

Date of Hearing: June 29, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

SB 1406 (McNerney) – As Amended April 23, 2026

SUSPENSE

2/3 vote. Tax levy. Fiscal committee.

SENATE VOTE: 31-8

SUBJECT: Sales and Use Tax Law: vehicles: shell companies

SUMMARY: Prevents the evasion of California sales and use tax (SUT) on purchases of vehicles, vessels, and aircraft made by a "shell company", as defined, that is domiciled in another state. Specifically, **this bill:**

- 1) Deems a "shell company" to be a California resident if any shareholder, partner, member, or beneficial owner is a California resident for purposes of the existing rebuttable presumption that any vehicle, vessel, or aircraft bought outside California and which is brought into California was acquired for storage, use, or other consumption in California.
- 2) Defines "shell company" as a closely held corporation, partnership, limited partnership, limited liability partnership (LLP), or limited liability company (LLC) used to evade the payment of SUT. Evidence that an entity is a shell company used for the purpose of evading SUT includes, but is not limited to, any of the following:
 - a) The entity lacks a specific business activity or purpose;
 - b) The entity fails to maintain a physical location outside California;
 - c) The entity fails to employ individual persons and provide those persons with Internal Revenue Service Form W-2 wage and tax statements; or,
 - d) The entity fails to file federal tax returns or fails to file a required state tax return in a state other than California.
- 3) Allows the California Department of Tax and Fee Administration (CDTFA) to hold any officer, manager, partner, beneficial owner, or member of a shell company personally liable for any unpaid taxes, interest, and penalties due on the purchase of a vehicle, vessel, or aircraft if the CDTFA can establish that the shell company stored, used, or consumed the vehicle, vessel, or aircraft in California and failed to pay tax to the seller or remit the tax to CDTFA or the Department of Motor Vehicles (DMV).
- 4) Provides that a notice of deficiency determination for personal liability relating to purchases of vehicles, vessels, or aircraft must be served within three years after the last day of the calendar month following the quarterly period in which CDTFA obtains actual knowledge,

through its audit or compliance activities, that the shell company stored, used, or consumed the vehicle, vessel, or aircraft in California.

- 5) Takes immediate effect as a tax levy.

EXISTING LAW:

- 1) Imposes, subject to specified exemptions and exclusions, a sales tax on all retailers on the retail sale of tangible personal property (TPP) in California. If the sales tax does not apply, the SUT Law imposes a complimentary use tax on the storage, use, or other consumption in this state of TPP purchased from a retailer. (Revenue and Taxation Code (R&TC) Section 6001 *et seq.*)
- 2) Provides a rebuttable presumption that any TPP delivered outside of California to a purchaser known by the retailer to be a California resident was purchased for storage, use, or other consumption in California. This presumption may be controverted by either:
 - a) A written statement, signed by the purchaser (or their authorized representative), retained by the vendor, which states that the property was purchased for use at a designated point or points outside California; or,
 - b) Any other evidence satisfactory to CDTFA that the property was not purchased for storage, use, or other consumption in California. (R&TC Section 6247.)
- 3) Provides a rebuttable presumption that any vehicle, vessel, or aircraft purchased outside California, first functionally used outside California, and brought into this state within 12 months from the date of purchase is being stored, used, or consumed in California. These purchases are subject to use tax if any of the following apply:
 - a) The vehicle, vessel, or aircraft was purchased by a "California resident", as defined;
 - b) If the purchaser was not a California resident, the vehicle, vessel, or aircraft was used or stored in California for more than one-half of the time during the first 12 months of ownership;
 - c) The vehicle was subject to California vehicle registration during the first 12 months of ownership; or,
 - d) The vessel or aircraft was subject to California property tax during the first 12 months of ownership. (R&TC Section 6248.)
- 4) Provides that, for purposes of the presumption relating to out-of-state purchases of vehicles, vessels, or aircraft, "California resident" means:
 - a) Any person who meets the definition in Vehicle Code (VC) Section 516, which provides that a person is considered a resident if they intend to live or be located in California on more than a temporary or transient basis. A person who is physically present in the state for six months or more in any 12-month period is rebuttably presumed to be a resident; and,

