned. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

7104.3.

(a) Notwithstanding any other provision of law, upon order of the Department of Finance, all or some of the state agencies collecting revenue for, or spending from, the Transportation Investment Fund shall adjust budgeting, accounting, and reporting systems and documents so that unliquidated encumbrances, payables, and other accruals are not reflected in the fund balance in the Governor's Budget fund condition display or the fund balance in the financial statements submitted to the Controller for the budgetary-legal basis annual report.

(b) For the purposes of the Governor's Budget, the balance of cash advanced from the Transportation Investment Fund to the Transportation Revolving Account, as jointly determined by the Department of Finance and the state agencies referenced in subdivision (a), shall be deemed as resources and cash available to the Transportation Investment Fund for budgeting purposes.

(c) This method shall be effective with the 2013–14 Governor's Budget development process and may be applied to the 2011–12 data.

7104.4.

(a) The State Highway Account in the State Transportation Fund is the successor account to the Transportation Investment Fund.

(b) All assets and liabilities of the Transportation Investment Fund shall become assets and liabilities of the State Highway Account on or before June 30, 2016.

7105.

(a) The Transportation Deferred Investment Fund is hereby created in the State Treasury. The Transportation Deferred Investment Fund is to be considered part of the Transportation Investment Fund, except as specifically required for accounting purposes, in order to facilitate the repayment and allocation of revenues consistent with paragraph (1) of subdivision (f) of Section 1 of Article XIX B of the California Constitution as provided in this section and Section 7106.

(b) Pursuant to Section 14557 of the Government Code, the transfer of revenues from the General Fund to the Transportation Investment Fund that would have otherwise been required under subdivision (a) of Section 1 of Article XIX B of the California Constitution was partially suspended for the 2003–04 fiscal year. The amount of the transfer for the 2003–04 fiscal year was two hundred eighty-nine million dollars ($289,000,000). According to the State Board of Equalization calculations, with the concurrence of the Department of Finance, the amount of the transfer suspended for the 2003–04 fiscal year was eight hundred sixty-seven million five hundred sixty-eight thousand dollars ($867,568,000). On or before June 30 of each fiscal year until June 30, 2016, the Controller shall transfer an amount from the General Fund to the Transportation Deferred Investment Fund that is equal to the minimum repayment required by Article XIX B of the California Constitution. The repayment shall also include interest calculated at the Pooled Money Investment Account rate relative to the amounts that would otherwise have been available for the transportation programs described in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104. The amount to be repaid by June 30, 2016, from the General Fund to the Transportation Deferred Investment Fund shall be reduced by the amount of any payment made to the Transportation Deferred Investment Fund from any funding source, excluding subdivision (d). The moneys deposited in the Transportation Deferred Investment Fund pursuant to this subdivision are continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(c) The Controller, from the moneys deposited in the Transportation Deferred Investment Fund pursuant to subdivision (b) and Article XIX B of the California Constitution, shall make transfers and apportionments of those funds in the same manner and amounts that would have been made in the 2003–04 fiscal year from the Transportation Investment Fund pursuant to Section 7104, as that section read on January 1, 2003, if the transfer of funds from the General Fund to the Transportation Investment Fund had not been partially suspended for the 2003–04 fiscal year pursuant to Section 14557 of the Government Code, except that in the 2007–08 fiscal year any remaining principle or interest owed to the Public Transportation Account shall be repaid first before any other transfers are made. However, in making those transfers and apportionments, the Controller shall take into account and deduct therefrom any transfers and apportionments that were made from the Transportation Investment Fund in the 2003–04 fiscal year from funds made available pursuant to subdivision (b) of Section 14557 of the Government Code. It is the intent of the Legislature that, upon completion of the transfer of funds pursuant to subdivision (b) from the General Fund to the Transportation Deferred Investment Fund, each of the transportation programs that was to have been funded during the 2003–04 fiscal year from the Transportation Investment Fund pursuant to Section 7104 of this code shall have received the amount of funding that the program would have received in the absence of the suspension of the transfer pursuant to Section 14557 of the Government Code.

(d) The interest that is to be deposited in the Transportation Deferred Investment Fund pursuant to subdivision (b) shall be allocated proportionately to each program element in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104, based on the amount that each program did not receive in the 2003–04 fiscal year due to suspension of the transfer pursuant to Section 14557 of the Government Code.

(e) Four hundred ninety-five million dollars ($495,000,000) is hereby appropriated from the General Fund to the Transportation Deferred Investment Fund for the purpose of paying a portion of the amount required to be paid pursuant to subdivision (b). The Controller shall make the payment immediately upon enactment of the statute amending this section in the 2005–06 Regular Session. Notwithstanding subdivision (c), these funds, shall be distributed as follows:

(1) The first one hundred ninety-two million dollars ($192,000,000) and any interest due pursuant to this section shall remain in the Transportation Deferred Investment Fund to be used for projects in the State Transportation Improvement Program pursuant to paragraph (3) of subdivision (c) of Section 7104.

