

Code: Section: [Up^](#) [Add To My Favorites](#)**REVENUE AND TAXATION CODE - RTC****DIVISION 2. OTHER TAXES [6001 - 61050]** (*Heading of Division 2 amended by Stats. 1968, Ch. 279.*)**PART 1. SALES AND USE TAXES [6001 - 7176]** (*Part 1 added by Stats. 1941, Ch. 36.*)**CHAPTER 4. Exemptions [6351 - 6423]** (*Chapter 4 added by Stats. 1941, Ch. 36.*)**ARTICLE 1. General Exemptions [6351 - 6380]** (*Article 1 added by Stats. 1941, Ch. 36.*)

**6351.** "Exempted from the taxes imposed by this part," as used in this article, means, in case of the sales tax, exempted from the computation of the amount of tax imposed.

*(Added by Stats. 1941, Ch. 36.)*

**6352.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

*(Added by Stats. 1941, Ch. 36.)*

**6353.** There are exempted from the taxes imposed by this part the gross receipts derived from the sales, furnishing, or service of and the storage, use, or other consumption in this state of, all of the following:

(a) Gas, electricity, and water, including steam and geothermal steam, brines, and heat, when delivered to consumers through mains, lines, or pipes.

(b) (1) Liquefied petroleum gas, delivered to a qualified residence by the seller, that is sold for household use in the qualified residence, or liquefied petroleum gas that is purchased for use by a qualified person to be used in producing and harvesting agricultural products; provided, in either case, the liquefied petroleum gas is delivered into a tank with a storage capacity for liquefied petroleum gas that is equal to or greater than 30 gallons. This subdivision may not be construed to provide any exemption from any tax levied by a city, county, or city and county pursuant to Section 7284.3, or any successor to that section.

(2) For purposes of this subdivision:

(A) "Qualified residence" means a primary residence, not serviced by gas mains and pipes.

(B) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that assists that person in the lines of business described in this paragraph in producing and harvesting agricultural products.

(c) Water, when sold to an individual in bulk quantities of 50 gallons or more, for general household use in his or her residence if the residence is located in an area not serviced by mains, lines, or pipes.

(d) Exhaust steam, waste steam, heat, or resultant energy, produced in connection with cogeneration technology, as defined in Section 25134 of the Public Resources Code.

(e) The exemptions provided by subdivision (b) shall be effective starting September 1, 2001.

*(Amended by Stats. 2011, Ch. 727, Sec. 6. (AB 242) Effective January 1, 2012.)*

**6354.** There are exempted from the taxes imposed by this part, the gross receipts from the sales of commemorative "California Gold" medallions produced and sold in accordance with Chapter 25 (commencing with

Section 7551) of Division 7 of Title 1 of the Government Code, and the storage, use, or other consumption in this state of commemorative "California Gold" medallions so produced and sold.

*(Amended by Stats. 1987, Ch. 1095, Sec. 1. Effective September 25, 1987.)*

**6355.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins that are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange and the storage, use, or other consumption in this state of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins so sold.

(b) (1) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins sold in the transaction totals, in market value, the sum of one thousand dollars (\$1,000) or more, or its equivalent.

(2) The board shall adjust the one thousand dollar (\$1,000) amount specified in paragraph (1) as follows:

(A) On or before September 1, 1994, and on or before each October 1 of each year thereafter, the board shall multiply the amount applicable for the current calendar year by the inflation factor adjustment determined by the Franchise Tax Board pursuant to subdivision (h) of Section 17041, the resulting amount to be the applicable amount for the succeeding calendar year. The applicable amount shall be operative as an adjustment of the amount specified in paragraph (1) only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (C).

(B) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (C), the resulting applicable amount, rounded to the nearest multiple of five hundred dollars (\$500), shall be operative for purposes of paragraph (1) beginning January 1 of the succeeding calendar year.

(C) For purposes of this paragraph, "operative threshold" means an amount that exceeds by at least five hundred dollars (\$500), the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraphs (A) and (B) as the operative adjustment to the amount specified in paragraph (1).

(c) "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. "Monetized bullion," for purposes of this section, also means gold medallions struck under authority of the American Arts Gold Medallion Act (Title IV of Public Law 95-630).

(d) A sale of monetized bullion, nonmonetized gold or silver bullion, or numismatic coins, for purposes of this section, shall be deemed to be substantially equivalent to a transaction in securities or commodities through a national securities or commodities exchange, if the sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.

*(Amended by Stats. 2012, Ch. 184, Sec. 1. (AB 843) Effective January 1, 2013.)*

**6356.** There are exempted from the sales tax the gross receipts from sales of vessels of more than 1,000 tons burdened by the builders thereof.

*(Amended by Stats. 1985, Ch. 591, Sec. 4.)*

**6356.5.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, farm equipment and machinery, and the parts thereof, purchased for use by a qualified person to be used primarily in producing and harvesting agricultural products.

(b) For purposes of this section, both of the following shall apply:

(1) "Qualified person" means any person engaged in a line of business described in Codes 0111 to 0291, inclusive, of the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 Edition, and any other person that uses farm equipment and machinery to assist this person in the lines of business described in this paragraph in producing and harvesting agricultural products.

(2) "Farm equipment and machinery" means implements of husbandry, as defined in Section 411.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(d) The exemption provided by this section shall be effective starting September 1, 2001.

*(Amended by Stats. 2011, Ch. 727, Sec. 7. (AB 242) Effective January 1, 2012.)*

**6356.6.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage and use of, or other consumption in this state of, equipment and machinery designed primarily for off-road use in commercial timber harvesting operations, and the parts thereof, that is purchased for use by a qualified person to be used primarily in harvesting timber.

(b) The State Board of Equalization may adopt emergency regulations to specify equipment and machinery exempted by this section, and may revise those regulations from time to time.

(c) For purposes of this section, "qualified person" means any person engaged in commercial timber harvesting.

(d) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section does not apply with respect to any tax levied pursuant to Section 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(e) The exemption provided by this section shall be effective starting September 1, 2001.

*(Amended by Stats. 2011, Ch. 727, Sec. 8. (AB 242) Effective January 1, 2012.)*

**6357.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of motor vehicle fuel used in propelling aircraft, except aircraft jet fuel, the distributions of which in this state are subject to the tax imposed by Part 2 (commencing with Section 7301) of this division and not subject to refund.

*(Amended by Stats. 1972, Ch. 1408.)*

**6357.1.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, diesel fuel used in farming activities and food processing. This section shall be implemented as soon as possible, but in no case later than September 1, 2001.

(b) For purposes of this section, "farming activities" has the same meaning as "farming business" as set forth in Section 263A of the Internal Revenue Code. "Farming activities" also includes the transportation and delivery of farm products to the marketplace.

(c) The exemption established by this section does not apply with respect to either of the following:

(1) A tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)).

(2) A tax imposed under Section 6051.2 or 6201.2, or under Section 35 of Article XIII of the California Constitution.

*(Added by Stats. 2001, Ch. 156, Sec. 6. Effective August 7, 2001.)*

**6357.3.** (a) On and after July 1, 2011, there are exempted from the taxes imposed by Sections 6051.8 and 6201.8, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of both of the following:

(1) Diesel fuel purchased for use or used in a manner that is exempt from the tax imposed pursuant to Part 31 (commencing with Section 60001) of Division 2 and not subject to the backup tax imposed by Section 60058 or the payment requirement specified in Section 60108.

(2) Diesel fuel subject to the payment requirement specified in Section 60502.2.

(b) No exemption from the tax imposed pursuant to Sections 6051.8 and 6201.8 shall be allowed under this section unless the purchaser furnishes the seller with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe.

(c) If a purchaser certifies in writing to the seller that the diesel fuel purchased without payment of the tax imposed pursuant to Section 6051.8 or 6201.8 will be used in a manner entitling the seller to regard the gross receipts or sales price from the sale as exempt from that tax, and uses the diesel fuel in a manner that subjects the diesel fuel to the tax imposed pursuant to Section 60050, the purchaser shall be liable for payment of the sales tax imposed pursuant to Section 6051.8, with applicable interest, as if the purchaser were a retailer making a retail sale of the diesel fuel at the time the fuel is so used, and the sales price of the diesel fuel to the purchaser shall be deemed the gross receipts from that retail sale.

*(Repealed and added by Stats. 2011, Ch. 6, Sec. 17. (AB 105) Effective March 24, 2011.)*

**6357.4.** (a) On and after October 1, 2022, and before October 1, 2023, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, diesel fuel, as defined in Section 60022.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by subdivision (a) does not apply with respect to any tax levied pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.8, 6201.2, or 6201.8, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(c) This section shall become inoperative on October 1, 2023, and as of that date is repealed.

*(Added by Stats. 2022, Ch. 55, Sec. 2. (AB 194) Effective June 30, 2022. Repealed as of October 1, 2023, by its own provisions.)*

**6357.5.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, fuel and petroleum products sold to an air common carrier for immediate consumption or shipment in the conduct of its business as an air common carrier, on an international flight.

(b) To qualify for the exemption, the air common carrier shall furnish to the seller an exemption certificate in writing stating the quantity of fuel and petroleum products claimed as exempt. That certificate shall bear the purchaser's valid seller's permit number or valid fuel exemption registration number and shall be substantially in the form prescribed by the board. Acceptance in good faith of that certificate shall relieve the seller from liability for the sales tax.

(c) "Immediate consumption or shipment," as used in this section, means that the delivery of the fuel and petroleum products by the seller is directly into an aircraft for consumption or transportation on an international flight and not for storage by the purchaser or any third party.

