

TOWNSEND

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MEMO

To: City of Cupertino
Legislative Review Committee

From: Townsend Public Affairs, Inc.

Date: May 14, 2021

Subject: Consider adopting a position on Senate Bill 792 (Glazer) Sales and use tax: retailers: reporting

Bill Information

The official text of SB 792 can be found [here](#)¹.

Summary

SB 792 requires a retailer, whose annual sales of tangible personal property transacted online exceeded \$1 million in the previous calendar year, to track and report to the California Department of Tax and Fee Administration (CDTFA) the city or ZIP code where the purchaser resides for each sale within the state that is transacted online. The bill directs retailers to report this information on the same schedule the retailer reports sales to the department.

The bill defines “transacted online” as one where both: the purchaser’s order and payment for the sale and purchase of tangible personal property is transacted and completed on an internet website or web-based application; and the purchaser’s order and payment for the sale and purchase of tangible personal property is not initiated by the retailer using the retailer’s equipment at the retailer’s place of business.

Status

SB 792 was approved by the Senate Governance and Finance Committee (4-1) on March 25th. The measure is currently in the Senate Appropriations Committee on the Suspense File.

Support

According to the author, “This is a transparency bill that will shine light on a major and growing problem in California local finance. Current tax law has created an environment that puts the power to allocate local sales tax into the hands of online retailers. These retailers can choose to allocate any and all sales tax revenues to a specific location within the state- be that a warehouse, distribution or sales center. What results is a race to the bottom as retailers offer to direct all of their online sales tax to a single city in exchange for the city giving 50% to 80% of those public funds to the retailer. Private companies profit doubly from these tax-sharing agreements, which

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB792

allow them to keep both the revenue from their retail sales, and the public funds shared with them by the cities. California cities are sending an estimated \$1 billion in taxpayer dollars to giant corporations each year – at a time when state and local governments are scrambling to fund public safety, roads, affordable housing, and tackling the homeless crisis. Californians deserve to know just how much revenue their cities are losing due these agreements. This bill would provide transparency by requiring retailers report taxable sales by the city or ZIP code of the purchaser so that city governments and their residents have a better understanding of this unfair process.”

There is no official support for SB 792.

Opposition

Opponents of the measure believe that SB 792 is the first step in modifying the way in which sales tax for online purchases is distributed within California. The bill's author, Senator Glazer, has previously introduced legislation that would have modified sales tax distribution formulas related to point of sale versus point of purchase. This type of changes would have significant financial ramifications for public agencies throughout the state.

The California Retailers Association in opposed to SB 792, as the bill would require a significant amount of new reporting for businesses that impacted by the provisions of the bill, without providing any form of benefit to the companies in question.

Opponents of SB 792 include: California Retailers Assn; City of Fresno; and City of Perris

Recommended Action

Recommend that the City Council take an oppose position on SB 792 and authorize the Mayor to send letters to the state legislature.