(2) The next one hundred ninety-two million dollars ($192,000,000) and any interest due pursuant to this section shall be distributed to cities and counties, as follows:

(A) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to cities for the purposes specified in Section 7104 pursuant to the formula in paragraph (5) of subdivision (c) of that section.

(B) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to counties for the purposes specified in Section 7104 pursuant to the formula in paragraph (4) of subdivision (c) of that section.

(3) Ninety-six million dollars ($96,000,000) and any interest due pursuant to this section shall be transferred to the Public Transportation Account for allocation pursuant to Section 99312 of the Public Utilities Code.

(4) Any funds remaining following the distributions required by paragraphs (1), (2), and (3) shall be transferred to the Traffic Congestion Relief Fund, and shall be deemed to be funds received by that fund in the 2003–04 fiscal year.

(f) The Legislature finds and declares that continued investment in transportation is essential for the California economy. That investment reduces traffic congestion, assists in economic development, improves the condition of local streets and roads, and provides high-quality public transportation.

(g) (1) Notwithstanding any other provision of law, upon order of the Department of Finance, all or some of the state agencies collecting revenues for, or spending from, the Transportation Deferred Investment Fund shall adjust budgeting, accounting, and reporting systems and documents so that unliquidated encumbrances, payables, and other accruals are not reflected in the fund balance in the Governor's Budget fund condition display or the fund balance in the financial statements submitted to the Controller for the budgetary-legal basis annual report.

(2) For the purposes of the Governor's Budget, the balance of cash advanced from the Transportation Deferred Investment Fund to the Transportation Revolving Account, as jointly determined by the Department of Finance and the state agencies referenced in paragraph (1), shall be deemed as resources and cash available to the Transportation Deferred Investment Fund for budgeting purposes.

(3) This method shall be effective with the 2013–14 Governor's Budget development process and may be applied to the 2011–12 data.

7105.1.

(a) The State Highway Account in the State Transportation Fund is the successor account to the Transportation Deferred Investment Fund.

(b) All assets and liabilities of the Transportation Deferred Investment Fund shall become assets and liabilities of the State Highway Account on or before January 1, 2020.

7106.

(a) Pursuant to Section 14558 of the Government Code, the transfer of revenues from the General Fund to the Transportation Investment Fund that would have otherwise been required under subdivision (a) of Section 1 of Article XIX B of the California Constitution was suspended for the 2004–05 fiscal year. According to the State Board of Equalization calculations, with the concurrence of the Department of Finance, the amount of the transfer suspended for the 2004–05 fiscal year was one billion two hundred fifty-seven million nine hundred forty-six thousand dollars ($1,257,946,000). On or before June 30 of each fiscal year until June 30, 2016, the Controller shall transfer an amount from the General Fund to the Transportation Deferred Investment Fund that is equal to the minimum repayment required by Article XIX B of the California Constitution. The repayment shall also include interest calculated at the Pooled Money Investment Account rate relative to the amounts that would otherwise have been available for the transportation programs described in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104. The amount to be repaid by June 30, 2016, from the General Fund to the Transportation Deferred Investment Fund shall be reduced by the amount of any payment made to the Transportation Deferred Investment Fund from any funding source.

(b) The money deposited in the Transportation Deferred Investment Fund pursuant to this section is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(c) The Controller, from the money deposited in the Transportation Deferred Investment Fund pursuant to subdivision (a) and Article XIX B of the California Constitution, shall make transfers and apportionments of those funds in the same manner and amounts that would have been made in the 2004–05 fiscal year from the Transportation Investment Fund pursuant to Section 7104, as that section read on January 1, 2003, if the transfer of funds from the General Fund to the Transportation Investment Fund had not been suspended for the 2004–05 fiscal year pursuant to Section 14558 of the Government Code. It is the intent of the Legislature that upon completion of the transfer of funds pursuant to subdivision (a) from the General Fund to the Transportation Deferred Investment Fund that each of the transportation programs that was to have been funded during the 2004–05 fiscal year from the Transportation Investment Fund pursuant to Section 7104 shall have received the amount of funding that the program would have received in the absence of the suspension of the transfer pursuant to Section 14558 of the Government Code.

(d) The interest that is to be deposited in the Transportation Deferred Investment Fund pursuant to subdivision (a) shall be allocated proportionately to each program element in paragraphs (2) to (5), inclusive, of subdivision (c) of Section 7104, based on the amount that each program did not receive in the 2004–05 fiscal year due to suspension of the transfer pursuant to Section 14558 of the Government Code.