(d) "International flight," as used in this section, is a flight whose final destination is a point outside of the United States.

(e) Any air common carrier claiming exemption under this section who is not required to hold a valid seller's permit, shall be required to register with the board and obtain a fuel exemption registration number, and shall be required to file returns as the board may prescribe, either if the board notifies the carrier that returns must be filed or if the carrier is liable for taxes based upon consumption or transportation of fuel or petroleum products erroneously claimed as exempt under this section. A common carrier required to hold a fuel exemption registration number shall be subject to all applicable provisions of this part, Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251).

(f) An air common carrier claiming an exemption under this section upon request, shall make available to the board records, including, but not limited to, a copy of a log abstract, an air waybill, or a cargo manifest, documenting its consumption or transportation of the fuel or petroleum products on an international flight and the amount claimed

as exempt. If the carrier fails to provide these records upon request, the board may revoke the carrier's fuel exemption registration number.

(g) The board may require any air common carrier claiming an exemption under this section and required to obtain a fuel exemption registration number, to place with it such security as the board may determine pursuant to Section 6701.

(h) Pursuant to this section, any use of the fuel and petroleum products by the purchasing carrier, other than that incident to the delivery of the fuel and petroleum products to the carrier and the consumption or transportation of the fuel and petroleum products by the carrier on an international flight for use in the conduct of its business as a common carrier, or a failure of the carrier to document its consumption or transportation of the fuel and petroleum products on an international flight, shall subject the carrier to liability for payment of sales tax as if it were a retailer making a retail sale of the property at the time of that use or failure, and the sales price of the property to it shall be deemed to be the gross receipts from the retail sale.

(i) In the event that the federal exemption provided in Section 1309 of Title 19 of the United States Code, relating to supplies for certain vessels and aircraft, is repealed, this section is repealed as of that date.

*(Amended by Stats. 1992, Ch. 905, Sec. 1. Effective September 25, 1992. Operative January 1, 1993, by Sec. 8 of Ch. 905. Repealed conditionally by its own provisions.)*

**6357.7.** (a) On and after July 1, 2010, there are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, motor vehicle fuel, as defined in Section 7326.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) The exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, or pursuant to Section 35 of Article XIII of the California Constitution.

(c) On and after July 1, 2010, the State Board of Equalization and the Department of Finance shall recognize that the state no longer receives state sales and use tax revenues from the sale of, and the storage, use, or other consumption of, motor vehicle fuel for purposes of any estimates required to be performed under paragraphs (1) and (2) of subdivision (a) of Section 7102, and Section 7104.2.

*(Repealed and added by Stats. 2011, Ch. 6, Sec. 19. (AB 105) Effective March 24, 2011.)*

**6358.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of:

(a) Any form of animal life the products of which ordinarily constitute food for human consumption.

(b) Feed for any form of animal life the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(c) Seeds and plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

(d) Fertilizer to be applied to land the products of which are to be used as food for human consumption or are to be sold in the regular course of business.

(e) On or after January 1, 1997, drugs or medicines, including oxygen, the primary purpose of which is the prevention or control of disease, that are administered to animal life the products of which ordinarily constitute food for human consumption.

*(Amended by Stats. 1999, Ch. 289, Sec. 1. Effective September 1, 1999. Operative January 1, 2000, by Sec. 3 of Ch. 289.)*

**6358.1.** (a) There are exempted from taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of either of the following:

(1) Organic products grown expressly for fuel purposes.

(2) Waste byproducts from agricultural or forest products operations, municipal refuse, or manufacturing which are used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas, or coal.

(b) In addition to subdivision (a), the exemption under this section shall include the use of still gas produced in the refining process from purchased crude oil.

*(Amended by Stats. 1986, Ch. 254, Sec. 1. Effective July 3, 1986.)*

**6358.2.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of wood shavings, sawdust, rice hulls, or other products that are used as litter in poultry and egg production and that are ultimately resold as, or incorporated into, fertilizer products.

*(Amended by Stats. 1994, Ch. 146, Sec. 199. Effective January 1, 1995.)*

**6358.4.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, drugs or medicines administered to animal life as an additive to feed or drinking water, the primary purpose of which is the prevention and control of disease of food animals, or of nonfood animals which are to be sold in the regular course of business.

*(Added by Stats. 1995, Ch. 620, Sec. 1. Effective October 5, 1995. Operative April 1, 1996, by Sec. 3 of Ch. 620.)*

**6358.5.** (a) (1) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, any racehorse breeding stock.

(2) For purposes of this section "racehorse breeding stock" means a horse that is capable of reproduction and for which the purchaser states that it is the purchaser's sole intent to use the horse for breeding purposes.

(b) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) The exemption established by this section does not apply with respect to any tax levied pursuant to either Section 6051.2 or 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(c) The exemption provided by this section shall be effective starting September 1, 2001.

*(Amended by Stats. 2011, Ch. 727, Sec. 9. (AB 242) Effective January 1, 2012.)*

**6359.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, food products for human consumption.

(b) For the purposes of this section, "food products" includes all of the following:

(1) Cereals and cereal products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, candy, gum, confectionery, coffee and coffee substitutes, tea, and cocoa and cocoa products.

(2) Milk and milk products, milkshakes, malted milks, and any other similar type beverages that are composed at least in part of milk or a milk product and that require the use of milk or a milk product in their preparation.

(3) All fruit juices, vegetable juices, and other beverages, whether liquid or frozen, including bottled water, but excluding spirituous, malt, or vinous liquors or carbonated beverages.

(c) For purposes of this section, "food products" does not include any of the following:

(1) Medicines, including medicinal cannabis or medicinal cannabis products, as defined in Division 10 (commencing with Section 26000) of the Business and Professions Code, and preparations in liquid, powdered, granular, tablet, capsule, lozenge, and pill form sold as dietary supplements or adjuncts.

(2) Cannabis, as defined in Section 11018 of the Health and Safety Code, and cannabis products, as defined in Section 11018.1 of the Health and Safety Code.

(3) This addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(d) None of the exemptions in this section apply to any of the following:

(1) When the food products are served as meals on or off the premises of the retailer.

(2) When the food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the retailer or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others.

(3) When the food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location, even though those products are sold on a "take out" or "to go" order and are actually packaged or wrapped and taken from the premises of the retailer.

(4) When the food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments, marinas, campgrounds, and recreational vehicle parks.

(5) When the food products are sold through a vending machine.

(6) When the food products sold are furnished in a form suitable for consumption on the seller's premises, and both of the following apply:

(A) Over 80 percent of the seller's gross receipts are from the sale of food products.

(B) Over 80 percent of the seller's retail sales of food products are sales subject to tax pursuant to paragraph (1), (2), (3), or (7).

(7) When the food products are sold as hot prepared food products.

(e) "Hot prepared food products," for the purposes of paragraph (7) of subdivision (d), include a combination of hot and cold food items or components where a single price has been established for the combination and the food products are sold in combination, such as a hot meal, a hot specialty dish or serving, a hot sandwich, or a hot pizza, including any cold components or side items. Paragraph (7) of subdivision (d) does not apply to a sale for a separate price of bakery goods or beverages (other than bouillon, consommé, or soup), or where the food product is purchased cold or frozen; "hot prepared food products" means those products, items, or components that have been prepared for sale in a heated condition and that are sold at any temperature that is higher than the air temperature of the room or place where they are sold.

(f) Notwithstanding paragraph (6) of subdivision (d), if the seller elects to separately account for sales of food products specified in subdivision (b), then the gross receipts from the sale of those food products shall be exempt under subdivision (a), provided that the separate accounting is fully documented in the seller's records. However, if the seller's records do not reflect the separate accounting of the gross receipts from sales of nontaxable food products, the seller's election under this subdivision shall be revoked.

*(Amended by Stats. 2021, Ch. 432, Sec. 12. (SB 824) Effective January 1, 2022. Note: This section was amended on Nov. 3, 1992, by initiative Prop. 163.)*

**6359.1.** There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and storage, use, or other consumption in this state, of hot prepared food products sold by caterers, or other vendors, to air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers, and the gross receipts from the sale of and the storage, use or other consumption of hot prepared food products sold or served to passengers by air carriers engaged in interstate or foreign commerce for consumption by passengers on such air carriers.

*(Added by Stats. 1974, Ch. 156.)*

**6359.2.** (a) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1988, and ending on December 31, 1988, 77 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(b) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1989, and ending on December 31, 1989, 55 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(c) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1990, and thereafter, 33 percent of the gross receipts of any retailer from the sale at retail of food products shall

be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(d) (1) The Legislature finds that 33 percent represents the statewide average of food products sold through vending machines which are subject to the tax imposed under this part. Therefore, the Legislature establishes this average as the measure of the tax with respect to vending machine sales to simplify tax auditing procedures and to provide for uniformity in the taxation of gross receipts derived from the sale of food products through vending machines.

(2) The Legislature also finds that due to fiscal constraints, it is necessary to phase in the partial exemption for sales made through vending machines in the 1988 and 1989 calendar years.

(e) For purposes of this section, "food products" includes hot coffee, hot tea, and hot chocolate, when those hot beverages are actually sold through a vending machine for a separate price. "Food products" does not include other hot prepared food products, as defined in Section 6359.

*(Amended by Stats. 1988, Ch. 1029, Sec. 3.)*

**6359.3.** Any nonprofit veterans' organization is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to flags of the United States of America which it sells, where the profits are used solely and exclusively in furtherance of the purposes of the nonprofit organization.

*(Amended by Stats. 1971, Ch. 1741.)*

**6359.4.** (a) Any vending machine operator is a consumer of, and shall not be considered a retailer of, food products which sell at retail for fifteen cents (\$0.15) or less and which are actually sold through a vending machine.

