

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 1041 (Atkins) – As Amended April 26, 2022

Policy Committee: Revenue and Taxation

Vote: 11 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

**SUMMARY:**

This bill repeals the January 1, 2024, sunset date to extend, indefinitely, the sales and use tax (SUT) exemption for retail items sold by a thrift store located on a military installation and operated by an entity providing financial, educational and other assistance to members of the Armed Forces of the United States. This bill declares the objective of the tax expenditure and requires the California Department of Tax and Fee Administration (CDTFA) to submit, by January 1, 2028, a report to the Legislature regarding the exemption. This bill prohibits the state from reimbursing any local agency for lost SUT revenue.

**FISCAL EFFECT:**

- 1) Annual SUT revenue loss of approximately \$26,600 to the state and local governments. Thus, annual General Fund (GF) revenue loss of approximately \$12,200 (3.9375% rate) and GF cost pressures of approximately \$3,300. One component of California's sales tax rate is the 1.0625% rate supporting the 2011 Local Revenue Fund, which provides local governments with public safety realignment money. Proposition 30 (2012) protected the fund by ensuring, in the event the 1.0625% component is reduced or eliminated, local governments continue to receive a commensurate level of state funding.
- 2) Minor and absorbable costs to CDTFA to update its website, revise publications, answer questions and issue the singular report.

**COMMENTS:**

- 1) **Purpose.** According to the author:

[The Navy-Marine Corps Relief Society (NMCRS)] operates eight sites in California, located on military installations in Barstow, Oceanside, Ridgecrest, Lemoore, Miramar, Coronado, San Diego, and Ventura. Since the Legislature granted the 10-year sales tax relief, beginning in 2014, NMCRS has provided, on average, over \$11 million each year to over 14,000 California-based Service members, retirees, and their families. Relief provided far exceeds the combined average yearly income of \$334,000 from all the NMCRS in-state thrift stores. The existing 10-year relief from sales tax provided by the Legislature in AB 163 (Atkins, 2013) is set to expire on [January] 1, 2024. A new bill is required to extend the tax relief permanently,

ensuring the continuation of charitable support to Service members and their families at a small cost to the State. This change would give the NMCRS the same tax exemption currently provided to Goodwill Industries and the Salvation Army.

This bill is supported by the San Diego Military Advisory Council and other military organizations.

- 2) **NMCRS Exemption.** SB 765 (Dutton), Chapter 615, Statutes of 2009, established the existing SUT exemption for military thrift stores, specifically designed to exempt sales at stores operated by NMCRS so the full sales income from the stores can be returned to the Navy and Marine Corp community through provision of relief services. As originally introduced, SB 765 would have provided an indefinite SUT exemption, but was amended to include a sunset date of January 1, 2014. AB 163 (Atkins), Chapter 72, Statutes of 2013, subsequently proposed to repeal the sunset date, but ultimately extended the sunset date to January 1, 2024. This bill again seeks to repeal the sunset date, thereby extending the exemption indefinitely.

As noted in the Assembly Revenue and Taxation Committee's analysis of this bill, the SUT exemption for Goodwill Industries and the Salvation Army have been in place since 1959. In contrast, more recent SUT exemptions have included built-in sunset dates to ensure a degree of oversight. For example, there have been numerous attempts to repeal the sunset date for a similar SUT exemption for retail items sold by thrift stores operated by nonprofit organizations to assist individuals with HIV or AIDS. Originally enacted in 1996, the statute was ultimately amended each time to instead extend the sunset date and currently has a sunset date of January 1, 2029.

- 3) **Tax Expenditure vs. Direct Expenditure.** The various tax credits, deductions, exclusions and exemptions in existing law are tax "expenditures" generally enacted to accomplish some governmental purpose, with a determinable cost associated with each in the form of foregone revenues. By extending indefinitely the NMCRS SUT exemption, this bill creates a new ongoing tax expenditure.

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 reviewed less frequently than direct expenditures once they are put in place, which may result in tax expenditures remaining part of the tax code without demonstrating any public benefit. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure, absent a sunset date.

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