

ORDINANCE NO. 10639 (N.S.)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TITLE 2, DIVISION 2, CHAPTER 1 RELATING TO UNIFORM LOCAL SALES AND USE TAX

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Title 2, Division 2, Chapter 1 of the San Diego County Regulatory Code is amended as follows.

SEC. 22.101. PURPOSES.

The purposes of this chapter are as follows:

(a) To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California;

(b) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code;

(c) To adopt a sales and use tax ordinance which imposes a one and one-quarter percent (1 1/4%) tax and provides a measure that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes;

(d) To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting County sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

SEC. 22.102. CONTRACT WITH CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION.

The County shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this sales and use tax ordinance.

SEC. 22.103. SALES TAX.

(a) (1) For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the County at the rate of one and one-quarter percent (1 1/4%) of the gross receipts of the retailers from the sale of all tangible personal property sold at retail in the County of San Diego after June 30, 1972.

(2) For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from these sales shall include delivery charges, when such

charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated, shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, and only insofar as they relate to sales tax, the provisions of Part 1 of Division 2 of said Code, in force and effect on October 1, 1956, as thereafter amended, are hereby adopted and made a part of this section as though fully set forth in this chapter.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code is named or referred to as the taxing agency, the County of San Diego shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of the County of San Diego for the word "State" when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the California Department of Tax and Fee Administration, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof, rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and, in addition, the name of the County shall not be substituted for that of the State in Section 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted.

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

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

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

(B) Seventy five percent (75%) of the gross receipts 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 such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

SEC. 22.104. EXCISE TAX.

(a) An excise tax is hereby imposed on the storage, use or other consumption in the County of San Diego of tangible personal property purchased from any retailer for storage, use or other consumption in the County at the rate of one and one-quarter percent (1 1/4%) of the sales price of the property after June 30, 1972. The sales price shall include delivery charges when such

charges are subject to State sales or use tax regardless of the place to which delivery is made.

(b) (1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code, and only insofar as they relate to use taxes, the provisions of Part 1 of Division 2 of said Code, in force and effect on October 1, 1956, as thereafter amended, are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code is named or referred to as the taxing agency, the name of the County shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this County for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the California Department of Tax and Fee Administration, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the County or any agency thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or to impose this tax with respect to certain storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the County shall not be substituted for that of the State in Sections 6701, 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation code as adopted, and the name of the County shall not be substituted for the word "State" in the phrase "Retailer engaged in business in this State" in Section 6203 nor in the definition of that phrase in Section 6203.

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

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

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

(4) In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use, or other consumption of tangible personal property, other than fuel or petroleum products, purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government is exempt from seventy five percent (75%) of the tax.

SEC. 22.105. CREDITS.

Any person subject to a sales or use tax or required to collect a use tax under this ordinance

shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this county, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code.

SEC. 22.106. LIMITATIONS ON LITIGATION.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or this County or against any officer of the State or this County to prevent or enjoin the collection under this chapter or Part 1.5 of Division 2 of the Revenue and Taxation Code of any tax or any amount of tax required to be collected.

SEC. 22.107. AMENDMENTS OF STATE LAW.

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

SEC. 22.108. CHAPTER MAY BE MADE INOPERATIVE.

This chapter may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the County's lack of compliance with Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code or following an increase by any city within the County of the rate of its sales or use tax above the rate in effect at the time this chapter was enacted.

Section 2. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
THOMAS E. MONTGOMERY, COUNTY COUNSEL

BY: Rachel H. Witt, Chief Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 19th day of November, 2019.



DIANNE JACOB
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 19th day of November, 2019.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
Joana Santiago, Deputy



Ordinance No.: 10639 (N.S.)
Meeting Date: 11/19/19 (23)