(b) Notwithstanding subdivision (a), any vending machine operator is a consumer of, and shall not be considered a retailer of, food products, other than beverages or hot prepared food products, which are sold through a coin-operated bulk vending machine if the amount of each sale is twenty-five cents (\$0.25) or less. For purposes of this subdivision, "bulk vending machine" means a vending machine containing unsorted food products, other than beverages or hot prepared food products which, upon insertion of a coin, dispenses those food products, including candy and confectionery, in approximately equal portions, at random, and without selection by the customer.

*(Amended by Stats. 1993, Ch. 257, Sec. 2. Effective January 1, 1994.)*

**6359.45.** (a) Any vending machine operator which is a nonprofit, charitable, or educational organization is a consumer of, and shall not be considered a retailer of, tangible personal property which sells at retail for fifteen cents (\$0.15) or less and which is actually sold through a vending machine.

(b) Any library district, municipal library, or county library and any vendor making sales pursuant to a contract with a library district, municipal library, or county library is a consumer of, and shall not be considered a retailer of, photocopies which it sells at retail and which are actually sold through a coin-operated copy machine located at a library facility.

*(Amended by Stats. 1984, Ch. 1468, Sec. 1. Effective September 26, 1984. Operative January 1, 1985, by Sec. 4 of Ch. 1468.)*

**6359.7.** As incidental to the exemption provided for in Section 6359, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of ice or dry ice used or employed in packing and shipping or transporting food products for human consumption when the food products are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers.

*(Added by Stats. 1985, Ch. 1045, Sec. 1. Effective September 27, 1985. Operative January 1, 1986, by Sec. 3 of Ch. 1045.)*

**6359.8.** When fruits or vegetables are shipped or transported in intrastate, interstate, or foreign commerce by common carriers, contract carriers, or proprietary carriers, as an incident to the exemption provided for in Section 6359, there are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of, all of the following:

(a) Carbon dioxide used or employed in packing and shipping or transporting fruits or vegetables for human consumption, when those fruits or vegetables are not sold to the ultimate consumer in a package that contains the carbon dioxide.

(b) Any nonreturnable materials containing the carbon dioxide atmosphere.

*(Added by Stats. 1994, Ch. 624, Sec. 1. Effective September 19, 1994. Operative January 1, 1995, by Sec. 3 of Ch. 624.)*



**6360.** Any organization formed and operated for charitable purposes and qualifying for the welfare exemption from property taxation under Section 214 is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to bracelets designed to commemorate American prisoners of war, which it distributes, whether or not a contribution is made to such organization, where the profits are used solely and exclusively in furtherance of the purposes of such organization.

*(Added by Stats. 1972, Ch. 1176.)*

**6360.1.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a "Buddy Poppy" or any other symbolic, impermanent lapel pin that memorializes United States military veterans killed in foreign wars of the United States, by any corporation established by the Congress of the United States pursuant to Chapter 2301 (commencing with Section 23101) of Title 36 of the United States Code, or any of that corporation's subordinate state or territorial subdivisions, local chapters, posts, or auxiliaries.

*(Amended by Stats. 2006, Ch. 364, Sec. 1.4. Effective January 1, 2007.)*

**6361.** (a) Any organization listed or described in subdivision (b) is a consumer and shall not be considered a retailer within the provisions of this part, of food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization provided, however, that the organization's sales are made on an irregular or intermittent basis, and that the organization's profits from those sales are used exclusively in furtherance of the purposes of the organization.

(b) For purposes of this section, "organization" includes any of the following:

(1) Any nonprofit organization which meets all of the following conditions:

(A) The organization qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code.

(B) The organization's primary purpose is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth.

(C) The organization does not discriminate on the basis of race, sex, nationality, or religion.

(2) (A) Any youth group sponsored by or affiliated with a qualified educational institution, including, but not limited to, any student activity club, athletic group, or musical group.

(B) For purposes of this section, "qualified educational institution" means any of the following:

(i) Any public elementary, secondary, or vocational-technical school providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, operated by state or local government.

(ii) Any nonprofit private educational institution providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, that meets the requirements of the State Department of Education for a school. "Private educational institution" means any entity providing education which satisfies the requirements of state and local laws pertaining to private educational institutions in effect on January 1, 1990, and which does not discriminate on the basis of race, sex, nationality, or religion.

(3) Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner football.

(c) For purposes of this section, "irregular or intermittent" means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. That term includes refreshment stands or booths that are utilized at scheduled events of organized leagues, but does not include storefront or mobile retail outlets which ordinarily require local business licenses.

*(Amended by Stats. 1990, Ch. 116, Sec. 1. Effective June 1, 1990.)*

**6361.1.** (a) Any qualified organization is a consumer of, and shall not be considered a retailer of, tangible personal property if all of the following conditions are met:

(1) The tangible personal property is of a handcrafted or artistic nature and is designed, created, or made by either individuals with developmental disabilities or children with severe emotional disturbances who are members of, or receive services from, the qualified organization.

(2) The price of each item of tangible personal property sold does not exceed twenty dollars (\$20).

(3) The qualified organization's sales are made on an irregular or intermittent basis.

(4) The qualified organization's profits from the sales are used exclusively in furtherance of the purposes of the organization.

(b) For purposes of this section, "qualified organization" means any organization that meets all of the following conditions:

(1) The organization is exempt from taxation pursuant to paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code.

(2) The primary purpose of the organization is to provide services to either individuals with developmental disabilities or children with severe emotional disturbances.

(3) The organization does not discriminate on the basis of race, sex, nationality, or religion.

*(Amended by Stats. 2004, Ch. 183, Sec. 323. Effective January 1, 2005.)*

**6361.5.** Any public or private school, school district, county office of education, or student organization is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to yearbooks and catalogs prepared for or by it and distributed to students.

*(Amended by Stats. 1988, Ch. 205, Sec. 1. Effective June 23, 1988. Operative October 1, 1988, by Sec. 3 of Ch. 205.)*

**6362.3.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of newspapers or periodicals, during the term of a prepaid subscription, if the subscription was entered into and paid for prior to July 15, 1991.

*(Added by Stats. 1991, Ch. 236, Sec. 3.3. Effective July 29, 1991.)*

**6362.5.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, except amounts subject to the taxes imposed by other provisions of this part paid by a customer in connection with the customer's production of master tapes or master records to a recording studio for the tangible elements of such master records or master tapes.

(b) For purposes of this section:

(1) "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

(2) "Amounts paid for the furnishing of the tangible elements" shall not include any amounts paid for the copyrightable, artistic or intangible elements of such master tapes or master records, whether designated as royalties or otherwise including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting "sale" under Section 6006.

(3) "Recording studio" is a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

*(Amended by Stats. 1982, Ch. 951, Sec. 1.)*

**6362.7.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or component part of any newspaper or periodical that is distributed without charge and regularly issued at average intervals not exceeding three months, and any such newspaper or periodical.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier.

(c) For purposes of this section, "periodical" means any publication that appears at stated intervals at least four times per year, but not more than 60 times per year, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. The term does not include printed sales messages, shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period.

*(Amended (as added by Stats. 1991, 1st Ex., Ch. 9) by Stats. 1992, Ch. 903, Sec. 1. Effective September 25, 1992. Operative November 1, 1992, by Sec. 5 of Ch. 903.)*

**6362.8.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property that becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months, or any such newspaper or periodical.

(b) This section shall apply only with respect to any of the following:

(1) Any newspaper or periodical that is published or purchased by an organization that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is distributed to the members of the organization in consideration of payment of the organization's membership fee, or to the organization's contributors.

(2) Any newspaper or periodical that is published by an organization that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and does not receive revenue from, or accept, any commercial advertising.

(3) Any newspaper or periodical distributed by a nonprofit organization for which both of the following apply:

(A) Distribution is to any member of the nonprofit organization in consideration, in whole or in part, of payment of the organization's membership fee.

(B) The amount paid or incurred by the nonprofit organization for the cost of printing the newspaper or periodical is less than 10 percent of the membership fee attributable to the period for which the newspaper or periodical is distributed.

*(Amended by Stats. 1992, Ch. 903, Sec. 3. Effective September 25, 1992. Operative November 1, 1992, by Sec. 5 of Ch. 903.)*

**6363.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, meals and food products for human consumption furnished or served to the students of a school by public or private schools, school districts, student organizations, parent-teacher associations, and any blind person (as defined in Section 19153 of the Welfare and Institutions Code) operating a restaurant or vending stand in an educational institution under Article 5 (commencing with Section 19625) of Chapter 6 of Part 2 of Division 10 of the Welfare and Institutions Code. The term "food products" as used in this section has the meaning ascribed to it in Section 6359.

The exemption provided by this section shall not apply when the meals or food products are sold for consumption within a place, the entrance to which is subject to an admission charge, except for national and state parks and monuments.

*(Amended by Stats. 1971, Ch. 1741, Sec. 5.)*

**6363.2.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, tangible personal property that is sold to a successful bidder at an auction that is conducted by, or affiliated with, a nonprofit organization, if the purpose of that auction is to obtain revenue for the funding of a shelter for homeless individuals and families and those revenues obtained are actually expended for that purpose. For purposes of this section, "nonprofit organization" means an organization that is exempt from taxation under Section 23701d. This section shall not apply to any sale at an auction that is conducted more than once during any 12-month period.