(e) Seven hundred twenty million dollars ($720,000,000) is hereby appropriated from the General Fund to the Transportation Deferred Investment Fund for the purpose of paying a portion of the amount required to be paid pursuant to subdivision (a). The Controller shall make the payment immediately upon enactment of the statute amending this section in the 2005–06 Regular Session. In addition, two hundred million dollars ($200,000,000) transferred to the Transportation Deferred Investment Fund pursuant to subparagraph (F) of paragraph (1) of subdivision (a) of Section 7102 shall also be available for that purpose. Notwithstanding subdivision (c), these funds, totaling nine hundred twenty million dollars ($920,000,000), shall be distributed as follows:

(1) The first two hundred thirty-two million dollars ($232,000,000) and any interest due pursuant to this section shall remain in the Transportation Deferred Investment Fund to be used for projects in the State Transportation Improvement Program pursuant to paragraph (3) of subdivision (c) of Section 7104.

(2) The next two hundred thirty-two million dollars ($232,000,000) and any interest due pursuant to this section shall be distributed to cities and counties, as follows:

(A) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to cities for the purposes specified in Section 7104 pursuant to the formula in paragraph (5) of subdivision (c) of that section.

(B) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to counties for the purposes specified in Section 7104 pursuant to the formula in paragraph (4) of subdivision (c) of that section.

(3) One hundred sixteen million dollars ($116,000,000) and any interest due pursuant to this section shall be transferred to the Public Transportation Account for allocation pursuant to Section 99312 of the Public Utilities Code.

(4) Any funds remaining following the distributions required by paragraphs (1), (2), and (3) shall be transferred to the Traffic Congestion Relief Fund, and shall be deemed to be funds received by that fund in the 2004–05 fiscal year. It is estimated that the amount to be available under this subparagraph will be three hundred fifteen million dollars ($315,000,000).

7107.

Pursuant to the requirements of paragraph (1) of subdivision (b) of Section 1 of Article XIX B of the California Constitution, moneys in the Transportation Investment Fund derived from the 2005-06, 2006-07, and 2007-08 fiscal year transfers from the General Fund made pursuant to subdivision (a) and paragraph (1) of subdivision (b) of Section 1 of Article XIX B of the California Constitution are hereby continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in Section 7104 as that section read on March 6, 2002.

7152.

(a) Any person required to make, render, sign, or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a misdemeanor punishable as provided in Section 7153.

(b) Any person who willfully aids or assists in, or procures, counsels, or advises in, the preparation or presentation, in connection with any matter arising under this part, of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a misdemeanor punishable as provided in Section 7153.

7153.

Any violation of this part by any person, except as otherwise provided, is a misdemeanor. Each offense shall be punished by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000), or imprisonment not exceeding one year in the county jail, or both the fine and imprisonment in the discretion of the court.

7153.5.

Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the reporting, assessment, or payment of a tax or an amount due required by law to be made is guilty of a felony when the amount of unreported tax liability aggregates twenty-five thousand dollars ($25,000) or more in any 12-consecutive-month period. Each offense shall be punished by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000), or imprisonment for 16 months, two years, or three years, or both the fine and imprisonment in the discretion of the court.

7153.6.

(a) Notwithstanding any other provision of this part, any person who purchases, installs, or uses in this state any automated sales suppression device or zapper or phantom-ware with the intent to defeat or evade the determination of an amount due pursuant to this part is guilty of a misdemeanor.
(b) (1) Any person who, for commercial gain, sells, purchases, installs, transfers, or possesses in this state any automated sales suppression device or zapper or phantom-ware with the knowledge that the sole purpose of the device is to defeat or evade the determination of an amount due pursuant to this part is guilty of an offense punishable by a fine as specified in paragraph (2), by imprisonment in a county jail for not more than one year, or, pursuant to subdivision (h) of Section 1170 of the Penal Code, for 16 months, or two or three years, or by both that fine and imprisonment. In addition, any person who uses an automated sales suppression device or zapper or phantom-ware shall be liable for all taxes, interest, and penalties due as a result of the use of that device.
(2) (A) Where a person is guilty of the offense described in paragraph (1) and the person sold, installed, transferred, or possessed three or fewer automated sales suppression devices or zappers or phantom-ware, that person shall be guilty of an offense punishable by a fine of not more than five thousand dollars ($5,000).
(B) Where a person is guilty of the offense described in paragraph (1) and the person sold, installed, transferred, or possessed more than three automated sales suppression devices or zappers or phantom-ware, that person shall be guilty of an offense punishable by a fine of not more than ten thousand dollars ($10,000).
(3) This subdivision shall not apply to a person that is a corporation that possesses any automated sales suppression device or zapper or phantom-ware for the sole purpose of developing hardware or software to combat the evasion of taxes by use of automated sales suppression devices or zappers or phantom-ware.
(c) For purposes of this section:
(1) "Automated sales suppression device" or "zapper" means a software program carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.
(2) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.
(3) "Phantom-ware" means a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.
(4) "Transaction data" includes information regarding items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.
(d) This section shall not preclude prosecution under any other law.

