

Date of Hearing: June 23, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

SB 87 (Seyarto) – As Amended June 12, 2025

Majority vote. Tax levy. Fiscal committee.

SENATE VOTE: 38-0

SUBJECT: Sales and Use Tax Law: consumer designation: all-volunteer fire departments

SUMMARY: Extends the ability of an all-volunteer fire department (AVFD) to fundraise by selling tangible personal property (TPP) without incurring the obligation to collect and remit sales and use (SUT) taxes on those sales. Specifically, **this bill:**

- 1) Extends, from January 1, 2026, to January 1, 2031, the designation that a qualifying AVFD is a consumer, and not a retailer, of TPP it sells provided that the profits are used solely and exclusively in furtherance of the AVFD's purposes.
- 2) Provides that, notwithstanding existing law, the state shall not reimburse any local agency for any SUT revenues lost as a result of this bill.
- 3) Takes immediate effect as a tax levy.

EXISTING LAW:

- 1) Imposes a sales tax on retailers for the privilege of selling TPP, absent a specific exemption. The tax is based upon the retailer's gross receipts from TPP sales in California. (Revenue and Taxation Code (R&TC) Section 6001 *et seq.*)
- 2) Imposes a complimentary use tax on the storage, use, or other consumption of TPP purchased out-of-state and brought into California. The use tax is set at the same rate as the state's sales tax and both must generally be remitted to the California Department of Tax and Fee Administration (CDTFA). (R&TC Section 6201 *et seq.*)
- 3) Designates several entities as consumers, and not retailers, of specified TPP they use or furnish in the performance of their professional services. (R&TC Section 6018 *et seq.*)
- 4) Provides a property tax exemption for the property of a volunteer fire department that is used exclusively for volunteer fire department purposes, provided the department qualifies for exemption under R&TC Section 23701d or 23701f or under Internal Revenue Code (IRC) Section 501(c)(3) or 501(c)(4). (R&TC Section 213.7.)
- 5) Designates, for purposes of the SUT Law, an AVFD as a consumer of all TPP it sells, including hot prepared food products and clothing, if the profits are used solely and exclusively in furtherance of the purposes of the AVFD. (R&TC Section 6018.10.)

- 6) Defines an "AVFD" as an organization that meets all the following requirements:
 - a) All members shall not be paid a regular salary, but may be compensated on an hourly or per incident basis;
 - b) The organization's purpose 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;
 - c) The organization is regularly organized for volunteer fire department purposes that qualifies [*sic*] as an exempt organization, either under R&TC Section 23701d or 23701f or under IRC Section 501(c)(3) or 501(c)(4);
 - d) The organization enjoys official recognition and full or partial support of the government of the county, city, or district in which the volunteer fire department is located;
 - e) The organization's functions have 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; and,
 - f) Provides that this preferential tax status shall not apply if an AVFD, in each of the two preceding calendar years, has receipts from the sale of TPP of \$100,000 or more.
- 7) Provides that this designation shall remain in effect until January 1, 2026, and is repealed as of that date.
- 8) Requires, for purposes of complying with R&TC Section 41, the CDTFA to annually estimate the revenue loss associated with this designation and report that information to the Legislature on an annual basis.

FISCAL EFFECT: The CDTFA estimates this bill would result in a revenue loss of \$130,000 in fiscal year 2025-26.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

SB 87 is vital legislation that ensures the survival and effectiveness of California's all-volunteer fire departments. These dedicated firefighters protect our communities without compensation, relying on local fundraising events to purchase essential equipment and maintain their operations. Extending their sales tax exemption for another five years will provide these departments with the continued stability they need to effectively serve their communities. This isn't just about tax policy – it's about supporting the brave men and women who voluntarily put their lives on the line to keep our neighborhoods safe. SB-87 represents California's enduring commitment to these selfless public servants and the communities they protect.

- 2) This bill is supported by the La Honda Fire Brigade, which notes:

California's AVFDs play a vital role in protecting residents in rural and unincorporated areas, often with minimal resources and without paid staff. Since 2015, state law has wisely exempted AVFDs from collecting sales tax on fundraising income, allowing departments to allocate more funds toward operational needs like equipment, fire engines, and emergency medical supplies. However, the current exemption is set to expire in 2026. SB 87 provides a necessary continuation of this relief by authorizing the exemption for five additional years. Without this action, AVFDs would once again face sales tax obligations on community-based fundraising efforts—such as pancake breakfasts, T-shirt sales, and holiday events—that often serve as their primary revenue sources. With the costs of emergency response equipment continuing to rise, it is imperative that these departments retain every dollar they raise.

3) Committee Staff Comments:

- a) *What is a "tax expenditure"?* Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

- b) *Retailers are generally responsible for SUT:* Existing law imposes the sales tax on every retailer "engaged in business in this state" that sells TPP and requires them to register with the CDTFA to obtain a seller's permit. In general, it is the retailer's responsibility to collect the appropriate tax at purchase and remit collected amounts to the CDTFA on a quarterly basis. Sales tax applies whenever a retail sale occurs in this state, which is generally any sale other than one for resale in the regular course of business. The current statewide sales tax rate is 7.25%. Additionally, cities, counties, and specified special districts may levy additional increments of sales tax with voter approval, also known as district taxes or transactions and use taxes.

Generally, if an organization makes three or more sales of items subject to California SUT tax in a 12-month period, it is required to register for a California seller's permit and pay tax on its taxable sales. However, if the organization is selling items at a location for less than 90 days, it is considered a temporary seller and is required to hold a temporary seller's permit. Organizations that already hold a seller's permit are required to obtain a sub-permit for each temporary location. Some of the most common types of sellers who may need a temporary seller's permit include firework and holiday tree stands, garage sales and flea markets, and crafts sold at farmers markets and other special events.