*(Added by Stats. 1994, Ch. 855, Sec. 1. Effective September 27, 1994. Operative January 1, 1995, by Sec. 3 of Ch. 855.)*

**6363.3.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, used pieces of clothing, household items, or other retail items sold by thrift stores operated by a nonprofit organization if the purpose of that thrift store is to obtain revenue for the funding of medical, hospice, or social services to chronically ill individuals, and at least 75 percent of the net income derived from operations of the thrift store are actually expended for the purpose of providing medical, hospice, or social services to the chronically ill.

(b) For purposes of this section, "nonprofit organization" means an organization that provides medical, hospice, or social services to individuals with a chronic, life-threatening illness, as defined in subdivision (c) of Section 1568.01 of the Health and Safety Code, and is exempt from taxation under Section 23701d.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

*(Amended by Stats. 2018, Ch. 741, Sec. 1. (SB 1484) Effective September 23, 2018. Repealed as of January 1, 2029, by its own provisions.)*

**6363.4.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, tangible personal property sold by a thrift store located on a military installation and operated by a designated entity that, in partnership with the United States Department of Defense, provides financial, educational, and other assistance to members of the Armed Forces of the United States, eligible family members, and survivors that are in need.

(b) For purposes of this section, "designated entity" means a military welfare society described in Section 1033 of Chapter 53 of Part II of Subtitle A of Title 10 of the United States Code.

*(Amended by Stats. 2022, Ch. 225, Sec. 1. (SB 1041) Effective August 29, 2022.)*

**6363.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities.

For the purposes of this section, "religious organization" means any organization the property of which is exempt from taxation pursuant to subdivision (f) of Section 3 of Article XIII of the State Constitution.

*(Amended by Stats. 1976, Ch. 1079.)*

**6363.6.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, meals and food products for human consumption furnished or served to and consumed by residents or patients of the following:

(a) A health facility, as defined in Section 1250 of the Health and Safety Code, that holds the license required pursuant to Section 1253, or is exempt from the license requirement pursuant to subdivision (a) of Section 1270, or is operated by the United States.

(b) A community care facility, as defined in Section 1502 of the Health and Safety Code, that holds the license required by Section 1508, or is a residential facility selected by a licensee pursuant to Section 1506 and exclusively used for the reception and care of persons placed by the licensee, or is exempt from the license requirement pursuant to subdivision (f) of Section 1505, or is operated by the United States.

(c) A residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, that holds the license required by Section 1569.10 of the Health and Safety Code or is exempt from the license requirements pursuant to Section 1569.145 of the Health and Safety Code, or is operated by the United States.

(d) Any house or institution supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older, and any housing that primarily serves older persons and that is financed by state or federal programs.

(e) An alcoholism recovery facility, as defined in Section 11834.02 of the Health and Safety Code, that holds the license required by Section 11834.30 of the Health and Safety Code. This subdivision shall apply to meals served by the facility on or after January 1, 1985.

(f) A drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code, that holds the license required by Section 11834.30 of the Health and Safety Code.

*(Amended by Stats. 1995, Ch. 91, Sec. 154. Effective January 1, 1996.)*

**6363.7.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, meals that are delivered to homebound elderly or disabled persons by a nonprofit volunteer home delivery meal provider.

*(Added by Stats. 1995, Ch. 240, Sec. 1. Effective August 1, 1995.)*

**6363.8.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption that are furnished or served by any nonprofit veteran's organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on those functions and activities.

*(Added by Stats. 2003, Ch. 721, Sec. 1. Effective October 9, 2003. Operative April 1, 2004, by Sec. 3 of Ch. 721.)*

**6363.9.** On and after January 1, 2020, there are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, diapers designed, manufactured, processed, fabricated, or packaged for use by infants, toddlers, and children.

*(Amended by Stats. 2021, Ch. 82, Sec. 2. (AB 150) Effective July 16, 2021.)*

**6363.10.** (a) On and after January 1, 2020, there are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, menstrual hygiene products.

(b) For purposes of this section, "menstrual hygiene products" shall only include the following:

- (1) Tampons.
- (2) Sanitary napkins primarily designed and labeled for menstrual hygiene use.
- (3) Menstrual sponges.
- (4) Menstrual cups.

*(Amended by Stats. 2021, Ch. 82, Sec. 3. (AB 150) Effective July 16, 2021.)*

**6364.** There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of and the storage, use, or other consumption in this state of:

(a) Nonreturnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container.

(b) Containers when sold with the contents if the sales price of the contents is not required to be included in the measure of the taxes imposed by this part.

(c) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(d) Containers, when sold or leased without the contents to persons who place food products for human consumption in the container for shipment, provided the food products will be sold, whether in the same container or not, and whether the food products are remanufactured or repackaged prior to sale.

(e) For purposes of this section, "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers."

**6364.5.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, any container used to collect or store human whole blood, plasma, blood products, or blood derivatives that are exempt from taxation pursuant to Section 33, including, but not limited to, blood collection units and blood pack units.

(b) For purposes of this section, "blood collection units" and "blood pack units" include all items that form an integral, interconnected package that, when sold to plasmapheresis centers and blood banks, are used to collect blood or blood components, which are then sold together with the bags and tubing in which they are contained. Blood pack units consist of a plastic bag or bags, tubing, and a needle. Blood collection units are either a manual system that includes a needle, multiple bags, a bag containing saline solution, tubing, filters, grommets, and a pooling bag or an automated system that consists of a needle, a bag of anticoagulant, tubing, a plastic bowl containing a stainless steel centrifuge and a pooling bag. Blood collection units and blood pack units also include plastic bags and tubing sold to plasmapheresis centers when those centers use them to collect blood plasma or platelets and then sell the plasma or platelets together with the bags and tubing in which they are contained.

*(Added by Stats. 1997, Ch. 773, Sec. 1. Effective October 8, 1997. Operative April 1, 1998, by Sec. 3 of Ch. 773.)*

**6365.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, original works of art, which are:

- (1) Purchased by this state or any city, county, city and county, or other local governmental entity;
- (2) Purchased by any nonprofit organization operating any public museum for, and pursuant to contract with, any such governmental entity;
- (3) Purchased by any nonprofit organization which has qualified for exemption pursuant to Section 23701d for one or more museums regularly open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year and operated by the purchaser of such art or operated by another nonprofit organization which has qualified for exemption pursuant to Section 23701d;
- (4) Purchased for donation and actually donated by delivery by the retailer pursuant to the instructions of the buyer to any such governmental entity, or nonprofit organization, and evidenced by a written transfer of title from the buyer to such governmental entity or nonprofit organization; or
- (5) Leased from one nonprofit organization to another nonprofit organization for 35 years or more, if both the lessor and lessee are nonprofit organizations as defined in either paragraph (2) or (3).

(b) The exemption provided by this section shall apply only to works of art purchased to become part of the permanent collection of any of the following:

- (1) A museum.
- (2) A nonprofit corporation which has qualified for exemption pursuant to Section 23701d; regularly loans not less than 85 percent of the value of its collection of works of art to one or more museums; and is required by its articles of incorporation to loan its works of art and is otherwise prohibited by its articles from making any private use of its works of art; provided, that the work of art for which the exemption is claimed pursuant to this section shall actually be placed on display at one or more museums in California for not less than 24 months during the three-year period commencing from the date of purchase.
- (3) Any city, county, city and county, or other local governmental entity and this state which purchases, commissions, or leases from any such governmental entity public art for display to the public in buildings, parks, plazas, or other public places. These areas shall be open to the public not less than 20 hours per week for not less than 35 weeks of the calendar year.

(c) For purposes of this section, "work of art" means a work of visual art, including, but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, film, or photograph, a work of calligraphy, a work of graphic art (including, but not limited to, an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), crafts (including, but not limited to, crafts in clay, textile, fiber, wood, metal, plastic, glass, costume, dress, clothing, personal adornment, and like materials), or mixed media (including, but not limited to, a collage, assemblage, or any combination of the foregoing art media).

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge;

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge.

(e) For the purposes of this section, "permanent collection" as it applies to leases of original works of art, means a collection with a lease term of 35 years or more.

(f) Any public entity or nonprofit organization claiming an exemption pursuant to this section shall maintain records, in such forms as prescribed by the board, sufficient to substantiate its claim. Such records shall include, but not be limited to, the date of purchase, the purchase price, the date the property was first brought into this state, and the dates and locations the work of art was on display at a museum.

*(Amended by Stats. 2006, Ch. 281, Sec. 1. Effective September 14, 2006. Operative January 1, 2007, by Sec. 3 of Ch. 281.)*

**6366.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, the following:

(1) Aircraft sold to any person using the aircraft as a common carrier of persons or property under authority of the laws of this state, of the United States, or of any foreign government, or sold to any foreign government for use by that government outside of this state, or sold to any person who is not a resident of this state and who will not use that aircraft in this state otherwise than in the removal of the aircraft from this state.

(2) (A) A ground control station sold to any foreign government for use by that government outside of this state or sold to any person who is not a resident of this state and who will not use that ground control station in this state otherwise than in the removal of the ground control station from this state.

(B) A "ground control station" means a portable facility used to operate aircraft in the air without a pilot on board. The term includes controls, video equipment, computers, generators, and communications equipment, sold as an integral part of the station, and antennas used to control the aircraft. The term does not include trucks, tractor-trailers, or other devices solely used to transport the station.

(3) Tangible personal property that is purchased on or after October 1, 1996, and becomes a component part of any aircraft described in paragraph (1), as a result of the maintenance, repair, overhaul, or improvement of that aircraft in compliance with Federal Aviation Administration requirements, and any charges made for labor and services rendered with respect to that maintenance, repair, overhaul, or improvement.

