

ASSEMBLY THIRD READING
AB 2989 (Arambula and Patterson)
As Amended June 4, 2020
Majority vote. Tax Levy

SUMMARY:

Establishes a complete exemption under the Sales and Use Tax (SUT) Law for specified tangible personal property (TPP) used by a "licensed blood bank" to perform "blood screening tests" on "donated human blood".

Major Provisions

- 1) Establishes a SUT exemption, on and after January 1, 2021, and before January 1, 2023, for both of the following:
 - a) "Reagents or chemicals" used by a "licensed blood bank" to perform "blood screening tests" on "donated human blood"; and,
 - b) "Lab equipment and supplies" used by a "licensed blood bank" to perform "blood screening tests" on "donated human blood".
- 2) Defines a "licensed blood bank" as any Food and Drug Administration (FDA)-licensed or FDA-registered facility that recruits, collects, processes, and distributes human blood for transfusion purposes.
- 3) Defines "blood screening tests" as screening tests mandated by the FDA or the State of California to assure the safety of voluntary blood, platelets, and plasma donations, including, but not limited to, tests for basic red blood cell-type antigens (ABO), basic red blood cell antigens (Rh), antibodies, Syphilis, Hepatitis B and C, human immunodeficiency virus (HIV), human T-cell leukemia virus (HTLV), Chagas disease, West Nile virus, Zika virus, and any future-required donor screening test by whatever is the currently required methodology.
- 4) Defines "donated human blood" as human blood that is given to an FDA-licensed or registered blood facility, by a medically eligible individual, after being properly consented.
- 5) Defines "reagents or chemicals" as only those reagents, quality control materials, assay kits, diluents, and calibrators that are specifically required in order to perform blood screening tests.
- 6) Defines "lab equipment and supplies" as any FDA-approved instruments, devices, and related data processing devices that are specifically required in order to perform blood screening tests.
- 7) Specifies that these provisions shall remain in effect only until December 31, 2023, and as of that date, are repealed.
- 8) Contains provisions to comply with Revenue and Taxation Code Section 41.

- 9) Provides that, notwithstanding existing law, the state shall not reimburse any local agency for any SUT revenues lost as a result of this exemption.
- 10) Takes immediate effect as a tax levy.

COMMENTS:

This bill provides a complete SUT exemption for specified TPP used by a licensed blood bank to perform blood screening tests on donated human blood. Specifically, the exemption would apply to both reagents or chemicals and to lab equipment and supplies, as defined.

According to the author, California is the only state that imposes SUT on blood testing reagents, equipment, and supplies. The author also notes that only two donor testing laboratories remain operational in California and that all other labs now send their samples to out-of-state facilities for testing partly due to the increased costs of the SUT. This, in turn, has arguably left California vulnerable to blood shortages in times of emergencies.

According to the Author:

"Community blood banking is one of the 'behind the scenes' pillars of first response. Yet, in California, in-state blood donor testing laboratory assets have declined over the last two decades, with nearly all the state's blood banks outsourcing donor testing out-of-state, primarily due to the cost of doing business in California. California is the only state that imposes sales tax on blood donor testing reagents, equipment, or supplies. AB 2989 would exempt sales and use tax on laboratory equipment and chemical reagents used by a licensed blood bank to test voluntarily donated human blood. This bill aims to exempt equipment, chemicals and reagents, and quality control materials that are specifically required to perform FDA and California mandated screening tests to assure the safety of voluntary blood, platelets, and plasma donations for transfusion."

Arguments in Support:

This bill is supported by Stanford Healthcare, which notes the following:

Only California imposes sales tax on licensed, non-profit blood banks that perform this vital blood donor screening testing on blood donations made in the state. It has been one of the considerations that has led to most other state blood banks outsourcing their testing to other states. The proposed sales tax exemption would lower the cost of operation for the two blood centers which would in turn, allow them to hold down the cost of blood fees to hospitals. Currently, [the Stanford Blood Center (SBC)] performs approximately 45,000 tests a year and starting in January 2021, SBC will begin testing for another blood center with an estimated annual volume of 25,000.

Arguments in Opposition:

This bill is opposed, unless amended, by the California Tax Reform Association, which notes the following:

Tax incentives, including an exemption such as this, are intended to incentivize behavior that would not otherwise occur. Given the enormous motivation of blood banks to perform appropriate due diligence, and the public health implications, it is unlikely that AB 2989 will result in activities that would not only otherwise occur, but that is necessary to ensure the public health.

To the extent that relief is necessary to support some of California's blood banks in meeting the additional testing demands to ensure public health and safety due specifically to COVID-19, the author might consider a grant program narrowly tailored to ensure that appropriate testing and vetting can occur.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee,

- 1) Annual General Fund (GF) revenue loss of \$3.1 million in 2021-22 and \$6.3 million GF each year thereafter.
- 2) Annual GF cost pressures of approximately \$385,000 in 2021-22 and \$775,000 million each year thereafter to backfill 2011 Local Revenue Fund.

VOTES:

ASM REVENUE AND TAXATION: 11-0-0

YES: Burke, Brough, Chu, Gray, Levine, Mayes, Mullin, Petrie-Norris, Gloria, Luz Rivas, Voepel

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas, Voepel

UPDATED:

VERSION: June 4, 2020

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