

To : David Gordon
gorbur@pacbell.net

Date : March 11, 2014

From : Linda Johnston
Business Taxes Specialist

Reference : F14-03-077 - 0311 - 0311

Subject : Local tax

Thank you for your recent e-mail requesting our advice regarding the proper application of the California Sales & Use Tax Law with respect to the place of sale and local tax allocation.

In your email you question if a business can divert sales tax revenues generated by a store in Burbank to any other local jurisdiction when the taxable sales transaction takes place in the physical store in Burbank. Since local tax allocation is governed by the Bradley-Burns Uniform Local Sales and Use Tax Law a business would not be allowed to reallocate local tax based on an agreement with a private party or another local jurisdiction to divert sales tax revenues generated by sales made at a store located in Burbank to a different local jurisdiction. To reallocate local tax in this manner you would need to pursue this through a legislative route.

The Bradley-Burns Uniform Local Sales and Use Tax Law governs the allocation of local tax in California. The Board of Equalization (BOE) does not create the laws that govern the sales and use tax laws in California; the BOE administers and interprets the laws that are enacted by California's Legislative process. As you are aware, there is a 7.50 percent statewide sales and use tax base rate that is collected by the BOE. This base rate is composed of a state portion and a local portion. The local portion is one percent and is collected for cities and counties. Cities and counties are able to use .75 percent to support general operations. The remaining .25 percent is designated by statute for county transportation purposes and may be used only for road maintenance or the operation of transit systems.

[Uniform Local Sales and Use Tax Regulation 1802](#), *Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes*, explains that, for purposes of local tax allocation, if a retailer has more than one place of business in this state but only one place of business participates in the sale, the sale occurs at that place of business unless the property sold is delivered by the retailer or his or her agent to an out of state destination, or to a common carrier for delivery to an out-of-state destination. If a retailer has more than one place of business in this state which participates in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place is the place where the order is taken, it is

immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing.

This means that when a customer purchases an item in the City of Burbank (for example) the City of Burbank and County of Los Angeles receive .75 percent of the sales tax on that sale. The County of Los Angeles receives the additional .25 percent. Even if the customer resides in another county, the City of Burbank and the County of Los Angeles still receive the local tax revenue.

I hope this information is helpful. If you have any further questions regarding this or any other issue, please write or call our Taxpayer Information Section at 1-(800) 400-7115. You may also visit our website at www.boe.ca.gov.

To assist with sales and use tax return filing, the Board of Equalization offers a free, web-based, electronic filing service. It is easy to use and will provide an online record of all of your returns. To learn more and to register for BOE-file, please visit our [Sales and Use Tax E-File Information Center](#).

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Development Agreement under Article 3, EXHIBIT C-18, P. 6:

"Sect. 3.01 (b) [Sales Tax Agreement](#): For the term of the Development Agreement, Owner agrees not to enter into any agreement with a private party or another local jurisdiction to divert sales tax revenues generated by sales from the new IKEA store in Burbank that would be paid to the City of Burbank by the State of California Board of Equalization ("BOE") consistent with all applicable laws and regulations. The Parties agree that this Owner obligation is not intended to change or modify any state law or regulation governing the distribution of BOE sales tax revenues to the City."

Question: Can any business entity such as IKEA legally "...divert sales tax revenues generated by sales from...(a)...store in Burbank..." to any other local jurisdiction when the taxable sales transaction takes place in the physical (non-internet sales) store in Burbank?

I would greatly appreciate hearing back from you or your associates as quickly as possible.

Thank you very much for your responsiveness and for promptly directing your attention to this matter.

Respectfully,

David Gordon
Vice Mayor

Burbank City Council

Tel. (818) 913-3422

e-mail: gorbur@pacbell.net