(b) With respect to aircraft sold on or after January 1, 1997, it shall be presumed that a person is not engaged in business as a common carrier if the person's yearly gross receipts from the use of the aircraft as a common carrier do not exceed 20 percent of the purchase cost of the aircraft to him or her, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the person is engaged in business as a common carrier.

In no event shall "gross receipts" include compensation by the person or related parties for use of the aircraft as a common carrier.

*(Amended by Stats. 2000, Ch. 923, Sec. 2. Effective January 1, 2001.)*

**6366.1.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of aircraft which are leased, or are sold to persons for the purpose of leasing, to lessees using such aircraft as common carriers of persons or property under authority of the laws of this state, of the United States or any foreign government, or to any foreign government as lessees for use by such government outside the state, or to persons as lessees who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.

(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of tangible personal property sold to an aircraft manufacturer and incorporated into aircraft to be leased by the manufacturer under conditions set forth in subdivision (a) of this section.

(c) With respect to aircraft leased, or sold for the purpose of leasing, on or after January 1, 1997, it shall be presumed that the aircraft is not regularly used in the business of transporting for hire property or persons if the

lessor's yearly gross receipts from the lease of that aircraft to persons using the aircraft as common carriers of property or persons do not exceed 20 percent of the cost of the aircraft to the lessor, or fifty thousand dollars (\$50,000), whichever is less. This presumption may be rebutted by contrary evidence satisfactory to the board showing that the aircraft is regularly used as a common carrier of property or persons.

In no event shall "gross receipts" include compensation by the lessor or related parties for use of the aircraft as a common carrier.

*(Amended by Stats. 2000, Ch. 923, Sec. 3. Effective January 1, 2001.)*

**6366.2.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of any new motor vehicle sold to a purchaser who is a resident of a foreign country and who arranges for the purchase through an authorized vehicle dealer in the foreign country prior to arriving in the United States, if the following conditions are met:

(1) The purchaser is issued an in-transit permit pursuant to Section 6700.1 of the Vehicle Code.

(2) Prior to the expiration of the in-transit permit issued to the purchaser, the retailer ships or drives the motor vehicle to a point outside the United States by means of facilities operated by the retailer, or by delivery to a carrier, customs broker or forwarding agent for shipment to that point.

(b) For purposes of this section, "carrier" means a person or firm engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

*(Added by Stats. 1989, Ch. 762, Sec. 2. Effective September 25, 1989. Operative January 1, 1990, by Sec. 6 of Ch. 762.)*

**6366.3.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption in this state of tangible personal property purchased by the state or any local government entity as part of a public art collection which shall be considered a museum pursuant to paragraph (4) of subdivision (d) or a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided:

(1) The property is purchased to replace property which has been physically destroyed by fire, flood, earthquake, or other calamity;

(2) The property is purchased and used exclusively for display purposes within such museum; and

(3) The property is purchased within three years from the date the calamity occurred.

(b) The aggregate amount of the exemption provided by this section shall not exceed the value of the property destroyed on the date the calamity occurred.

(c) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.

(d) For purposes of this section, a "museum" shall only include:

(1) A museum which has a significant portion of its space open to the public without charge; or

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public; or

(3) A museum which is open to a segment of the student or adult population without charge; or

(4) A public art collection if that art work is on display in a space which is open to the public without charge.

*(Amended by Stats. 1987, Ch. 1266, Sec. 2. Effective September 28, 1987. Operative January 1, 1988, by Sec. 4 of Ch. 1266.)*

**6366.4.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property purchased by a nonprofit museum



regularly open to the public that is operated by or for a local or state government entity, or operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided the property is purchased and used exclusively for display purposes within the museum.

(b) The exemption provided by this section extends only to items that have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum. However, the exemption does include sprung instant structures used as temporary exhibit housing.

(c) For purposes of this section, a "museum" includes only any of the following:

(1) A museum that has a significant portion of its space open to the public without charge.

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public.

(3) A museum that is open to a segment of the student or adult population without charge.

(d) This section applies only to the San Diego Air & Space Museum and the California Science Center.

*(Amended by Stats. 2017, Ch. 561, Sec. 226. (AB 1516) Effective January 1, 2018.)*

**6366.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, endangered or threatened animal or plant species, as defined in subdivision (b) of Section 6010.50 if both the seller and the purchaser are nonprofit zoological societies as defined in subdivision (c) of Section 6010.50.

*(Amended by Stats. 1994, Ch. 771, Sec. 3. Effective September 26, 1994. Operative January 1, 1995, by Sec. 5 of Ch. 771.)*

**6367.** There are exempted from the taxes imposed by this part the gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale. This exemption does not apply to the gross receipts from the sale of, or to the storage, use, or other consumption in this state of, a mobilehome or commercial coach required to be annually registered under the Health and Safety Code, a vessel or aircraft, as defined in Article 1 (commencing with Section 6271) of Chapter 3.5 of this part, or a vehicle required to be registered under the Vehicle Code or a vehicle required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code or a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code. This section shall not preclude the exemption afforded under Section 6281.

*(Amended by Stats. 2000, Ch. 861, Sec. 6.4. Effective September 29, 2000. Operative December 31, 2001, pursuant to Sec. 67 of Ch. 861.)*

**6368.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft and any sales of tangible personal property becoming a component part of that watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to that constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The watercraft is for use in interstate or foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The watercraft is functionally used 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars (\$20,000) a year.

(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in interstate or foreign commerce involving the transportation for hire of property or persons, if the yearly gross receipts of the person using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to him or her, or twenty-five thousand dollars (\$25,000), whichever is less.

*(Amended by Stats. 1991, Ch. 236, Sec. 3.5. Effective July 29, 1991.)*

**6368.1.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of watercraft which are leased, or are sold to persons for the purpose of leasing, and any sales of tangible personal property becoming a component part of such watercraft in the course of constructing, repairing, cleaning, altering, or improving the same, and charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving, if any of the following conditions are met:

(1) The lessee uses the watercraft in interstate and foreign commerce involving the transportation of property or persons for hire.

(2) The watercraft is for use in commercial deep sea fishing operations outside the territorial waters of this state by persons who are regularly engaged in commercial deep sea fishing.

(3) The lessee functionally uses the watercraft 80 percent or more of the time in the transporting for hire of property or persons to vessels or offshore drilling platforms located outside the territorial waters of this state.

(b) For purposes of this section, it shall be rebuttably presumed that a person is not regularly engaged in the business of commercial deep sea fishing if the person has gross receipts from commercial fishing operations of less than twenty thousand dollars (\$20,000) a year.

(c) For purposes of this section, it shall be rebuttably presumed that the watercraft is not regularly used in the business of transporting for hire property or persons, if the yearly gross receipts of the lessor from the lease of that watercraft to persons using that watercraft in the transportation of property or persons do not exceed 10 percent of the cost of that watercraft to the lessor, or twenty-five thousand dollars (\$25,000), whichever is less.

*(Amended by Stats. 1991, Ch. 236, Sec. 4. Effective July 29, 1991.)*

**6368.2.** (a) On or after January 1, 2023, there are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle sold to a qualified buyer.

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

(1) "Qualified motor vehicle" means a vehicle for which a grant letter is awarded to the qualified buyer under the Clean Cars 4 All Program established by Section 44124.5 of the Health and Safety Code.

(2) "Qualified buyer" means an individual to whom an award letter or other approval documentation was issued by any entity implementing the Clean Cars 4 All Program indicating that their application was approved for a grant under the Clean Cars 4 All Program.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(d) For the purposes of complying with Section 41, the Legislature finds and declares all of the following:

(1) The specific goal, purpose, and objective that the exemption will achieve is to increase the number of low-income California drivers participating in the Clean Cars 4 All Program and to encourage those drivers to scrap their older, high-polluting car and replace it with a zero- or near-zero emission vehicle.

(2) Detailed performance indicators measure whether the exemption meets the goal, purpose, and objective described in paragraph (1) are the following:

(A) The number of taxpayers exempting the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, a qualified motor vehicle sold to a qualified buyer under the Clean Cars 4 All Program pursuant to this section.

(B) The total dollar amount of moneys exempted under this section.

(C) The total number of qualified buyers in each tax bracket for whom a taxpayer claimed an exemption under this section.

(3) On or before March 1, 2024, and annually thereafter, the California Department of Tax and Fee Administration shall analyze the performance indicators in paragraph (2) and shall report its findings, in compliance with Section 9795 of the Government Code, to the Legislature.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

*(Added by Stats. 2022, Ch. 375, Sec. 5. (SB 1382) Effective January 1, 2023. Repealed as of January 1, 2028, by its own provisions.)*

**6368.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this State of rail freight cars for use in interstate or foreign commerce.

*(Added by Stats. 1963, Ch. 749.)*

**6368.7.** There are exempted from the taxes imposed by this part, the gross receipts from the sale and the storage, use, or other consumption of passenger transportation vehicles, including, but not limited to, rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats, sold or leased to the Department of Transportation by a person who received title to the property from the Department of Transportation pursuant to Article 4 (commencing with Section 14060) of Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code.

*(Added by Stats. 1984, Ch. 1510, Sec. 3. Effective September 28, 1984.)*

**6368.8.** (a) On or after the effective date of the act adding this section, there are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, qualified tangible personal property purchased by the City of Santa Monica.

(b) For purposes of this section, "qualified tangible personal property" means the 500 bicycles purchased by the City of Santa Monica in calendar year 2015.

