



SB 1466 AND SCA 20 (GLAZER) - ALLOCATION OF BRADLEY BURNS SALES TAXES

MuniServices foremost appreciates Senator Glazer's office for including our firm in stakeholder discussions. The proposals do not apply to district taxes and because of the uniqueness of each locality we must look at the economic base individually in order to assist in a direct impact analysis. We recognize the bill creates winners and losers. In a meeting with the author's office MuniServices was told the bill's intent is to "capture revenues from 'online' sales and to have those revenues allocated to the point of delivery."

SB 1466's and SCA 20's language complexity deserves the time and input from impacted stakeholders. For perspective, the most recent substantive language was amended into the measures on March 22, 2018 and if the proposals continue to move through the process to qualify for the November 6, 2018 General Election, they must be approved by a June 28, 2018 deadline. The first hearing is scheduled for April 18, 2018 and must move through both the Senate and Assembly in a matter of two months to qualify for the November 2018 ballot. We believe that three months (from the date of the substantive amendments) does not provide adequate time to address stakeholder issues and areas for clarification. We have expressed our concern with the author's staff that voters will be asked to decide on policy that will create undue burden and costs for impacted stakeholders. The author's office understands, and we were told that there is and will be consideration of this concern.

Please let your respective MuniServices Client Manager know if you have any questions or for a specific impact analysis.

PRELIMINARY SUMMARY OF ISSUES IDENTIFIED BY MUNISERVICES

1. **Winners and Losers:** Creates winners and losers. Losers will tend to be warehouse districts and sales offices (such as computer hardware vendors). Winners will tend to be locations with high amounts of online purchasing and businesses with a lot of hardware.
2. **What Does "All Retailers" Mean in the Context of the Measures:** The state considers a retailer as anyone with a seller's permit. We are concerned the bill is not considering the significant impact of businesses selling online to other businesses.
3. **Addressing Businesses Currently Reporting to the Countywide Pool:** We are unclear how the bill addresses businesses currently reporting to the countywide pool. There are many businesses reporting to the countywide pools beyond just Amazon and the like. Would the bill be limited to Amazon.com, Macy's.com, Nordstrom.com, Costco, etc.,?
4. **Administrative Burden:** We are concerned the bill creates an administrative and compliance burden on these retailers noted above. Nordstrom for example is carrying less merchandise in their brick and mortar. When product is purchased in the store but shipped to the buyer, it is allocated to the county pools. They will need to track where the customer was for the transaction either in the store or in their home or office. Common retailers like those mentioned above represent approximately 18% of the county pool. All retail sales of tangible personal property represent approximately 67% of the county pools.
5. **Marketplace Fulfilment Impact:** How will the bill impact marketplaces like fulfilment-by-Amazon or eBay or Etsy, etc?
6. **Local Government / Warehouses Distribution Centers:** How will proposed AB 2853 (Medina) play into the discussions surrounding SB 1466 and SCA 20. AB 2853, sponsored by the California Labor Federation, seeks to expand on current law and inform the public by requiring that local governing agencies provide specified information to the public before approving an economic development study for a warehouse distribution center.
7. **Mechanics of How the Bill Works When Initiating a Purchase:** What does it mean for a retailer to initiate a purchaser's order and payment using the retailer's equipment at his or her place of business?
8. **Purports to Mitigate "Brick and Mortars":** Proposed Section 7205 of the Revenue and Taxation Code (b) (3) (B) (ii) is only addressing orders that may be placed online at the retail store (which many times is done through their Point of Sale (POS) system and not online) and will call orders. There still will be a tremendous amount of normal sales tax transactions that will now be reported as use tax based on "first functional use." This seems to just be redefining "point-of-sale" and may require changes to 1802.