- b) A closely held corporation or limited liability company (LLC), if 50% or more of the shares or membership interests are held by shareholders or members who qualify as California residents pursuant to VC Section 516. (R&TC Section 6248(a)(1).)
- 5) Provides that, the presumption relating to out-of-state purchases of vehicles, vessels, or aircraft does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by CDTFA. (R&TC Section 6248(c).)
- 6) Provides that the presumption relating to out-of-state purchases of vehicles, vessels, or aircraft does not apply to any vessel or aircraft brought into California exclusively for the purpose of repair, retrofit, or modification performed by an appropriately licensed repair facility. (R&TC Section 6248(e).)
- 7) Provides that the presumption relating to out-of-state purchases of vehicles, vessels, or aircraft can be controverted by either:
 - a) Documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of vehicle, vessel, or aircraft registration with the proper authority outside this state (R&TC Section 6248(b)); or,
 - b) Documentary evidence that the vehicle was brought into California for the exclusive purpose of warranty or repair service and was used or stored in California for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence must include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility. (R&TC Section 6248(e).)
- 8) Provides, for purposes of the SUT Law, that officers, members, managers, partners, or other persons, if proven, may be held personally liable for certain unpaid taxes, interest, and penalties when a business (whether a corporation, partnership, or LLC, among others) is dissolved, terminated, or abandoned, and certain elements are met, including being a "responsible person" and "willfully failing" to pay those taxes. Personal liability can only be imposed if the CDTFA establishes that, while the person was a "responsible person", the entity:
 - a) Sold TPP in the conduct of its business and collected sales tax reimbursement on the selling price and failed to remit such tax when due;
 - b) Consumed TPP in California and failed to pay the applicable tax to the seller; or,
 - c) Included use tax on the billing and collected the tax, or issued a receipt for use tax, and failed to report and pay the tax. (R&TC Section 6829.)
- 9) Imposes similar personal liability under the Cannabis Tax Law against a "responsible person" with respect to unpaid cannabis taxes, interest, and penalties, when a business is dissolved, terminated, or abandoned. (R&TC Section 34015.2.)

FISCAL EFFECT: The CDTFA has not published an estimate of the fiscal effect of this bill, however, by providing additional tools to collect taxes that are legally owed but remain uncollected, this bill would likely increase both state and local revenues by an unknown amount.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

The Montana Loophole costs California up to \$20 million a year in lost revenue and the loophole is widening, with increasing numbers of tax evaders creating phony shell companies so they can avoid paying sales taxes on Ferraris, Porsches and pricey RVs.

SB 1406 would strengthen California law by making it easier to collect taxes from tax evaders that create shell companies to buy exotic luxury cars or expensive recreational vehicles in Montana or other states.

- 2) This bill is supported by SEIU California, which notes, in part:

This bill would strengthen California law by making it easier to collect taxes from tax evaders that create an out-of-state shell company to buy exotic luxury cars or expensive recreational vehicles in Montana or other states.

Due to the so-called "Montana Tax Loophole," California loses approximately \$20 million in tax revenue annually. Tax loopholes like these reduce the amount of revenue the state collects and hurts working people and their families, like the ones SEIU represents. It is fundamentally unfair for California residents to pay taxes when others use shell companies to avoid them.

- 3) The Capitol Business Alliance, writing in opposition to this bill unless it is amended, notes, in part:

Our greatest concern is the personal-liability provision. SB 1406 would expose officers, managers, partners, beneficial owners, and members of an alleged shell company to unpaid tax, interest, and penalties. That is a significant expansion of personal liability and could undermine ordinary limited-liability protections. Passive owners, minority members, family participants, and beneficial owners should not face personal liability unless they actually controlled, authorized, participated in, or knowingly benefited from the transaction at issue.

California can close abusive loopholes without creating uncertainty for legitimate entrepreneurs. Small-business entities should not have to fear that ordinary operational facts--such as having no W-2 employees or no out-of-state office--could later be characterized as evidence of tax evasion.

- 4) Committee Staff Comments:

- a) *Sales vs. use taxes:* Since 1933, the state has imposed a sales tax on California retailers for the privilege of selling TPP, absent a specific exemption. The tax is based upon the retailer's gross receipts from TPP sales in California. In 1935, California adopted a complementary "use tax" on the storage, use, or other consumption of TPP purchased

out-of-state but subsequently used in California. The use tax is applied at the same rate as the sales tax and was designed to protect California merchants who would otherwise be at a competitive disadvantage because customers could buy the same or similar product from an out-of-state retailer tax-free. Unlike the sales tax, the use tax was imposed on the purchaser and not the out-of-state retailer because, at the time, the state did not have jurisdiction over retailers that lack any physical presence within the taxing state's borders. See *Quill Corp. v. North Dakota* (1992), 504 U.S. 298.

After the United State Supreme Court's landmark decision *South Dakota v. Wayfair, Inc.* (2018), 585 U.S. 162, however, states can now require that remote sellers without a physical presence in the state collect use tax on all sales being made into the state if the remote seller exceeds a specified level of economic activity in the taxing jurisdiction. In other words, *Wayfair* recognized that the modern economy and rise of e-commerce were incompatible with the traditional physical presence test, affirming that states could impose a collection obligation out-of-state businesses that lacked any physical presence in the taxing jurisdiction without violating the commerce clause of the United States Constitution.

