

California law expands interstate sales and use tax truck exemption

Overview

On September 5, 2019, Governor Gavin Newsom signed into law Assembly Bill 321 ("AB 321")¹, which modifies the use tax exemption contained in Cal. Rev. & Tax Code 6388.5 ("Interstate Commercial Truck Exemption") to extend to certain trucks for tax periods January 1, 2020 through January 1, 2024. Historically, this exemption has been limited to trailers and semi-trailers. This tax alert summarizes the change, as well as offers some taxpayer considerations related to the expanded exemption.

Interstate Truck Exemption

The Interstate Tax Exemption under Section 6388.5 provides a California use tax exemption for vehicles meeting certain criteria and being utilized in interstate or foreign commerce. Generally, the exemption is available for certain vehicles manufactured outside California and delivered to the purchaser in California, assuming the vehicle is moved to a point outside California within 30 or 75 days, as applicable.² To qualify, the purchaser must also furnish certain documents including an affidavit that the vehicle meets the standards, including being used in interstate or foreign commerce and removal from California within the requisite time frame.

Prior to A.B. 321, the Interstate Commercial Truck Exemption was only available to "new or re-manufactured trailers or semi-trailers with an unladen weight of 6,000 pounds or more".³ A.B. 321 expands the potentially applicable vehicles to "new, used or re-manufactured truck or a new or remanufactured trailer or semitrailer" under an amended Section 1 of Section 6388.5.⁴ Importantly, "new, used or re-manufactured trucks" with at least a weight of 6,000 pounds are now potentially eligible for the exemption, assuming the other requirements are met.

Although A.B. 321 broadens the exemption to trucks for the immediate period, the new amended Section 6388.5 is repealed effective January 1, 2024. A.B. 321 adds a new Section 6388.5, which becomes operative on January 1, 2024, and once again limits a potentially applicable vehicle to "new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more".

Previously, for certain trucks to be considered eligible for an interstate commerce exemption, these vehicles generally had to meet the criteria of Cal. Code Regs. tit. 18 section 1620(b)(3). Under this provision, property purchased outside the state by a resident of California was deemed to be purchased for use in California unless the purchaser, or agent, submitted a signed written statement the vehicle would be used outside the state.⁵ However, regardless of the statement, the purchaser of a vehicle purchased outside of California, which was delivered in the state, had to demonstrate that its first functional use was outside of California and meet the specified criteria.⁶

Considerations

Taxpayers with interstate trucks of various size and composition should evaluate the applicability of the Interstate Commercial Truck Exemption to the company's operation in light of the new expanded exemption.

For periods January 1, 2020 – January 1, 2024, A.B. 321 allows new, used or remanufactured trucks with an unladen weight of at least 6,000 pounds to meet the Interstate Commercial Truck Exemption, assuming the other conditions in amended Section 6388.5 are met. Although not specified in the bill, presumably many different types of trucks may now qualify for the exemption, if meeting the weight threshold. For example, heavier duty trucks such as refuse trucks, concrete trucks, or combination trucks, and lighter weight trucks such as large SUVs, pick-up trucks, parcel delivery trucks, bucket trucks, or vans may potentially qualify.⁷

¹ Assem. Bill 321, 2019-2020 Reg. Sess., ch. 226, 2019 Cal. Stat. A copy of the bill is accessible [here](#).

² Cal. Rev. & Tax Code § 6388.5.

³ Cal. Rev. & Tax Code § 6388.5 (Stats 2001 ch. 826 § 2.5 (AB 1472)).

⁴ *Supra* at 1.

⁵ Cal. Code Regs. tit. 18, § 1620(b)(3)

⁶ *Id.*

⁷ See, U.S. Dep't. of Energy – Office of Energy Efficiency & Renewable Energy, *Fact #621: May 3, 2010 Gross Vehicle Weight vs. Empty Vehicle Weight*, accessible at <https://www.energy.gov/eere/vehicles/fact-621-may-3-2010-gross-vehicle-weight-vs-empty-vehicle-weight>.

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