9. **Clarify “Transacted Online”:** Proposed Section 7205 of the Revenue and Taxation Code (b) (3) (B): The bill defines “transacted online” but what does it mean for a sale to be “transacted online”? MuniServices is concerned that any online order, whether the business is in California or the goods are shipped from within California, changes the transaction from being a POS sales tax to a Point of Destination (POD) use tax. This will be very confusing for many sellers plus the language is assuming that the POS for Bradley-Burns is very clear cut which we know is not the case based on many appeal cases.
10. **Qualified Retailer:** Is \$100,000 in online sales in a year the right line?
11. **Regulatory Implementation:** Are the proposals in conflict with CDTFA Regulations 1807 and 1802?
12. **Funding for Implementation:** Will the bill create additional costs for local governments at the CDTFA level to implement?
13. **Fairness in Revenue Allocation:** We are concerned that shifting from an industrial base to those who purchase online is not a “fair” allocation of revenue. For that matter, this “concentration” is part and parcel of the Bradley-Burns structure. We question why the bill address this only for online retailers. Consider perhaps focusing on a “fairer” distribution such as broadening the tax base by taxing services so that the sales tax is less regressive and captures more of the service economy.
14. **Tax Reform:** Should SB 1466 and SCA 20 be part of tax reform discussions?
15. **SCA 20 Creates Two Major Uncertainties for Local Revenue:** It does *not limit how* the Legislature can reallocate local sales taxes derived from online purchases. While SB 1466 currently proposes that the revenue be allocated to the location where products are received by the purchaser, the Legislature could change the criteria to any other method by a majority vote. It removes the current protections for local sales taxes from legislative shifts placed in the Constitution by Proposition 1A of 2004. Prop 1A, prohibits the ability of the Legislature to “*change the method for distributing revenues derived under, the Bradley-Burns...as that law read on November 3, 2004.*” Prop 1A currently allows only two exceptions: A local agreement between individual local agencies to exchange shares of property tax revenue for sales tax revenue. To allow the state to participate in an interstate compact or comply with federal law. SCA 20 would remove those protections for revenues derived from online sales. (Source: League of California Cities, Revenue and Taxation Committee Report for April 12, 2018)

League of California Cities Revenue and Taxation Committee, on April 12 at 10 am in Pomona: Fran Mancia, MuniServices Vice President of Government Relations, sits on the Committee as a League Business Partner representative. SB 1466 and SCA 20 will be part of the Committee’s agenda. Fran can be reached at Fran.Mancia@avenuinsights.com or 559.288.7296 for further detail.

Contact: Brenda Narayan
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Senator Glazer’s Contact: Christian Beltran
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**SB 1466 AND SCA 20 (GLAZER)****ONLINE SALES: POINT OF DELIVERY FOR ON-LINE SALES**

MuniServices / Avenu met with Senator Glazer's office regarding SB 1466 and SCA 20. SB 1466 would change the allocation of tax revenue for online transactions by requiring all online retailers to deem the location of a sale based on point-of-destination rather than point-of-sale. SB 1466 becomes operative if SCA 20 is approved by the Governor, and ultimately California voters.

During our meeting the author's staff asked if we could provide our clients with the recent amendments (attached) as Senator Glazer has expressed the importance of transparency and is willing to listen to suggestions and impact interest and concerns. The author's office understands, and MuniServices/ Avenu agrees, the bill creates 'winners and losers' at the city / county level.

Status Update as of April 2, 2018: Senate Rules and waiting for assignment.

http://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201720180SB1466

Timing: We were told it is the author's intention to have the measure placed on the November 6, 2018 General Election ballot. **June 28, 2018** is the last day for a legislative measure to qualify for this ballot.

Suggested Action: Review the below and attached and let the author's office know any concerns or positions. Also note as of today, Senators Allen and Moorlach are SB 1466 co-authors. We also encourage clients to contact their respective Legislators regarding this measure. Please contact your respective MuniServices / Avenu Client Manager for assistance in determining impact.

Senator Glazer's Contact: Christian Beltran, (916) 651-4007/ Christian.Beltran@sen.ca.gov

SB 1466/ SCA 20 Implementation: The most recent amendments delay the bill's operative date until January 1, 2020. According to the author's fact sheet this provision will "provide counties time to reassess their positions with outstanding contracts with online vendors to mitigate the initial shock on counties that rely heavily on sales tax revenue."

Impacted Retailers: The amendments also address impacted retailers and defines "Qualified retailer" to mean a retailer whose total cumulative gross receipts from all of the retailer's sales, within the preceding 12 months, of tangible personal property transacted online exceeds \$100,000.

