

New Sales Tax Remittance Deferral Program for Small Businesses

Yesterday the Governor announced the State will allow small businesses defer payment of up to \$50,000 of state and local sales and use taxes for up to 12 months. The 12-month, interest free, deferral will allow businesses with less than \$5 million in taxable annual sales to keep the sales taxes collected from consumers in what is essentially a loan from the state, counties, and cities. The deferred remittances will be subject to a payment plan. The program will be administered through the California Department of Tax and Fee Administration (CDTFA). See <https://www.cdtfa.ca.gov/services/covid19.htm#small-business-payment>

The fiscal impacts of this program are unknown at this time. The State Department of Finance estimates the deferrals could total as much as \$3 billion and provide relief for up to 300,000 businesses statewide. As currently designed, about half of the revenue delay would be shouldered by the state general fund with local rates also affected - including voter approved add-on sales tax rates (transactions and use taxes) (see <https://www.counties.org/csac-bulletin-article/sales-tax-layaway-expected>). Because local sales tax and add-on sales tax revenues depend on where taxable sales activity occurs, the effect of this program on your agency depends on how many businesses in your jurisdiction qualify and enroll in the program.

Your sales and use tax consultants and others are working to develop estimates of possible impact but, until we have tax returns which identify the amounts of deferrals, these estimates are quite speculative.

Keep in mind the following:

- The "high end estimate" of \$3 billion of participation and deferral would be about 5 percent of total statewide annual Sales and Use Tax collections. Taxable sales are heavily concentrated among a relatively small number of very large taxpayers. Fewer than 0.5% of all taxpayers account for a majority of sales and use tax revenue.
- While lower receipts mean lower payments to the state and local agencies that receive sales tax, CDTFA will continue to make monthly payments to cities and counties.
- Existing law, prior to any Executive Order, provides the CDTFA authority to grant deferral of tax payment under certain circumstances. CDTFA notes that, even prior to the Governor's previous Executive Order granting a 90 day extension to taxpayers owing tax of less than \$1 million, they had received more than 20,000 individual requests for relief. This is unprecedented.
- Some payments will be deferred, but all of the tax remains due. While there undoubtedly will be some business bankruptcies that lead to uncollectable amounts, most of the revenues will eventually be remitted and allocated. The Governor believes that by granting relief in this way, more of these businesses will survive and therefore, in the long run, more tax revenue will be collected.

Note that this program is in addition to the Executive Order issued on March 30, 2020, granting taxpayers reporting \$1 million or less in quarterly taxes an automatic three-month extension on the filing of 1st quarter 2020 tax returns. The extension applies to the reporting of taxes and fees due on or before July 31, 2020 and includes a waiver of interest and penalties. Qualifying taxpayers are not required to file a request for extension or request relief from penalty or interest.

Stay tuned with your sales tax consultant: HdL or Avenu Insights. As the picture on this becomes more clear, they can help you identify how this will affect your agency. If you don't now use one of these companies, call them anyway. They are eager to help all of you in this difficult time.

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