(c) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

*(Added by Stats. 2018, Ch. 397, Sec. 1. (AB 2938) Effective September 14, 2018. Repealed as of January 1, 2025, by its own provisions.)*

**6368.9.** (a) There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, qualified equipment purchased by a qualified person at the end of the term of a lease or sublease of qualified equipment pursuant to any exercise of a purchase option under the lease or sublease, provided the following conditions are satisfied:

(1) As of the date the lease or sublease was entered into, the qualified person and qualified equipment were otherwise eligible for exemption under Section 6368.8, as that section read on that same date.

(2) The lease or sublease was entered into before the repeal date of Section 6368.8.

(b) For purposes of this section, "qualified equipment" and "qualified person" have the same meanings as defined in Section 6368.8, as that section read on the date the lease or sublease was entered into.

(c) This section shall only become operative if Section 6368.8 is repealed and, in that event, shall become operative on the date that section is repealed.

*(Added by Stats. 2003, Ch. 597, Sec. 2. Effective September 29, 2003. Adding action operative January 1, 2004, by Sec. 4 of Ch. 597. Section operative January 1, 2009 (repeal date of Section 6368.8), by its own provisions.)*

**6369.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law.

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his or her own patient for treatment of the patient.

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist.

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(6) Furnished without charge by a pharmaceutical manufacturer or distributor to a licensed physician, surgeon, dentist, podiatrist, or health facility for the treatment of a human being, or furnished by a pharmaceutical manufacturer or distributor without charge to an institution of higher education for instruction or research, provided that the exemption provided in this paragraph is limited to medicines of a type that can be dispensed only (A) for the treatment of a human being and (B) pursuant to prescriptions issued by persons authorized to prescribe medicines. The exemption provided in this paragraph shall include the materials used to package, and the constituent elements and ingredients used to produce, the medicines described in this paragraph and is intended to preclude any imposition of tax pursuant to Section 6094 or 6095 with respect to those materials, elements, and ingredients.

(b) "Medicines" as used in this section, means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and commonly recognized as a substance or preparation intended for that use. However, "medicines" does not include any of the following:

(1) Any auditory, prosthetic, ophthalmic, or ocular device or appliance.

(2) Articles that are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical, or physical equipment or article or the component parts and accessories thereof.

(3) Any alcoholic beverage the manufacture, sale, purchase, possession, or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section means and includes any of the following:

(1) Sutures, whether or not permanently implanted.

(2) Bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body.

(3) (A) Orthotic devices, other than orthodontic devices, designed to be worn on the person of the user as a brace, support, or correction for the body structure, and replacement parts for these devices. However, orthopedic shoes and supportive devices for the foot are not exempt unless they are custom-made biomechanical foot orthoses or are an integral part of a leg brace or artificial leg.

(B) For purposes of this paragraph, "custom-made biomechanical foot orthoses" means an individually prescribed foot orthosis which is custom fabricated over a neutral or near neutral subtalar joint with a pronated midtarsal joint position positive plaster model of the patient's foot, which model, when the cast is modified to support the osseous position of the forefoot in relationship to the rearfoot, embodies the angular osseous relationships of the anterior and posterior portions of the foot.

(4) Prosthetic devices, and replacement parts for those devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, ophthalmic, and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth, and other dental prosthetic materials and devices.

(5) Artificial limbs and eyes, or their replacement parts, for human beings.

(6) Programmable drug infusion devices to be worn on or implanted in the human body.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code, and also includes any "clinic" as defined in Section 1200 of the Health and Safety Code.

(e) Insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for these devices, furnished pursuant to the written order of a physician or podiatrist, shall be deemed to be dispensed on prescription within the meaning of paragraph (1) of subdivision (a), whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

*(Amended by Stats. 2001, Ch. 706, Sec. 1. Effective October 11, 2001. Operative April 1, 2002, by Sec. 4 of Ch. 706.)*

**6369.1.** There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use or other consumption, in this state of hemodialysis products supplied to a patient on order of a licensed physician and surgeon pursuant to Section 4050.7 or 4227 of the Business and Professions Code and which constitute medicines as defined in Section 6369.

*(Added by Stats. 1972, Ch. 1336.)*

**6369.2.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of wheelchairs, crutches, canes, quad canes, white canes used by the legally blind, and walkers, and replacement parts for these devices, when sold to an individual for the personal use of that individual as directed by a physician.

*(Amended by Stats. 1992, Ch. 622, Sec. 1. Effective September 14, 1992. Operative January 1, 1993, by Sec. 3 of Ch. 622.)*

**6369.4.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of items and materials when used to modify a vehicle for physically handicapped persons.

(b) In the case of the sale of a modified vehicle described in subdivision (a) to a disabled person who is eligible to be issued a distinguishing license plate or placard for parking purposes pursuant to Section 22511.5 of the Vehicle Code, there are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption attributable to that portion of the vehicle which has been modified for physically handicapped persons.

(c) For purposes of this section, on and after July 1, 2020, and before July 1, 2030, "physically handicapped persons" shall include eligible persons with a severe burn injury, as those terms are defined in Section 3901(1) of Title 38 of the United States Code.

*(Amended by Stats. 2019, Ch. 317, Sec. 1. (AB 1257) Effective September 20, 2019.)*

**6369.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale, and the storage, use, or other consumption, in this state of any medical oxygen delivery system, including, but not limited to, liquid oxygen containers, high pressure cylinders, and regulators, when sold, leased, or rented to an individual for the personal use of that individual as directed by a physician.

*(Amended by Stats. 1984, Ch. 1450, Sec. 1. Effective September 26, 1984.)*

**6369.6.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medicinal cannabis or medicinal cannabis products as those terms are defined in Division 10 (commencing with Section 26000) of the Business and Professions Code when a person with an identification card or primary caregiver furnishes the seller with both their card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

(b) For purposes of this section, "person with an identification card" and "primary caregiver" have the same meanings as those terms are defined in Section 11362.7 of the Health and Safety Code.

*(Added by Stats. 2022, Ch. 56, Sec. 12. (AB 195) Effective June 30, 2022.)*

**6369.7.** (a) On and after January 1, 2019, and before January 1, 2025, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, building materials and supplies purchased by a qualified person for use by that qualified person in the construction of a qualified facility.

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

(1) (A) "Building materials and supplies" includes any machinery, equipment, materials, accessories, appliances, contrivances, furniture, fixtures, and all technical equipment or other tangible personal property of any other nature or description that meet all of the following:

(i) Are necessary to construct and equip a qualified facility.

(ii) Become part of the completed facility.

(iii) Are transferred to the United States Department of Defense or the United States Department of Veterans Affairs as a gift described in paragraph (3).

(B) "Building materials and supplies" shall not include any tools or construction equipment other than those specified in subparagraph (A) that a qualified person uses in construction activities, specifically including construction of a qualified facility.

(2) "Qualified facility" means either of the following:

(A) A medical facility, or a temporary residential facility for families of patients receiving care, including either or both inpatient and outpatient care, at a medical facility, located on a United States military base in California.

(B) A United States Department of Veterans Affairs medical center, or a temporary residential facility for families of patients receiving care at or as part of a United States Department of Veterans Affairs medical center, located in California.

(3) "Qualified nonprofit organization" means an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that constructs a qualified facility as a gift to the United States Department of Defense pursuant to Section 2601 of Title 10 of the United States Code or the United States Department of Veterans Affairs pursuant to Section 8301 of Title 38 of the United States Code.

(4) "Qualified person" means either or both of the following:

(A) A qualified nonprofit organization.

(B) A contractor, subcontractor, or builder working under contract with a qualified nonprofit organization to construct a qualified facility.

(c) The exemption provided by this section shall only apply to sales and purchases that occur after the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the offer of the qualified nonprofit organization to construct the qualified facility and on or before the date the United States Department of Defense or the United States Department of Veterans Affairs accepts the qualified facility.

(d) (1) An exemption shall not be allowed under this section with respect to sales by, or purchases from, a retailer engaged in business in this state or from a retailer that is authorized by the California Department of Tax and Fee Administration, under the rules and regulations as it may prescribe, to collect the tax and that is, for the purposes of this part relating to the use tax, regarded as a retailer engaged in business in this state, unless the purchaser furnishes the retailer with an exemption certificate completed in accordance with any instructions or regulations as the California Department of Tax and Fee Administration may prescribe and the retailer retains a copy of the exemption certificate in its records and furnishes the copy of the exemption certificate to the California Department of Tax and Fee Administration upon request.

(2) If a purchaser furnishes the retailer with a copy of an exemption certificate pursuant to paragraph (1), but uses building materials and supplies purchased with the exemption certificate in a manner not qualifying for the exemption, the purchaser is liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the building materials and supplies at the time the property is so used, and the cost of the building materials and supplies to the purchaser shall be deemed the gross receipts from that retail sale.

*(Amended by Stats. 2021, Ch. 432, Sec. 13. (SB 824) Effective January 1, 2022.)*

**6370.** (a) This section applies to each of the following:

(1) Nonprofit parent-teacher associations chartered by the California Congress of Parents, Teachers, and Students, Incorporated, and equivalent organizations performing the same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.

(2) Nonprofit parent cooperative nursery schools.

(3) Nonprofit associations commonly called The Friends of the Library, and equivalent organizations performing auxiliary services to any library district, municipal library, or county library in the state, which are authorized to operate within the library by the governing authority of the library.

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells, if the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

*(Amended by Stats. 1987, Ch. 1213, Sec. 1. Effective September 27, 1987. Operative January 1, 1988, by Sec. 3 of Ch. 1213.)*

**6370.5.** (a) This section applies to nonprofit associations and equivalent organizations performing auxiliary services to any city or county museum in the state, which are authorized to operate within the museum by the governing authority of the museum and have held an annual rummage sale for at least five consecutive years immediately preceding the sale referred to in subdivision (b).

