



Special Legislative Update ■ April 8, 2020

Summing Up Actions that Impact the Sales and Use Tax

The Newsom Administration has taken some actions that will impact the receipt and allocation of sales and use taxes. Below, we summarize and further explain the processes associated with each of these recent actions along with the expected effect on local agencies.

First, Governor Newsom issued Executive Order [N-40-20](#), an omnibus executive order that included a number of provisions meant to provide relief to California small businesses (among other things). Notably, this executive order authorizes the California Department of Tax and Fee Administration (CDTFA) to provide a 90-day extension on the filing of sales and use tax payments and tax returns for those businesses filing a return of less than \$1 million. This means that small businesses will have until the end of July to file their returns.

For local agencies, this extension means that revenue from eligible retailers that would normally be received in May, June, and July will instead come in August/September, as the order authorizes the deferral of any payment due from the effective date of the order (March 30, 2020) through July 31, 2020.

Second, Governor Newsom announced that he had directed the California Department of Tax and Fee Administration (CDTFA) to provide assistance to small businesses (with taxable sales of \$5 million or less) in the state, including allowing small businesses to defer remittance of their sales and use taxes for up to one year to July 2021. The state estimates that about 360,000 filers will be eligible for deferral of up to \$50,000 at an estimated total cost of \$3 billion, in what is essentially an interest-free loan from the state and local agencies. Retailers taking advantage of this assistance will be required to provide a monthly payment of 1/12th the amount owed starting July 2020 through July 2021.

Local agencies, of course, will be directly impacted by this plan, as estimated below:

Fund	Share of \$3 billion
State General Fund	\$ 1,398,938,879
County Bradley-Burns	\$ 43,948,886
City Bradley-Burns	\$ 311,337,178

2011 Realignment	\$ 377,491,444
1991 Realignment	\$ 177,643,032
Proposition 172	\$ 177,643,032
County Transportation	\$ 88,821,516
City Add-ons	\$ 63,560,677
County Add-ons	\$ 360,615,355
	\$ 3,000,000,000

We caution that we understand the \$3 billion estimate to be a worse-case scenario and that the state anticipates far fewer retailers to avail themselves of the deferral, so the impact would be reduced proportionally. Most critically, however, moving the receipt of payments to the next fiscal year has the potential to have a profound effect on both 2011 and 1991 realignments, as it will impact current year base and growth distributions, in addition to impacting base calculations for the budget year.

Note that there is no executive order associated with the sales tax deferral action, as CDTFA already has existing statutory authority to assist retailers on a case-by-case basis via payment plans. We anticipate that CDTFA will work with some retailers that are not eligible for the interest-free deferral of \$50,000 to provide payment plans with interest. Important to note, too, is that CDTFA has a robust collections mechanism to ensure that amounts deferred are eventually paid. Finally, we have communicated to CDTFA and to the Department of Finance the importance of understanding the potential fiscal impact of the deferral program as soon as the state can assess the universe of deferrals, likely some time in August.

SB 89 Allocations Summarized

Many of you have asked how the SB 89 funds approved by the Legislature have been spent. Today, the Department of Finance posted an allocation summary and links to the various letters sent to the Joint Legislative Budget Committee advising the Legislature as to the various expenditures. Check out the link [here](#).

SCO Announces Revenue Tracker

The State Controller's Office (SCO) announced the launch of their [annual online tracker](#) for April personal income tax (PIT) receipts. While April 15 is usually the PIT filing deadline – and April is the highest-grossing month for PIT receipts – the Franchise Tax Board has extended the filing deadline for returns and payments on 2019 income to July 15 in conformity with the Internal Revenue Service.

While nearly 10.2 million Californians already have filed, the SCO notes that it is too early to forecast how many will wait until July.

Two New Executive Orders: Sales Tax Suspension on Government Purchase of Essential Materials; Social Services

The Governor issued two Executive Orders last evening. Executive Order [N-46-20](#) suspends the sales tax on state government purchases of masks, gloves, eye protection, gowns and other essential material during the COVID-19 emergency.

Executive Order [N-47-20](#) is related to social services issues. The order allows the Department of Social Services for up to 60 days to waive required activities related to the In-Home Supportive Services (IHSS) program. Additionally the order revises portions of previously issues Executive Order [N-45-20](#) pertaining to child care.

State Efforts to Address Supplies

Governor Newsom announced last night that he has secured an agreement with a consortium to provide 200 million medical masks per month for California. The consortium is comprised of a California-based nonprofit, which will be providing masks; a California-based manufacturer, with suppliers in Asia; and a technology that the state is acquiring that allows N95 masks to be cleaned and reused as many as 20 times.

Department of Finance sent a [letter](#) to the Joint Legislative Budget Committee informing them the Administration plans to spend \$990 million on the protective equipment. Initially, the state is providing a down payment of \$495 million in the next 48 hours, including \$188 million in SB 89 funds and \$307 million from the Disaster Response Emergency Operations Account at California Office of Emergency Services (CalOES). The letter does not detail when the remaining \$495 million will be paid or from what source.

LAO Releases New Post on Assistance from National Guard

As part of its efforts to share information related to COVID-19 related responses, the Legislative Analyst's Office (LAO) released a [report](#) today on the assistance states are receiving from the federal government through the National Guard.