

[Assembly Bill 3197](#) (Burke)

Date: March 22, 2018 (Amended)

Program: Property Taxes

Sponsor: Author

Revenue and Taxation Code Section 242

Effective: Upon enactment

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**Summary:** Extends the property tax exemption for personal property used in space flight to an unspecified date.

**Fiscal Impact Summary:** No immediate, additional revenue loss.

**Existing Law:** Current law exempts from property tax qualified property for use in space flight for lien dates 2014 to 2024, inclusive. "Space flight" means any flight designed for suborbital, orbital or interplanetary travel by a space vehicle, satellite, space facility, or space station of any kind. The exemption is limited to taxpayers that have a primary business purpose in space flight activities. The exemption does not apply to any material that is not intended to be launched into space, but does apply regardless of whether the property will ultimately be returned to California. "Qualified property" includes:

- Tangible personal property that has space flight capacity. This includes an orbital space facility, space propulsion system, space vehicle, launch vehicle, satellite, or space station of any kind, and any component thereof.
- Tangible personal property, including raw materials, work in process or finished goods, that has, or upon manufacture, assembly, or installation, has space flight capacity.
- Fuel produced, sold, and exclusively used for space flight and not adaptable for use in ordinary vehicles.

The assessor cannot deny the exemption because:

- The space flight launch fails, is postponed, or is cancelled.
- A launch vehicle, or any component thereof, is destroyed.

**Proposed Law:** This bill clarifies that a "component," as used in the language prohibiting denial of the exemption by reason of destruction of a launch vehicle, means a component of a launch vehicle and extends the exemption for property used in space flight from lien 2024 to an unspecified lien date.

**In General: Business Personal Property.** Personal property used in a trade or business is generally taxable. Annually, the law requires property owners to report their business personal property to the assessor on a business property statement, which is subject to audit. Proposition 13's value limitations do not apply to personal property, which is valued each lien date at its current fair market value.

The business property statement includes information regarding the supplies, business equipment, and leasehold improvements for each business location in the state. The owner provides information on the

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statement that is then used to assess and tax property in accordance with the law. The owner reports the acquisition costs of the supplies, business equipment and leasehold improvements that were owned on the lien date at the business location. Business inventory and licensed vehicles, with certain exceptions, are not taxable personal property and are not reported on the statement.

**Business Inventory.** Business inventory includes all items of personalty that become part of, or are themselves, a product that is held for sale or lease in the ordinary course of business. For an item of property to qualify for the business inventory exemption, the key phrases *ordinary course of business* and *goods intended for sale or lease* must apply.

### **Commentary:**

1. **The Legislature may tax or exempt personal property in its discretion.** Because space flight property is classified as personal property, the Legislature may legally exempt it, provided they do so by a two-thirds vote of both houses. Section 2 of Article XIII of the California Constitution provides that the Legislature, two-thirds of the membership of each house concurring, may classify personal property for differential taxation or for exemption.
2. **Related Property Tax Rule 133 and Board of Equalization (BOE) Legal Opinions.** Property Tax Rule [133](#), *Business Inventory Exemption*, was amended effective October 1, 2014 and provides that exempt business inventories include space flight property that is not operationally reusable. On December 24, 2013, the BOE's Legal Department issued an advisory, non-binding legal opinion (Property Tax Annotation [205.0280](#)) that the business inventory exemption applies to space flight property fabricated and used to transport satellites and cargo to locations in outer space if the owner relinquishes ultimate control at launch to a federal launch safety authority for space flight termination purposes.

**Costs:** The BOE's cost to update publications is absorbable.

**Revenue Impact:** Assembly Bill 3197 extends the provisions of section 242 to an unspecified date, which in itself does not create any immediate, additional revenue loss.

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