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells at an annual rummage sale; provided, the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

*(Added by Stats. 1982, Ch. 1168, Sec. 1.)*

**6371.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption of, medical identification tags furnished by an organization which is exempted from taxes under Section 23701.

(b) For purposes of this section, "medical identification tags" includes any tag worn by a person for the purpose of alerting other persons that the wearer of the tag has a medical disability or allergic reaction to certain treatments.

*(Amended by Stats. 1993, Ch. 88, Sec. 1. Effective January 1, 1994.)*

**6373.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of tangible personal property the gross receipts of which are received in the form of CalFresh benefits acquired by the purchaser pursuant to the federal Food and Nutrition Act of 2008 (Chapter 51 (commencing with Section 2011) of Title 7 of the United States Code), including subsequent amendments thereto.

(b) When the gross receipts from a sale of tangible personal property are received partly in the form of cash and partly in the form of CalFresh benefits, the amount of the CalFresh benefits shall be attributed first to gross receipts which would have been subject to the taxes imposed by this part if payment were not received in the form of CalFresh benefits.

(c) A retailer shall not add to the sale price of tangible personal property any amount designated as sales tax, use tax, or sales tax reimbursement when the sale is exempt pursuant to this section.

(d) In lieu of separately accounting for gross receipts which are exempt pursuant to this section and taking a deduction on sales tax returns for the exact amount of those gross receipts, the board may provide, for the efficient administration of this part, an alternative method that retailers may use to compute the allowable deduction for the total amount of CalFresh benefits redeemed during the period for which the return is filed, provided that method results in a deduction the amount of which is at least equal to 2 percent of the total amount of CalFresh benefits redeemed.

(e) This section is repealed on the first day of the first calendar month immediately following the effective date of any federal act which repeals those provisions which prohibit the state from participating in the federal Supplemental Nutrition Assistance Program if sales taxes are imposed within the state on purchases made with CalFresh benefits.

*(Amended by Stats. 2011, Ch. 227, Sec. 17. (AB 1400) Effective January 1, 2012. Repealed conditionally by its own provisions.)*

**6374.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage use or other consumption in this state, of meals and food products for human consumption furnished or served to low-income elderly persons at or below cost by a nonprofit organization or governmental agency under a program funded by this state or the United States for such purposes.

*(Added by Stats. 1972, Ch. 877.)*

**6375.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of, tangible personal property made, prepared, assembled, or manufactured by organizations formed and operated for charitable purposes qualifying for the exemption provided by Section 214 known as the "welfare exemption," which are engaged in the relief of poverty and distress, and make the sales and donations as a matter of assistance to the purchasers and donees.

*(Amended by Stats. 1989, Ch. 1447, Sec. 1. Effective October 2, 1989. Operative January 1, 1990, by Sec. 3 of Ch. 1447.)*

**6375.5.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children's clothing that is sold to a nonprofit organization for its distribution without charge to elementary schoolchildren.

(b) For purposes of this section, "nonprofit organization" means an organization that meets all of the following requirements:

- (1) Is organized and operated for charitable purposes.
- (2) Has exempt status under Section 23701d.
- (3) Is engaged in the relief of poverty and distress.
- (4) Distributes new children's clothing principally as a matter of assistance to recipients in distressed financial conditions.

(c) This section shall become operative on January 1, 2014.

*(Repealed (in Sec. 1) and added by Stats. 2007, Ch. 317, Sec. 2. Effective October 8, 2007. Adding action operative January 1, 2008, by Sec. 4 of Ch. 317. Added section operative January 1, 2014, by its own provisions.)*

**6376.** (a) From December 1, 1989 to December 31, 1990, there are exempted from 5 percent of the taxes imposed by this part, the gross receipts from the sale of and the storage, use, or other consumption in this state of material, fixtures, and supplies if the sale, storage, use or other consumption in this state of the material, fixtures, or supplies are obligated pursuant to an engineering construction project contract or a building construction contract entered into for a fixed price prior to the effective date of this section.

(b) From December 1, 1989 to December 31, 1990, inclusive, there is exempted from 5 percent of the taxes imposed by this part, a lease of tangible personal property which is a continuing sale and purchase of that property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the effective date of this section.

(c) For the purposes of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the right to terminate the contract or lease upon notice, whether or not that right is exercised.

*(Added by Stats. 1989, 1st Ex. Sess., Ch. 14, Sec. 4. Effective November 7, 1989.)*

**6376.1.** (a) On and after July 15, 1991, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a  $\frac{1}{4}$  percent rate of tax with respect to the following:

- (1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:
  - (A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.
  - (B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.
  - (C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.



(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) From July 15, 1991, to the date on which the taxes imposed by Sections 6051.2 and 6201.2 cease to be operative pursuant to subdivision (b) of Section 6051.2 or subdivision (b) of Section 6201.2, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a one-half of 1 percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in this state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(c) From July 15, 1991, to the date the taxes imposed by Sections 6051.5 and 6201.5 cease to be operative, there is exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a  $\frac{1}{2}$  percent rate of tax with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of the following:

(A) Tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(B) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 15, 1991.

(C) For purposes of this section, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated

pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(d) On and after July 15, 1991, there is exempted from the taxes imposed by this part an amount equal to the tax imposed by this part on July 14, 1991, with respect to the sale or purchase of any tangible personal property that was exempt prior to the enactment of the act adding this section, with respect to the following:

(1) The gross receipts from the sale of and the storage, use, or other consumption in the state of tangible personal property if the seller is obligated to furnish or the purchaser is obligated to purchase, the property for a fixed price pursuant to a contract entered into prior to July 15, 1991.

(2) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 15, 1991. For the purposes of this paragraph, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(3) The possession of, or the exercise of any right or power over, tangible personal property under a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 15, 1991. For purposes of this paragraph, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

*(Amended by Stats. 2006, Ch. 538, Sec. 616. Effective January 1, 2007.)*

**6376.2.** From July 1, 1993, to the date on which the taxes imposed by Sections 6051.6 and 6201.6 cease to be operative, there are exempted from the taxes imposed by this part an amount equal to an amount that is attributable to a  $\frac{1}{2}$  percent rate of tax with respect to the following:

(a) The gross receipts from the sale of, and the storage, use, or other consumption in this state of, the following:

(1) Tangible personal property, if the seller is obligated to furnish or the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to July 1, 1993.

(2) Materials and fixtures obligated pursuant to an engineering construction contract or a building construction contract entered into for a fixed price prior to July 1, 1993.

For purposes of this subdivision, tangible personal property shall not be deemed obligated pursuant to a contract for any period of time for which any party to the contract has the right to terminate the contract upon notice, whether or not the right is exercised.

(b) A lease of tangible personal property that is a continuing sale of the property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to July 1, 1993. For purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not that right is exercised.

(c) The possession of, or the exercise of, any right or power over tangible personal property pursuant to a lease that is a continuing purchase of the property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to July 1, 1993. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

*(Added by Stats. 1993, Ch. 73, Sec. 5. Effective June 30, 1993.)*

**6376.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of meals and food products for human consumption furnished to and consumed by persons 62 years of age or older residing in a condominium and who own equal shares in a common kitchen facility; provided, that the meals and food products are served to such persons on a regular basis.  
*(Added by Stats. 1980, Ch. 645, Sec. 1. Effective July 20, 1980. Operative January 1, 1981, by Sec. 4 of Ch. 645.)*

**6377.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, any zero-emission technology transit bus sold to a city, county, city and county, transportation or transit district, or other public agency that provides transit services to the public that is eligible for the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project funded by the Air Quality Improvement Program, the General Fund, and the Greenhouse Gas Reduction Fund under the State Air Resources Board.

(b) For purposes of this section, all of the following definitions shall apply:

- (1) "Articulated bus" means a 54-foot to 60-foot bus with two connected passenger compartments.
- (2) "Bus" means a rubber-tire vehicle designed to transport passengers by road with a gross vehicle weight rating greater than 14,000 pounds.
- (3) "Cutaway bus" means a vehicle in which a bus body designed to transport passengers is mounted on the chassis of a van or light- or medium-duty truck chassis, and that has a gross vehicle weight rating greater than 14,000 pounds, but not more than 26,000 pounds. A cutaway bus includes an original van or light- or medium-duty truck chassis that has been reinforced or extended. Accommodating some standing passengers does not disqualify a cutaway bus from being considered a transit bus for the purposes of this section.
- (4) "Double-Decker bus" means a high-capacity bus that has two levels of seating, one over the other, connected by one or more stairways, of a height that is at least 13 feet, and carries between 40 to 80 people.
- (5) "Over-The-Road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment used for long-distance bus services or connecting outlying areas with central cities with limited stops.
- (6) "Shuttle bus" means a commercial vehicle with a gross vehicle weight rating of 8,501 pounds or greater, sized Class 2b through Class 8, that transports passengers in a fixed destination route.
- (7) "Transit bus" means an articulated bus, bus, cutaway bus, double-decker bus, over-the-road bus, shuttle bus, or trolley bus.
- (8) "Trolley bus" means a rubber-tired, electrically powered passenger vehicle operated on city streets drawing power from overhead wires using trolley poles.

(c) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by subdivision (a) does not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(d) This section shall become inoperative on January 1, 2026, and as of that date is repealed.

*(Amended by Stats. 2022, Ch. 353, Sec. 1. (AB 2622) Effective September 16, 2022. Repealed as of January 1, 2026, by its own provisions.)*

**6377.1.** (a) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2030, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1) or (2).

