

**ORDINANCE NO. 2
AN ORDINANCE OF THE SANTA BARBARA COUNTY
LOCAL TRANSPORTATION AUTHORITY, ADOPTING
AMENDMENTS TO ORDINANCE NO. 1, REQUIRED BY THE STATE BOARD OF
EQUALIZATION TO THE TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

The Santa Barbara Local Transportation Authority ordains as follows:

SECTION A:

Pursuant to Section 17 of Ordinance No. 1 of the Santa Barbara County Local Transportation Authority, said Ordinance No. 1 is amended to add sections specifically requested by the California State Board of Equalization and to provide, in addition to the provisions of said Ordinance No. 1, as follows:

Section 20. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, the tax herein shall be imposed upon all retailers in the incorporated and unincorporated territory of the County of Santa Barbara at the rate of one-half of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 21. PLACE OF SALE. For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 22. USE TAX RATE. An excise tax is imposed by this Ordinance on the storage, use or other consumption in the County of Santa Barbara of tangible personal property purchased from any retailer on or after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-half of one percent of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 23. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 24. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this Authority shall be substituted therefor. However, the substitution shall not be made:

1. When the word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. When the result of that substitution would require action to be taken by or against this Authority or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the said provisions of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The words "the County of Santa Barbara" shall be substituted for the words "this State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 25. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 26. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the County of Santa Barbara which is shipped to a point outside the County of Santa Barbara, pursuant to the contract of

sales, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the County of Santa Barbara shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code, by registration to an address outside of the County of Santa Barbara and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business outside of the County of Santa Barbara and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There is exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this County of Santa Barbara of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible

personal property shall be deemed not to be obligated pursuant to a contract of lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the County of Santa Barbara shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County of Santa Barbara or participates within the County of Santa Barbara in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at the place of business of the canvasser, solicitor, subsidiary, or person in the County of Santa Barbara under the authority of the retailer.

7. A "retailer engaged in business in the County of Santa Barbara" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9850) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the County of Santa Barbara.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to an agency imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 27. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the California Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 of Division 2 of the California Revenue and Taxation Code, shall automatically become a part of this ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

Section 28. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the Authority, or against any officer of the State or the Authority, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

Section 29. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION B:

This ordinance relates to the levying and collecting of the Authority transactions and use taxes and shall take effect and be in force immediately from the date of its passage; and before the expiration of fifteen (15) days after its passage, it shall be published once, together

with the names of the members of the Santa Barbara County Local Transportation Authority voting for and against the same in the Santa Barbara News-Press a newspaper of general circulation published in the County of Santa Barbara.

PASSED AND ADOPTED by the Santa Barbara County Local Transportation Authority, State of California, on February 15, 1990 by the following vote:

AYES: Supervisors Rogers and Owens; Councilmembers Loney, Hobbs, Miller, Hays, and Lawrence.

NOES: None.

ABSENT: Supervisors Ochoa, Wallace, and Miyoshi; Councilmember

David H. Lawrence
Chair

Attest: Sanchez.

Santa Barbara County Local
Transportation Authority

Gerald R. Lorden

Gerald R. Lorden, Secretary

I, Gerald R. Lorden, Secretary of the Santa Barbara County Local Transportation Authority do hereby certify that the foregoing is a true copy of an ordinance adopted by the Santa Barbara County Local Transportation Authority on February 15, 1990 by the vote stated above, which said ordinance is on file in the office of the Santa Barbara County Local Transportation Authority.

Dated: 2/16/90

Gerald R. Lorden

Approved as to form:

Robert W. Pike

Robert W. Pike
Deputy County Counsel
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