- b) *Collecting, remitting, and allocating SUT revenue:* Automobiles, vessels, and planes are all considered TPP and sales of these items result in significant revenues for both the State and local governments. The table below shows the incremental structure of the SUT at its current statewide rate of 7.25%. Additionally, cities and counties may increase the SUT rate up to 2% with voter approval for specific or general purposes pursuant to the California Constitution's vote requirements.

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes
1.0625%	Local Revenue Fund (2011 Realignment)	Local governments to fund local public safety services
0.50%	State (1991 Realignment)	Local governments to fund health and welfare programs
0.50%	State (Proposition 172 - 1993)	Local governments to fund public safety services
1.25%	Local (City/County) 1.00% City and County 0.25% County	City and county general operations Dedicated to county transportation purposes
7.25%	Total Statewide Rate	

CDTFA collects sales taxes from sellers, deposits the state share in the General Fund, and then allocates the local share of the Bradley-Burns sales tax and any district tax to the appropriate jurisdiction.

- c) *Purchasing vehicles and vessels*: When a vehicle or vessel is purchased from a person who is engaged in business in California as a vehicle or vessel dealer, that person is responsible for registering with the CDTFA and collecting, reporting, and paying applicable sales tax. When a vehicle or vessel is bought from a person who is not a California dealer, including a private party selling a used vehicle, the purchaser is generally required to pay use tax for the use of the property in California unless an exception applies. Common exceptions where use tax does not apply include vehicles received as gifts, purchases from certain family members, and vehicles purchased or delivered out-of-state and are not used or stored in California.¹

The use tax is based on the total purchase price of the vehicle or vessel. The total purchase price includes cash, the payment or assumption of a loan or debt, and the fair market value of any property and/or services traded or exchanged for the vehicle or vessel. The tax rate for use tax is the same as that for sales tax and it is determined by the address where the vehicle is registered with the DMV or the vessel is moored.

- d) *Montana Tax Evasion Scheme*: According to the CDTFA, California loses approximately \$20 million in use tax revenues each year from the purchase of luxury vehicles, yachts, RVs, and aircraft due to a well-known tax loophole involving LLCs domiciled in Montana. To avoid tax on their California purchases, some Californians form a "shell company" domiciled in Montana (Montana LLC) and buy the vehicle in the Montana LLC's name. Subsequently, they take delivery outside the state and register the vehicle in Montana, where no sales or use tax applies, and return the vehicle to California for use or storage within 12 months following purchase. This allows them to avoid any taxes on the purchase, including California use tax and vehicle registration fees. Some California dealers may be complicit in this tax avoidance strategy as they can lower the cost of the transaction and relieve themselves of any related sales tax liability by delivering the vehicle to the purchaser outside the state.

Once a tax evader is identified, CDTFA may not hold the individual personally liable for the taxes owed by their LLC. The Montana LLC is generally a "shell company" with no assets other than the vehicle for which there is no record of registration in California. Accordingly, recovering the tax from a Montana LLC is extremely difficult.

The Montana LLC loophole is popular due to its simplicity. In just a few hours, any person may easily form a Montana LLC online through a Montana registered agent, avoiding thousands of dollars in California use tax. Entity formation services can promise quick registration in a state with no sales tax, transporters can produce fake shipping paperwork listing out-of-state delivery addresses, and storage facilities can hold vehicles long enough to create the appearance of compliance.

For example, a Bloomberg Tax investigation found:

Kalispell-based 1 Dollar Montana LLC boasts that it can provide license plates and registration documents to clients in two weeks. Neither the purchaser nor the vehicle

¹ "Pub. 52 – Vehicles and Vessels: Use Tax." CDTFA. November 2025.
<https://cdtfa.ca.gov/formspubs/pub52.pdf>.

need to be in Montana to close the deal. The cost depends on the services, but 1 Dollar Montana says it's willing to handle the job for as little as \$1,049. Dirt Legal, a Florida-based agent with a broad social media footprint, says it has formed Montana LLCs for nearly 47,000 customers, with clients in every state...

There is no distinct database tracking the number of vehicles owned by Montana LLCs. However, Montana's 2.68 vehicles per licensed driver suggests thousands of out-of-staters are driving with Montana plates. Former Montana revenue director Dan Bucks said there are likely more than 600,000 vehicles registered in Montana but operated in other states.²

These findings led Andrew Leahey, an assistant professor of law at Drexel Kline School of Law who specializes in state taxes, to conclude that, "fraud is a predictable result under such a system."³

- e) *Recent enforcement operation:* In March of this year, California recovered \$4 million in unpaid taxes and fees from thousands of car owners and dealers. Attorney General Rob Bonta, working with the CDTFA and DMV, brought criminal charges against 14 people as part of a crackdown on luxury vehicles plated in Montana to evade state taxes and registration costs. The 57-count complaint, filed by the California Department of Justice on February 23 in the Sacramento County Superior Court, accuses the defendants of conspiracy to commit tax evasion, filing false sales tax returns, money laundering, and perjury. The defendants arranged vehicle sales valued at \$18.8 million, resulting in \$1.6 million in unpaid taxes.⁴