(4) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, the generation or production, or storage and distribution, of electric power, or as a research or storage facility for use in connection with those processes.

(5) Qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power.

(b) For purposes of this section:

(1) "Department" means the California Department of Tax and Fee Administration.

(2) "Fabricating" means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(3) "Generation or production" means the activity of making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

(4) "Manufacturing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(5) "Primarily" means 50 percent or more of the time.

(6) "Process" means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(7) "Processing" means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(8) (A) "Qualified person" means:

(i) Prior to January 1, 2018, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ii) On and after January 1, 2018, and before July 1, 2030, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 221111 to 221118, inclusive, 221122, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) Notwithstanding subparagraph (A), "qualified person" shall not include either of the following:

(i) Prior to January 1, 2018, an apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128 or a trade or business conducted wholly within this

state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(ii) On and after January 1, 2018, and before July 1, 2030, an apportioning trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(9) (A) "Qualified tangible personal property" includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) (I) Prior to January 1, 2018, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(II) On and after January 1, 2018, and before July 1, 2030, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes, or the generation or production or storage and distribution of electric power. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) "Qualified tangible personal property" shall not include any of the following:

(i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product.

(11) "Research and development" means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(12) "Storage and distribution" means storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.

(13) (A) "Useful life" for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. "Useful life" for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section. For the purposes of this paragraph, tangible personal property that is deducted under Sections 17201 and 17255 or Section 24356 shall be deemed to have a useful life of one or more years.

(B) The department shall cancel any outstanding and unpaid deficiency determination and any related penalties and interest and shall not issue any deficiency determination or notice of determination, with respect to unpaid sales and use tax on qualified property with a useful life, as defined in subparagraph (A), that was purchased or leased on or after July 1, 2014, and before January 1, 2018. Any amounts paid by a qualified person pursuant to such determination shall be refunded by the department to the qualified person. Any

cancellation or refund described in this subparagraph is contingent upon a qualified person making a request to the department, in a manner prescribed by the department, by June 30, 2018.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the department may prescribe, and the retailer retains the exemption certificate in its records and furnishes it to the department upon request.

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2 or 6201.2, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) The exemption provided by this section shall not apply to either of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars (\$200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars (\$200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar (\$200,000,000) limitation described in subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is so purchased, removed, converted, or used, and the cost of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section shall apply to leases of qualified tangible personal property classified as "continuing sales" and "continuing purchases" in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) (A) No later than each May 1 next following a calendar year for which this section provides an exemption, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the Department of Finance's estimate in paragraph (1) for that same calendar year.

(B) (i) No later than each May 1 next following calendar years 2018 to 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken pursuant to subdivision (a) for sales to, or purchases by, qualified persons described in clause (ii) for the immediately preceding calendar year.

(ii) The report required under this subparagraph shall only include the revenue value of the total dollar amount of exemptions allowed to the following:

(I) A qualified person that is primarily engaged in those lines of business described in Codes 221111 to 221118, inclusive, and 221122 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(II) A qualified person that is both of the following:

(ia) A person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, and 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ib) A person that is an apportioning trade or business as described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business as described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(C) No later than each May 1 next following calendar years 2022 through 2030, inclusive, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the revenue value of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year, and for calendar year 2022, the period shall cover July 1 to December 31, 2022.

(3) (A) An amount that equals the revenue value of the total dollar amount of exemptions, as reported by the department pursuant to subparagraph (B) of paragraph (2), with the concurrence of the Department of Finance, shall be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each June 30 next following the calendar year described in subparagraph (B) of paragraph (2). Any amount attributable to any cancellations the department made of any outstanding and unpaid deficiency determinations and any refunds under subparagraph (B) of paragraph (13) of subdivision (b) shall be excluded from the transfer of the amount described in subparagraph (B). The transfers to the General Fund shall be accrued to the fiscal year in which the revenue loss occurred.

(B) (i) For calendar years 2022 through 2030, inclusive, an amount not to exceed the difference between the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (C) of paragraph (2), and the revenue value of the total dollar amount of exemptions as reported by the department pursuant to subparagraph (B) of paragraph (2), may be transferred from the Greenhouse Gas Reduction Fund to the General Fund, no later than each July 31 following that calendar year described in subparagraph (C) of paragraph (2). The transfers to the General Fund shall be accrued proportionally to the fiscal year in which the revenue loss occurred.

(ii) The amount transferred under this subparagraph for each fiscal year shall be as determined by the Director of Finance, unless a different amount is otherwise specified in the Budget Act for that fiscal year.

(4) For purposes of this subdivision, the "revenue value" of an amount of exemptions shall mean the estimated revenue loss to the General Fund from the allowance of those exemptions.

(h) This section is repealed on January 1, 2031.

*(Amended by Stats. 2018, Ch. 37, Sec. 60. (AB 1817) Effective June 27, 2018. Repealed as of January 1, 2031, by its own provisions.)*

**6378.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Tangible personal property purchased for use by a qualified person to be used primarily in teleproduction or other postproduction services.

(2) Tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any property described in paragraph (1).

(b) This exemption shall not apply to any tangible personal property that is used primarily in administration, general management, or marketing.

(c) For purposes of this section:

(1) "Primarily" means tangible personal property used 50 percent or more of the time in an activity described in subdivision (a).

(2) "Qualified person" means any person that is primarily engaged in teleproduction or other postproduction activities that are described in Code 512191 of the North American Industry Classification System Manual published by the United States Office of Management and Budget, 1997 edition.

(3) "Teleproduction or other postproduction services" means services for film or video that include editing, film and video transfers, transcoding, dubbing, subtitling, credits, close captioning, audio production, special effects (visual or sound), graphics, or animation.

(4) "Tangible personal property" includes, but is not limited to, all of the following:

(A) Machinery and equipment, including component parts.

(B) All equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, without limitation, computers, data processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the taxpayers or another party.

(5) "Tangible personal property" does not include furniture, inventory, or equipment used to store products.

(d) No exemption shall be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the board may prescribe, and the retailer subsequently furnishes the board with a copy of the exemption certificate. The exemption certificate shall contain the sales price of the machinery and equipment that is exempt pursuant to subdivision (a).

(e) (1) Notwithstanding any provision of the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by the section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of these laws.

(2) The exemption established by this section shall not apply with respect to any tax levied pursuant to Sections 6051.2 and 6201.2, or pursuant to Section 35 of Article XIII of the California Constitution.

(3) The exemption established by this section shall not apply to any sale or use of property that, within one year from the date of purchase, is either removed from California or converted from an exempt use under subdivision (a) to some other use not qualifying for the exemption.

(f) If a purchaser certifies in writing to the seller that the property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and within one year from the date of purchase, the purchaser (1) removes that property outside California, (2) converts that property for use in a manner not qualifying for the exemption, or (3) uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the property at the time the property is so removed, converted, or used, and the sales price of the property to the purchaser shall be deemed the gross receipts from that retail sale.

*(Added by Stats. 1998, Ch. 323, Sec. 6. Effective August 20, 1998. Operative January 1, 1999, by Sec. 35 of Ch. 323.)*

**6379.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of any used mobilehome, as defined in Section 18014 of the Health and Safety Code, which is subject to property tax pursuant to Part 13 (commencing with Section 5800) of Division 1, or any used floating home, defined and subject to tax pursuant to Section 229.

*(Amended by Stats. 1986, Ch. 308, Sec. 14.)*

**6379.5.** There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services printed to the special order of the purchaser and mailed or delivered by the seller, the seller's agent, or a mailing house, acting as the agent for the purchaser, through the United States Postal Service or by common carrier to any other person at no cost to that person who becomes the owner thereof.

*(Added by Stats. 1986, Ch. 1515, Sec. 1. Effective September 30, 1986. Operative January 1, 1987, by Sec. 4 of Ch. 1515.)*



**6379.8.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, mailing lists, if the contract regarding that mailing list restricts the purchaser to a single use of the mailing list.

(b) For purposes of this section, "mailing list" means a written or printed list, series, set, group, or aggregation of names and addresses of, and occasionally, other information concerning persons, including, but not limited to, potential customers or donors, that is intended for use in circulating material by mail. A mailing list may be in the form of a manuscript list, directory, Cheshire tape, Dick tape, gummed labels, index cards, or other similar means of communication. "Mailing list" also includes a magnetic tape or similar device used to produce written or printed names and addresses by electronic or mechanical means.

*(Added by Stats. 1993, Ch. 498, Sec. 1. Effective September 27, 1993. Operative January 1, 1994, by Sec. 3 of Ch. 498.)*

**6380.** (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, qualified property for use in space flight.

(b) For purposes of this section:

(1) "Qualified property" means any of the following:

(A) Tangible personal property that has space flight capability, including, but not limited to, an orbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind, and any component thereof.

(B) Tangible personal property to be placed or used aboard any facility, system, vehicle, satellite, or station described in subparagraph (A), regardless of whether that property is to be ultimately returned to this state for subsequent use, storage, or other consumption.

(C) Fuel of a quality that is not adaptable for use in ordinary motor vehicles, but is produced, sold, and used exclusively for space flight.

(2) "Space flight" means any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind.

(c) The exemption established by this section shall not be denied by reason of a failure, postponement, or cancellation of a launch of a space vehicle, satellite, space facility, or space station of any kind, or the destruction of any launch vehicle or any component thereof, but the exemption shall not apply to any material that is not intended to be launched into space.

*(Amended by Stats. 1998, Ch. 323, Sec. 7. Effective August 20, 1998. Operative January 1, 1999, by Sec. 35 of Ch. 323.)*