

1 [Assembly Bill 2412 - Application of Sales and Use Tax to Internet
2 Sales]

3 URGING THE CALIFORNIA STATE LEGISLATURE AND GOVERNOR DAVIS TO APPROVE
4 STATE ASSEMBLY BILL 2412 CLARIFYING THE APPLICATION OF SALES AND USE
5 TAX LAW TO INTERNET SALES.

6 WHEREAS, State Revenue and Taxation Code Section 6203 requires a
7 retailer to collect sales and use tax on sales of tangible personal
8 property if the retailer is engaged in business in this state, or has
9 "nexus" here; and,

10 WHEREAS, Whether a retailer is engaged in business in this
11 state, for purposes of Section 6203 of the Revenue and Taxation Code,
12 rests on whether the retailer occupies business-related property in
13 this state or employs salespeople, whether directly or through an
14 agent or subsidiary; and,

15 WHEREAS, The rationale for Section 6203 is that retailers with
16 stores and personnel in California benefit from government services
17 here and so should pay taxes that finance those services whether
18 their customers order from their store, through the mail, over the
19 phone lines or on the internet; and,

20 WHEREAS, Currently, many California retailers with a physical
21 presence in the state have e-commerce subsidiaries that are not
22 collecting sales tax even though they advertise their internet
23 business through their stores, accept returns of internet purchases
24 at their stores and cross promote in their advertising; and,
25

1 WHEREAS, Since special tax privileges exist for e-commerce, many
2 consumers simply avoid paying sales tax by executing purchases
3 online; and,

4 WHEREAS, The de facto e-commerce tax subsidy that currently
5 exists places main street and community-based retailers at a
6 competitive disadvantage, erodes the sales tax base of state and
7 local government, and shifts the tax burden toward lower-income
8 citizens who cannot afford computers and internet access; and,

9 WHEREAS, The State's Legislative Analyst estimates that the e-
10 commerce tax subsidy results in state and local revenue losses in the
11 tens of millions of dollars annually and that by the year 2003, this
12 loss may grow to nearly one billion dollars; and,

13 WHEREAS, Assembly Bill 2412, authored by Assemblywoman Migden,
14 clarifies that the processing of orders electronically, by fax,
15 telephone, the Internet or other electronic means does not relieve a
16 retailer from the responsibility for collection of the sales and use
17 tax if the retailer is engaged in business in this state; and

18 WHEREAS, Assembly Bill 2412 clarifies that a retailer is
19 presumed to have an agent in this state, and therefore be engaged in
20 business here, if the retailer is affiliated through ownership with a
21 California retailer and sells the same or similar products under the
22 same or similar name, or the facilities of the California retailer
23 are used to advertise or promote sales by the Internet retailer to
24 California purchasers; and,

1 WHEREAS, If passed, Assembly Bill 1412 will maintain consistency
2 in tax policy between e-commerce and traditional forms of retail
3 sales, level the playing field among retailers, and maintain state
4 and local tax revenues; now, therefore, be it

5 RESOLVED, That the Board of Supervisors of the City and County
6 of San Francisco endorses Assembly Bill 2412 and urges the California
7 State Legislature and Governor Davis to approve State Assembly Bill
8 2412 clarifying the application of sales and use tax law to internet
9 sales; and, be it

10 FURTHER RESOLVED, That a copy of this resolution be forwarded to
11 his Honor, the Mayor, with a request that he transmit copies to the
12 delegation from San Francisco in the State legislature, as well as
13 Governor Davis, with a request that they take all action necessary to
14 pass Assembly Bill 2412.



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Resolution

File Number: 001065

Date Passed:

Resolution urging the California State Legislature and Governor Davis to approve State Assembly Bill 2412 clarifying the application of sales and use tax law to internet sales.

June 12, 2000 Board of Supervisors — ADOPTED

Ayes: 8 - Ammiano, Brown, Kaufman, Leno, Newsom, Teng, Yaki, Yee
Absent: 3 - Becerril, Bierman, Katz

File No. 001065

I hereby certify that the foregoing Resolution was ADOPTED on June 12, 2000 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

Mayor Willie L. Brown Jr.

Date: June 23, 2000

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Clerk of the Board

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001065