

**ORDINANCE NO.438
(AS AMENDED THROUGH 438.9)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 438
PROVIDING FOR A UNIFORM COUNTY SALES AND USE TAX**

The Board of Supervisors of the County of Riverside, State of California, ordains as follows:

Section 1. This ordinance shall be known as the Riverside County Uniform Local Sales and Use Tax Ordinance.

Section 2. The Board of Supervisors of the County of Riverside hereby declare that this ordinance is adopted to achieve the flowing among other, purposes and direct that the provisions hereof be interpreted in order to accomplish those purposes:

- a. To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California;
- b. To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of said Revenue and Taxation Code;
- c. To adopt a sales and use tax ordinance which imposes a one and one-quarter per cent (1 ¼ %) tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;
- d. To adopt a sales and use tax ordinance which can be administered in a manner that will, to the degree possible consistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting county sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance;
- e. **(REPEALED BY 438.3)**

Section 3.

A1. For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the County at a rate of one and one-quarter (1 ¼ %) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the County of Riverside.

A2. For the purposes of this ordinance, all the 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 Board of Equalization.

B1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on the operative date of this ordinance, applicable to sales taxes, are hereby adopted and made a part of this section as though fully set forth herein.

B2. Wherever, and to the extent that, in Part 1 of Division 2 of the Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the County of Riverside shall be substituted therefore. Nothing in this subdivision shall be deemed to require the substitution of the of the name of the County of Riverside for the word "State" when that word is used as part of the title of the State Controller, State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section where the result of the substitution would require action to be taken by or against the County or any agency thereof, rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the State under the said provisions of that Code; and in addition, the name of the County shall not be substituted for that of the State in Sections 6701,6702, except in the last sentence thereof, 6711,6715,6737,6797 and 6828 of the Revenue and Taxation Code as adopted.

B3. If a seller's permit has been issued to a retailer under Sec. 6068 of the Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

B 4. There shall be excluded from the gross receipts by which the tax is measured:

- i. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- ii. Eighty Percent (80%) of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or

- consumed principally outside the county in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.
- iii. Eighty percent (80%) of the gross receipts from the sale 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.

Section 4.

A. An excise tax is hereby imposed on the storage, use or other consumption in the County of Riverside of tangible personal property purchased from any retailer for storage, use or other consumption in the County at the rate of one and one-quarter percent (1 ¼ %). 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.

B1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 or Division 2 of the Revenue and Taxation Code of the State of California, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on the operative date of this ordinance, applicable to use taxes, are hereby adopted and made a part of this section as though fully set forth herein.

B2. Wherever, and to the extent that, in Part 1 of Division 2 of the said Revenue and Taxation Code of that, in Part 1 of Division 2 of the said Revenue and Taxation Code the State of California is named or referred to as the taxing agency, the name of this County shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this County for the word "State" when that word is used as part of the title of the State Controller, the State Treasurer, the State Board of Control, the State Board of Equalization, or the name of the State Treasury, or of the Constitution of the State of California; nor shall the name of the County be substituted for that of the State in any section when the result of the substitution would require action to be taken by or against the County or any agency thereof rather than by or against the State Board of Equalization, in performing the functions incident to this administration or operation of this ordinance; and neither shall the substitution be deemed to have been made 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 provide an exemption from this tax with respect to certain storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such storage, use or other consumption remains subject to tax by the State under the provisions of Part 1 of Division 2 of the said Revenue and Taxation Code, or to impose this tax with respect to certain 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; and in addition, the name of the County shall not be substituted for that of the State in Sections 6701,6702 (except in the last sentence thereof),

6711,6715,6737,6797 and 6828 of the said Revenue and Taxation Code as adopted and the name of the County shall not be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 nor in the definition of that phrase in Section 6203.

B3.5. There shall be exempt from the tax due under this section:

- i. The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- ii. The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with Part 1.5 of Division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this ordinance.
- iii. Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly, and exclusively in the carriage of persons or property in such vessels for commercial purposes is exempted from 80 percent of the tax.
- iv. In addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property 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 is exempt from 80 percent of the tax.

Section 5: Any person subject to a sales and use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this county; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subsection (h) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code.

Section 5.5 Any person subject to a sales or use tax or required to collect a use tax under this ordinance shall be entitled to credit against the payment of taxes due under this ordinance the amount of sales and use tax due any city in this county, provided that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (10), inclusive, of subdivision (i) of Section 7202 of the Revenue and Taxation Code, and other applicable provisions of Part 1.5 of Division 2 of that Code.

Section 6. 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 this County or against any officer of the State or this County to prevent or enjoin the collection under this ordinance or Part 1.5 of Division 2 of the Revenue and Taxation Code of any tax or any amount of Tax required to be collected.

Section 7. All amendments of the Revenue and Taxation Code enacted subsequent to the operative date of this ordinance which relate to the sales and use tax and which are not inconsistent with Part 1.5 of Division 2 of the Revenue and Taxation Code shall automatically become a part of this ordinance.

Section 7.1 (a). Sections 3(b) (4.5), 4(b) (3.5), and 5.5 of this ordinance shall become operative on January 1st of the year following the year in which the State Board of Equalization adopts an assessment ratio for state assessed property which is identical to the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 3(b) (4), 4(b) (3), and 5 shall become inoperative.

Section 7.1 (b). In the event that Sections 3(b), (4.5), 4(b) (3.5), and 5.5 of this ordinance become operative and the State Board of Equalization subsequently adopts an assessment ratio for state-assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, Sections 3(b) (4), 4(b) (3), and 5 shall become operative on the first day of the month next following the month in which such higher ratio is adopted, at which time Sections 3(b) (4.5), 4(b) (3.5), and 5.5 of this ordinance shall be inoperative until the first day of the month following the month in which the Board again adopts an assessment ratio for state-assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code at which time Sections 3(b) (4.5), 4(b) (3.5), and 5.5 shall again become operative and Sections 3(b) (4), 4(b) (3), and 5 shall become inoperative.

Section 8. This ordinance may be made inoperative not less than 60 days, but not earlier than the first day of the calendar quarter, following the County's lack of compliance with Article II (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

Section 9. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than one thousand (\$1000.00) or by imprisonment for a period of not more than six months in the county jail or by both such fine and imprisonment.

Section 10. If any section, subsection, sentence, clause, phrase or portion of this ordinance, including but not limited to any exemption, is, for any reason held to be invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors of the County of Riverside hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that

any one or more sections, subsections, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 11. (Repealed)

Important Note Found in 438.8:

- a. Sections 1,2, and 3 of this ordinance shall be operative January 1,1984.
- b. Sections 4,5, and 6 of this ordinance shall be operative on the operative date of any act of the Legislature of the State of California, which amends or repeals and reenacts Sections 7202 and 7203 of the Revenue and Taxation Code to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1,1983.

Adopted: 438 05/27/1957 (Eff: 07/01/1957)
Amended: 438.1 03/16/1959 (Eff: 04/15/1959)
438.2 08/24/1959 (Eff: 09/23/1959)
438.3 11/13/1961 (Eff: 12/13/1961)
438.4 10/26/1970 (Eff: 11/25/1970)
438.5 08/31/1971 (Eff: 10/01/1971)
438.6 05/09/1972 (Eff: 06/08/1972)
438.7 10/30/1973 (Eff: 11/29/1973)
438.8 12/20/1983 (Eff: Urgency)
438.9 Item 3.10b of 03/14/2000 (Eff: 04/13/2000)