League of California Cities Revenue and Taxation Committee, on April 12 at 10 am in Pomona: Fran Mancina, MuniServices Vice President of Government Relations, sits on the Committee as a League Business Partner representative. SB 1466 and SCA 20 will be part of the Committee's agenda. Fran can be reached at Fran.Mancia@avenuinsights.com or 559.288.7296 for further detail.

Report Contents: SB 1466 and SCA 20 Fact Sheet, SB 1466 (as amended March 22, 2018), and SCA 20 (as amended March 22, 2018).

Please let your respective MuniServices Client Manager know if you have any questions or concerns.

Contact: Brenda Narayan (Brenda.Narayan@avenuinsights.com / 916.261.5147) or Janis Varney (Janis.Varney@avenuinsights.com / 916.296.8895)



SCA 20 & SB 1466
Allocation of Bradley-Burns Sales Tax
Fact Sheet

Summary:

SCA 20 and SB 1466 would eliminate the unfair distribution of sales tax revenue under the Bradley-Burns Uniform Local Sales Tax by changing the way retailers specify the location of a sale.

Background:

The Bradley-Burns Uniform Local Sales and Use Tax (tax) is assessed, collected, allocated, and distributed to incorporated cities, counties and the counties' respective local transportation funds (LTFs). The tax charges 1.25 percent on the retail sale or use of tangible personal property in the State, of which 1 percent is allocated to counties or incorporated cities to use at their discretion and the other 0.25 percent is allocated to county LTFs. The method of distribution for the revenue stemming from this tax is protected by the Constitution.

Issue:

Several cities and counties benefit disproportionately from the Bradley-Burns tax because of the way state law currently directs the allocation of the funds. Retailers generally allocate Bradley-Burns tax revenue based on the point-of-sale. However, online retailers may allocate sales to various locations, including their warehouses, distribution centers, or sales offices. This approach tends to concentrate Bradley-Burns tax revenue into the warehouses' or sales offices' respective jurisdictions. Therefore, counties or cities with large amounts of industrial space may receive disproportionately larger amounts of Bradley-Burns tax revenue. This has led some jurisdictions to rebate these tax revenues to private companies in order to lure warehouses and distribution centers to their areas.

Existing Law:

Currently, Section 7205 of the Revenue and Taxation Code allows online retailers to apply Bradley-Burns Sales Tax as if they operated as a brick-and-mortar operation. Therefore, some online retailers have defaulted to allocating all sales to one/multiple specific location(s).

In addition, according to Section 25.5 (2) of Article XIII of the constitution, the Legislature cannot change the method of distribution of revenues derived under the Bradley-Burns Sales Tax.

Proposal:

SCA 20 would amend Section 25.5 (2) of the Constitution by only allowing the Legislature to change the Bradley-Burns method of allocation for online transactions on and after the effective date of the measure if the voters approve such a measure.

As recommended by the State Auditor's report 2017-106¹, SB 1466 will amend the Revenue and Taxation Code, Section 7205, to change the allocation of tax revenue for online transactions by requiring all online retailers to deem the location of a sale based on point-of-destination rather than point-of-sale. This will result in a more fair distribution of tax revenue amongst incorporated cities and counties (to become operative only if the constitutional amendment is approved). It will also provide counties time to reassess their positions with outstanding contracts with online vendors to mitigate the initial shock on counties that rely heavily on sales tax revenue.

Contact:

Policy: Christian Beltran, Senate Fellow
916.651.4007 or Christian.Beltran@sen.ca.gov

¹ <https://www.bsa.ca.gov/pdfs/reports/2017-106.pdf>

AMENDED IN SENATE MARCH 22, 2018

SENATE BILL

No. 1466

Introduced by Senator Glazer
(Coauthors: Senators Allen and Moorlach)

February 16, 2018

~~An act relating to taxation.~~ *An act to amend Section 7205 of the Revenue and Taxation Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1466, as amended, Glazer. ~~Local sales taxes.~~ *Local sales taxes: online sales: place of delivery.*

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose a local sales and use tax in accordance with that law for tangible personal property sold at retail in the county or city, or purchased for storage, use, or other consumption in the county or city. Existing law requires the city tax rate to be credited against the county rate so that the combined rate does not exceed 1.25%. Existing law requires the county or city to contract with the California Department of Tax and Fee Administration for the administration of the taxes and requires the department to transmit that tax to the city or county.

The Bradley-Burns Uniform Local Sales and Use Tax Law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified. Existing law provides that these local sales taxes are allocated to the place where the sale is deemed to take place.

This bill would instead provide that, in the case of a sale of tangible personal property by a qualified retailer, as defined, that is transacted online, the place at which the retail sale of that tangible personal

property is consummated for the purpose of a local sales tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law is the point of the delivery of that tangible personal property to the purchaser's address or any other address designated by the purchaser.

~~The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose a local sales and use tax in accordance with that law for tangible personal property sold at retail in the county or city, or purchased for storage, use, or other consumption in the county or city. Existing law requires the city tax rate to be credited against the county rate so that the combined rate does not exceed 1.25%. Existing law requires the county or city to contract with the California Department of Tax and Fee Administration for the administration of the taxes and requires the department to transmit that tax to the city or county.~~

~~The Bradley-Burns Uniform Local Sales and Use Tax Law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer unless otherwise specified. Existing law provides that these local sales taxes are allocated to the place where the sale is deemed to take place.~~

The California Constitution prohibits the Legislature from enacting a statute that would change the method of distributing revenues derived under the Bradley-Burns Uniform Local Sales and Use Tax Law, as that law read on November 3, 2004, except the Legislature may change that law by statute to allow the state to participate in an interstate compact or to comply with federal law.

This bill would become operative only if Senate Constitutional Amendment ____ of the 2017–18 Regular Session is approved by the voters and, in that event, would become operative on January 1, 2020.

~~This bill would state the intent of the Legislature to enact legislation that would provide that, in the case of certain sales of tangible personal property that are transacted online, the place at which the retail sale of that tangible personal property is consummated for the purpose of a local sales tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law is the point of the delivery of that tangible personal property. The bill would further state that it is the intent of the Legislature that such legislation would be effective only if a constitutional amendment that allows the Legislature to change the method of allocation under the Bradley-Burns Uniform Local Sales and Use Tax Law is approved by the voters.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7205 of the Revenue and Taxation Code*
2 *is amended to read:*

3 7205. (a) For the purpose of a sales tax imposed by an
4 ordinance adopted pursuant to this part, all retail sales are
5 consummated at the place of business of the retailer unless the
6 tangible personal property sold is delivered by the retailer or his
7 or her agent to an out-of-state destination or to a common carrier
8 for delivery to an out-of-state destination. The gross receipts from
9 those sales shall include delivery charges, when those charges are
10 subject to the state sales and use tax, regardless of the place to
11 which delivery is made.

12 (b) (1) In the event a retailer has no permanent place of business
13 in the state or has more than one place of business, the place or
14 places at which the retail sales are consummated for the purpose
15 of a sales tax imposed by an ordinance adopted pursuant to this
16 part shall, subject to paragraph (2), be determined under rules and
17 regulations to be prescribed and adopted by the board.

18 (2) In the case of a sale of jet fuel, the place at which the retail
19 sale of that jet fuel is consummated for the purpose of a sales tax
20 imposed by an ordinance adopted pursuant to this part is the point
21 of the delivery of that jet fuel to the aircraft.

22 (3) (A) *In the case of a sale of tangible personal property by a*
23 *qualified retailer that is transacted online, the place at which the*
24 *retail sale of that tangible personal property is consummated for*
25 *the purpose of a sales tax imposed by an ordinance adopted*
26 *pursuant to this part is the point of the delivery of that tangible*
27 *personal property to the purchaser’s address or any other address*
28 *designated by the purchaser.*

29 (B) A sale is “transacted online” if all of the following
30 conditions are met:

31 (i) *The purchaser’s order and payment for the sale and purchase*
32 *of tangible personal property is transacted and completed on an*
33 *Internet Web site or web-based application.*

34 (ii) *The purchaser’s order and payment for the sale and*
35 *purchase of tangible personal property is not initiated by the*

1 *qualified retailer using the qualified retailer’s equipment at the*
2 *qualified retailer’s place of business.*

3 *(iii) The purchaser does not receive the tangible personal*
4 *property at the qualified retailer’s place of business or at another*
5 *location designated by the qualified retailer.*

6 *(C) “Qualified retailer” means a retailer whose total cumulative*
7 *gross receipts from all of the retailer’s sales, within the preceding*
8 *12 months, of tangible personal property transacted online exceeds*
9 *one hundred thousand dollars (\$100,000).*

10 *SEC. 2. Section 1 of this act, which amends Section 7205 of*
11 *the Revenue and Taxation Code, shall become operative only if*
12 *Senate Constitutional Amendment ____ of the 2017–18 Regular*
13 *Session is approved by the voters and, in that event, shall become*
14 *operative on January 1, 2020.*

15 ~~SECTION 1. (a) It is the intent of the Legislature to enact~~
16 ~~legislation that would provide that, in the case of certain sales of~~
17 ~~tangible personal property that are transacted online, the place at~~
18 ~~which the retail sale of that tangible personal property is~~
19 ~~consummated for the purpose of a local sales tax imposed pursuant~~
20 ~~to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part~~
21 ~~1.5 (commencing with Section 7200) of Division 2 of the Revenue~~
22 ~~and Taxation Code) is the point of the delivery of that tangible~~
23 ~~personal property.~~

24 ~~(b) It is the intent of the Legislature that the legislation described~~
25 ~~in subdivision (a) would be effective only if a constitutional~~
26 ~~amendment that allows the Legislature to change the method of~~
27 ~~allocation under the Bradley-Burns Uniform Local Sales and Use~~
28 ~~Tax Law is approved by the voters.~~

**OFFICE OF LEGISLATIVE COUNSEL
DRAFT BILL**

RN: 1804298

This request was prepared for you in accordance with instructions provided to us by Christian Beltran.

LCB Deputy Contact: Elaine Chu at 341-8228.

The boxes checked below, if any, apply to this request:

- Cover letter:** This request is accompanied by a cover letter, to bring to your attention legal or practical issues that may be raised by this bill, if introduced.
- Unbacked bill:** The attached bill draft has **not** been backed for introduction. When a Member has decided to introduce this bill draft, the draft should be returned to the Office of Legislative Counsel as soon as possible so that it can be prepared for introduction by that Member.
- Spot bill:** This bill, if introduced, may not be qualified for referral to a committee, if it is deemed a bill that makes no substantive change in or addition to existing law, or that would not otherwise affect the ongoing operations of state or local government (see, for example, Assembly Rule 51.5).
- Bill related to the budget:** In order for this measure to be deemed a bill "providing for appropriations related to the budget" within the meaning of Section 12 of Article IV of the California Constitution, thereby allowing the measure to be passed by a majority vote and to take effect immediately upon enactment, it is necessary that this measure contain an appropriation and be identified in the Budget Bill as a measure related to the state budget.
- Reintroduced bill:** This bill, if introduced, may violate the rule that, except as specified, a Member may not author a bill during a session that would have substantially the same effect as a bill he or she previously introduced during that session (Joint Rule 54(c)).

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Senate Constitutional Amendment No. _____
A resolution to propose to the people of the State of California an
amendment to the Constitution of the State, by amending Section 25.5
of Article XIII thereof, relating to taxation.



180429867194SCMS07

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2017–18 Regular Session commencing on the fifth day of December 2016, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 25.5 of Article XIII thereof is amended to read:

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do any of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, “percentage” does not include any property tax revenues referenced in paragraph (2).

(B) In the 2009–10 fiscal year only, and except as otherwise provided in subparagraph (C), subparagraph (A) may be suspended for that fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of subparagraph (A) is necessary.

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year and does not contain any other provision.

(iii) No later than the effective date of the statute described in clause (ii), a statute is enacted that provides for the full repayment to local agencies of the total amount of revenue losses, including interest as provided by law, resulting from the modification of ad valorem property tax revenue allocations to local agencies. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the modification applies.

(C) A suspension of subparagraph (A) shall not result in a total ad valorem property tax revenue loss to all local agencies within a county that exceeds 8 percent of the total amount of ad valorem property tax revenues that were allocated among all local agencies within that county for the fiscal year immediately preceding the fiscal year for which subparagraph (A) is suspended.

(2) (A) Except as otherwise provided in subparagraphs (B) and ~~(C)~~, (C) and in subdivision (b), restrict the authority of a city, county, or city and county to impose a tax rate under, or change the method of distributing revenues derived under, the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, as that law read on November 3, 2004. The restriction imposed by this subparagraph also applies to the entitlement of a city, county, or city and county to the change in tax rate resulting from the end of the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004.