- c) *Exceptions for certain entities:* Nonprofits, public agencies, and charities are generally treated the same way as any other retailer and do not have blanket exemptions from collecting and remitting SUT. However, state law designates certain sellers as "consumers," meaning that the law considers the tax paid when they purchase property, and the seller neither obtains a permit nor collects and remits to CDTFA any tax from the purchaser at the point of sale. This approach helps reduce the compliance burden for certain organizations and businesses that may find it difficult to manage tax collection and remittance processes. By shifting the tax responsibility to the point of sale, tax is still collected, but regulatory compliance is simplified for designated consumers.

Designated "consumers" include, among others:

- Licensed medical and veterinary professionals dispensing specified products during the course of performing professional services;
 - Nonprofit associations and organizations performing auxiliary services to any city or county museum in this state, where the profits are used for purposes of the organization;
 - Non-profit veteran organizations that sell flags of the United States of America;
 - The Department of Transportation's leases and sales of automobiles; and,
 - Nonprofit youth organizations that intermittently or irregularly sell food, nonalcoholic beverages, and other property made by the organization's members.
- d) *Funding for AVFDs:* There are numerous AVFDs throughout California and they play an important role in California's overall ability to respond to fires that have been increasing in severity and frequency due to climate change. These entities, which primarily serve rural areas, protect lives and property by fighting fires and responding to other emergency incidents. To accomplish their mission, AVFDs require critical firefighting equipment, which is often expensive, wears out from repeated use, and needs periodic replacement. These organizations have no salaried employees and often operate on extremely limited budgets, with funds obtained through public financial support, fundraising activities, and grants.

AVFDs employ various fundraising strategies, but some of the most popular and effective methods include hosting community events where items that are typically subject to sales tax are sold. Some examples include selling food at a barbeque or seafood boil, selling jurisdiction-themed merchandise (e.g. branded shirts, coffee mugs, calendars, etc.), and selling items such as art that have been donated for auction.

- e) *Lightening the load:* Recognizing the critical role of AVFDs, the Legislature passed SB 598 (Hill), Chapter 248, Statutes of 2015, designating AVFDs as consumers, not retailers, under the SUT Law for all its sales of TPP, so long as its profits are solely and exclusively used to further the department's purposes. Additionally, to qualify for the consumer designation, an AVFD must do all of the following:

- Pay its members hourly or per incident, not with a regular salary;
 - Have as its purpose the protection of life, property, and the environment within a designated geographic area from fires, disasters, and emergency incidents through education, prevention, training, and emergency response;
 - Be organized as a tax-exempt organization for state and federal purposes;
 - Meet the definition of "volunteer fire department" used in the welfare exemption from property tax; and,
 - Receive less than \$100,000 in gross receipts from the sale of TPP.
- f) *How does it work?* Without consumer treatment, an AVFD would have to obtain either a temporary or standard seller's permit from CDTFA and use a resale certificate to purchase items for subsequent sale at a fundraiser. If the AVFD intends to hold a fundraiser where they sell branded items like clothing and mugs, it would show the resale certificate to the supplier when purchasing those items and the supplier would not charge the AVFD the sales tax at time of purchase. When the fire department sold the branded items at the fundraiser, it would collect tax from the purchaser in an amount equal to the combined state and local rate for that jurisdiction multiplied by the purchase price, then remit the total tax amount from all of its quarterly sales to the CDTFA. The AVFD would have to collect and remit the tax even if someone donated the branded merchandise.

Under the provision of existing law that SB 87 extends, the AVFD would continue to pay the supplier the tax as part of its purchase of hot dogs and hamburgers, and would not need to collect and remit tax from its sales at the barbeque fundraiser; instead, the food supplier would remit taxes due on the sale of those products to CDTFA. This significantly reduces the complexity of holding a fundraiser for an AVFD that involves selling TPP.

- g) *Committee's tax expenditure policy:* Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years.

Absent a sunset date, tax expenditure programs like the one this bill proposes cannot be revoked without a supermajority vote. Thus, this Committee has a longstanding practice of including sunset dates in tax expenditure bills to allow the Legislature periodically to review the cost and efficacy of such expenditures, as well as whether technical changes

are needed due to evolving circumstances. As recently amended, this bill complies with the Committee's policy on sunset dates.

- h) *A slippery slope?* In general, whether an organization is recognized as a tax-exempt entity is not relevant for the SUT Law. Nonprofits and public agencies engaged in the sale of TPP are treated similarly to private businesses. It does not matter, for SUT purposes, whether the organization has volunteers or employees, what its mission is, or any number of other factors. Paying, collecting, and remitting tax is a burden, but it is necessary to ensure adequate funding of public services and promote equity between competitors. While volunteer fire districts argue that complying with current requirements diverts funds away from better uses, the same could be said for many other organizations that engage in charitable or community-service work. The Committee may wish to consider the extension of this designation in the context of other entities that may be similarly situated.
- i) *Prior legislation:*
 - i) SB 38 (Hill), Chapter 78, Statutes of 2020, extended the sunset date of the consumer designation for qualifying AVFD's until January 1, 2026 and incorporated Section 41 language.
 - ii) SB 598 (Hill), Chapter 248, Statutes of 2015, designated, until January 1, 2021, that a qualifying AVFD is a consumer, and not a retailer, of TPP it sells provided that the profits are used solely and exclusively in furtherance of the AVFD's purposes.

REGISTERED SUPPORT / OPPOSITION:

Support

California Forestry Association
California Special Districts Association
Howard Jarvis Taxpayers Association (HJTA)
La Honda Fire Brigade

Opposition

None on file

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