7154.
Any prosecution for violation of any of the penal provisions of this part shall be instituted within five years after the commission of the offense, or within two years after the violation is discovered, whichever is later.

7155.
(a) Any person who, for the purpose of evading the payment of taxes due under this part, knowingly fails to obtain a valid permit prior to the date on which the first tax return is due shall be liable for a penalty of 50 percent of any tax determined to be due for the period during which the person engaged in business in this state as a seller without a valid permit.
(b) This section shall not apply to any person whose measure of tax liability over the period during which he or she was engaged in business in this state as a seller without a valid permit averaged one thousand dollars ($1,000) or less per month.
(c) This section shall not apply to the amount of taxes due on the sale or use of a vehicle, vessel, or aircraft, if the amount is subject to the penalty imposed by Section 6485.1 or Section 6514.1.

7156.
(a) In the case of any civil proceeding which is—
(1) Brought by or against the State of California in connection with the determination, collection, or refund of any tax, interest, or penalty under this part, and
(2) Brought in a court of record of this state,
the prevailing party may be awarded a judgment for reasonable litigation costs incurred in that proceeding.
(b) (1) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to that party under this part.
(2) An award under subdivision (a) shall be made only for reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.
(3) No award for reasonable litigation costs may be made under subdivision (a) with respect to any declaratory judgment proceeding.
(4) No award for reasonable litigation costs may be made under subdivision (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted that proceeding.
(c) For purposes of this section—
(1) The term "reasonable litigation costs" includes any of the following:
(A) Reasonable court costs.
(B) Based upon prevailing market rates for the kind or quality of services furnished any of the following:
(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.
(ii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.
(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.
(2) (A) The term "prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) which—
(i) Establishes that the position of the State of California in the civil proceeding was not substantially justified, and
(ii) (I) Has substantially prevailed with respect to the amount in controversy, or
(II) Has substantially prevailed with respect to the most significant issue or set of issues presented.
(B) Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—
(i) By the court, or
(ii) By agreement of the parties.
(3) The term "civil proceeding" includes a civil action.
(d) For purposes of this section, in the case of—
(1) Multiple actions which could have been joined or consolidated, or
(2) A case or cases involving a return or returns of the same taxpayer which could have been joined in a single proceeding in the same court, these actions or cases shall be treated as one civil proceeding regardless of whether the joinder or consolidation actually occurs, unless the court in which the action is brought determines, in its discretion, that it would be inappropriate to treat these actions or cases as joined or consolidated for purposes of this section.
(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.
(f) For purposes of this section, "position of the State of California" includes either of the following:
(1) The position taken by the State of California in the civil proceeding.
(2) Any administrative action or inaction by the State Board of Equalization (and all subsequent administrative action or inaction) upon which that proceeding is based.

7157.
(a) (1) Restitution orders or any other amounts imposed by a court of competent jurisdiction for criminal offenses upon a person or any other entity that are due and payable to the board may be collected by the board in any manner provided by law for collection of a delinquent sales and use tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes.
(2) Amounts imposed by a court of competent jurisdiction as an order of restitution for criminal offenses shall be treated as final and due and payable to the State of California on the date that amount is established on the records of the board.

(b) Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), and Part 1.7 (commencing with Section 7285) shall apply to amounts collected under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this section, except to the extent that any provision is either inconsistent with this section or is not relevant to this section.
(c) Notwithstanding Chapter 7 (commencing with Section 6901), a refund or credit shall not be allowed for any amounts paid or payments applied under this section.
(d) Amounts authorized to be collected pursuant to this section may accrue interest at the greater of the rate applicable to the amounts being collected or the rate provided under Section 6591.5 from and after the date the amounts are established on the records of the board.
(e) Amounts authorized to be collected pursuant to this section shall not be subject to any statute of limitations set forth in Chapter 6 (commencing with Section 6701).
(f) Notwithstanding Section 6738 or Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, any portion of the amounts authorized to be collected under this section that remain unsatisfied may be collected by the recording of a notice of state tax lien. The board may record or extend a recorded notice of state tax lien at any time until the amount due, including any accrued interest, is paid in full.
(g) This section shall apply on and after January 1, 2012, to amounts authorized to be collected pursuant to this section that are due and payable to the board before, on, or after January 1, 2012.

7176.
In the determination of any case arising under this part the rule of res judicata is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined.