

An act to amend, repeal, and add Sections 6055 and 6203.5 of the Revenue and Taxation Code, relating to taxation.

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

SECTION 1. Section 6055 of the Revenue and Taxation Code is amended to read:

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 ~~board~~, 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. ~~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.~~

(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)~~. (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 ~~board~~, department.

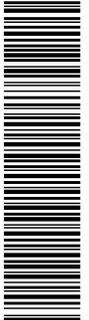
(2) If the retailer or the lender thereafter collects in whole or in part any accounts, one of the following shall apply:

(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 ~~board~~ 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.

SEC. 2. Section 6055 is added to the Revenue and Taxation Code, to read:

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.

SEC. 3. Section 6203.5 of the Revenue and Taxation Code is amended to read:

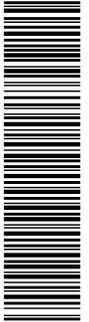
6203.5. (a) (1) A retailer is relieved from liability to collect use tax that became due and payable, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income 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 ~~board,~~ 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. ~~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.~~

(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)~~: (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 ~~board~~: 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 ~~board~~ 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.

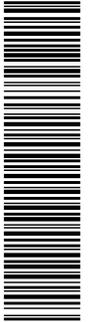
(c) This section shall remain operative until January 1, 2028, and as of that date is repealed.

SEC. 4. Section 6203.5 is added to the Revenue and Taxation Code, to read:

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.

SEC. 5. It is the intent of the Legislature to hereby supersede or overrule, as applicable, the State Board of Equalization’s Memorandum Opinion “In the Matter of



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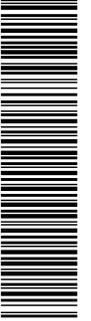
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the Claim for Refund Under the Sales and Use Tax Law of WFS Financial, Inc.”
(December 14, 2000).

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Sales and Use Tax Law: charged-off debt.

The Sales and Use Tax Law (SUT) imposes taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. The SUT relieves a retailer of liability for sales and use tax, insofar as the measure of the tax is represented by accounts that have been found to be worthless and charged off, either for income tax purposes or based on generally accepted accounted principles, as specified, and defines "retailer" for that purpose to include certain entities affiliated with the retailer, as specified. The SUT also, if an account is held by a lender, entitles a retailer or lender that makes a proper election, as specified, to a deduction or refund of the tax that the retailer has previously reported and paid if certain conditions are met, including that the account has been found worthless and written off by the lender pursuant to the provision described above.

This bill would sunset the definition of "retailer" described above on January 1, 2025, and would require an account to have been found worthless and written off by the lender before January 1, 2025, in order for the lender to be entitled to the deduction or refund described above. The bill would, on January 1, 2028, repeal the provision described above regarding accounts held by a lender.

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