Text messages featured in the complaint show dealership personnel, shipping agents, and customers boasting about setting up tax-free transactions involving luxury brands including Aston Martin, Ferrari, and Lamborghini. The vehicles included a \$1.8 million McLaren Elva, \$1.5 million Porsche 918 Spyder, and \$1.26 million Ferrari F12TDF, among others. One defendant allegedly wrote to his wife via text:

"70k saved — I can't believe the registration lasts for 5 years — that's crazy. Stupid California... Paid 3k to own a 600k car for 5 years— lol in Cali that's like 75k for 5 years. Hella dumb."

- f) *What does this bill do?* While the recent enforcement actions have highlighted CDTFA's strong track record of uncovering and addressing tax evasion by shell companies formed

² Bologna and Mahoney, "Got Montana Plates? States Ramp Up the Scrutiny on Tax Dodgers." Bloomberg Tax (April 29, 2025). <https://news.bloombergtax.com/daily-tax-report/got-montana-plates-states-ramp-up-the-scrutiny-on-tax-dodgers>.

³ Leahey, Andrew. "California's Car Sales Tax Crackdown Calls for Primary-Use Rule." Bloomberg Tax (March 17, 2026). <https://news.bloombergtax.com/tax-insights-and-commentary/californias-car-sales-tax-crackdown-calls-for-primary-use-rule>.

⁴ "Attorney General Bonta Exposes Bay Area Tax Evasion Scheme Involving Luxury Vehicles Registered Out of State." California Department of Justice (March 6, 2026). <https://oag.ca.gov/news/press-releases/attorney-general-bonta-exposes-bay-area-tax-evasion-scheme-involving-luxury>.

in zero- or low-tax states to purchase high-value vehicles, they also reveal the limits of current SUT Law and existing rebuttable presumptions. The rebuttable presumptions under R&TC Sections 6247 and 6248 do not apply to many types of legal entities, including "shell companies."

This bill closes these gaps by broadening the types of entities that may be considered a "California resident" to include partnerships, limited partnerships, and limited liability partnerships. This bill also creates a new entity category, "shell company", which includes any of the entities described above, as well as closely held corporations and LLCs, used for the purpose of evading the tax due. The rebuttable presumptions would apply to a "shell company" if any of its shareholders, partners, members, or beneficial owners are California residents. These strengthened rebuttable presumptions would help the CDTFA collect tax where the facts clearly indicate an entity used TPP, specifically vehicles, vessels, and aircraft, in California, preventing evaders from hiding behind manipulated documentation and business structures.

Additionally, when a "shell company" lacks any attachable assets (other than the vehicle for which there is no record of registration in California), the LLC structure shields the individual owner, stalling the CDTFA's collection efforts. This bill directly resolves that problem by allowing the CDTFA to hold officers, members, partners, or beneficial owners of "shell companies" personally liable.

- g) *Imposing personal liability*: The SUT Law has long imposed personal liability on responsible individuals under R&TC Section 6829 when a business terminates, dissolves, or is abandoned. The Cannabis Tax Law has imposed similar personal liability since the passage of AB 195 (Committee on Budget), Chapter 56, Statutes of 2022. Nevertheless, personal liability generally applies only to situations where a business has collected SUT in the ordinary course of its operations. Imposing personal liability in situations where, for example, an individual purchases a vehicle through an LLC to avoid California use tax but never collected SUT as part of its ordinary operations, represents a novel tool for taxing authorities.

In *Wayfair*, the Supreme Court held that a state's taxing powers can extend to out-of-state businesses without running afoul of the commerce clause if the out-of-state business is selling sufficient amounts of TPP into the taxing jurisdiction. By allowing states to impose use tax collection obligations on these out-of-state businesses, the Supreme Court sanctioned the use of a new tool for states to prevent the gaming and avoidance of state taxes. While this bill does not impose collection obligations on out-of-state shell companies because they are not selling TPP into California, it seeks to address the same issue of consumers being incentivized to shift economic activity – at least on paper – to low- or no-tax jurisdictions. The activities of these shell companies are still directed at California when their shareholders, partners, members, or beneficial owners are California residents, and the shell company was created for the purpose of evading California taxes and registration fees. This bill would allow the CDTFA to disregard the out-of-state shell company and instead hold its officers, managers, partners, beneficial owners, or members personally liable for unpaid SUT.

REGISTERED SUPPORT / OPPOSITION:

Support

California Teachers Association
SEIU California

Oppose Unless Amended

Capitol Business Alliance

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