(B) The Legislature may change by statute the method of distributing the revenues derived under a use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to allow the State to participate in an interstate compact or to comply with federal law.

(C) The Legislature may authorize by statute two or more specifically identified local agencies within a county, with the approval of the governing body of each of those agencies, to enter into a contract to exchange allocations of ad valorem property tax revenues for revenues derived from a tax rate imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law. The exchange under this subparagraph of revenues derived from a tax rate imposed under that law shall not require voter approval for the continued imposition of any portion of an existing tax rate from which those revenues are derived.

(3) Except as otherwise provided in subparagraph (C) of paragraph (2), change for any fiscal year the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county other than pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring. The Legislature shall not change the pro rata shares of ad valorem property tax pursuant to this paragraph, nor change the allocation of the revenues described in Section 15 of Article XI, to reimburse a local government when the Legislature or any state agency mandates a new program or higher level of service on that local government.

(4) Extend beyond the revenue exchange period, as defined in Section 7203.1 of the Revenue and Taxation Code as that section read on November 3, 2004, the suspension of the authority, set forth in that section on that date, of a city, county, or city and county to impose a sales and use tax rate under the Bradley-Burns Uniform Local Sales and Use Tax Law.

(5) Reduce, during any period in which the rate authority suspension described in paragraph (4) is operative, the payments to a city, county, or city and county that are required by Section 97.68 of the Revenue and Taxation Code, as that section read on November 3, 2004.

(6) Restrict the authority of a local entity to impose a transactions and use tax rate in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), or change the method for distributing revenues derived under a transaction and use tax rate imposed under that law, as it read on November 3, 2004.

(7) Require a community redevelopment agency (A) to pay, remit, loan, or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (B) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (i) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of the Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008, or (ii) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.



(b) (1) On and after January 1, 2020, the Legislature may change by statute the method of distributing the revenues derived under a sales tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law for the sale of tangible personal property by a qualified retailer that is transacted online.

(2) A sale is "transacted online" if all of the following conditions are met:

(A) The purchaser's order and payment for the sale and purchase of tangible personal property is transacted and completed on an Internet Web site or web-based application.

(B) The purchaser's order and payment for the sale and purchase of tangible personal property is not initiated by the qualified retailer using the qualified retailer's equipment at the qualified retailer's place of business.

(C) The purchaser does not receive the tangible personal property at the qualified retailer's place of business or at another location designated by the qualified retailer.

(3) "Qualified retailer" means a retailer whose total cumulative gross receipts from all of the retailer's sales, within the preceding 12 months, of tangible personal property transacted online exceeds one hundred thousand dollars (\$100,000).

(b)

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

(1) "Ad valorem property tax revenues" means all revenues derived from the tax collected by a county under subdivision (a) of Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

(3) "Jurisdiction" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.



LEGISLATIVE COUNSEL'S DIGEST

SCA No.
as introduced, Glazer.
General Subject: Local sales taxes: online sales.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose a local sales and use tax in accordance with that law for tangible personal property sold at retail in the county or city, or purchased for storage, use, or other consumption in the county or city. Existing law requires the city tax rate to be credited against the county rate so that the combined rate does not exceed 1.25%. Existing law requires the county or city to contract with the California Department of Tax and Fee Administration for the administration of the taxes and requires the department to transmit those taxes to the city or county.

The Bradley-Burns Uniform Local Sales and Use Tax Law provides that for the purpose of a local sales tax adopted pursuant to that law, all retail sales are consummated at the place of business of the retailer, unless otherwise specified. Existing law provides that these local sales taxes are allocated to the place where the sale is deemed to take place.

The California Constitution prohibits the Legislature from enacting a statute that would change the method of distributing revenues derived under the Bradley-Burns Uniform Local Sales and Use Tax Law, as that law read on November 3, 2004, except the Legislature may change that law by statute to allow the state to participate in an interstate compact or to comply with federal law.

This bill, on and after January 1, 2020, would allow the Legislature to change by statute the method of distributing the revenues derived under a sales tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law for the sale of tangible personal property by a qualified retailer that is transacted online.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

