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**SB-792 Sales and use tax: returns: online transactions: local jurisdiction schedule.** (2021-2022)

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Date Published: 09/14/2021 09:00 PM

ENROLLED SEPTEMBER 14, 2021

PASSED IN SENATE SEPTEMBER 10, 2021

PASSED IN ASSEMBLY SEPTEMBER 10, 2021

AMENDED IN ASSEMBLY AUGUST 26, 2021

AMENDED IN ASSEMBLY JULY 08, 2021

AMENDED IN SENATE MAY 20, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

**SENATE BILL**

**NO. 792**

**Introduced by Senator Glazer**  
**(Coauthors: Senators Hertzberg, Dahle, and Nielsen)**  
**(Coauthor: Assembly Member Quirk)**

**February 19, 2021**

An act to add Section 6452.5 to the Revenue and Taxation Code, relating to taxation.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 792, Glazer. Sales and use tax: returns: online transactions: local jurisdiction schedule.

The Sales and Use Tax Law, administered and enforced by the California Department of Tax and Fee Administration, imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. Existing law authorizes the department to require the filing of reports by any person or class of persons with information relating to sales of tangible personal property, the storage, use, or other consumption of which is subject to the use tax, as specified. Existing law requires a retailer or purchaser subject to the sales and use tax to file, on or before the last day of the month following each quarterly period, a return for the preceding quarterly period.

This bill, for reporting periods beginning on or after January 1, 2022, would require a qualified retailer, defined as a retailer whose annual qualified sales of tangible personal property transacted online exceeded \$50,000,000 for the previous calendar year, to include with each tax return a schedule that reports for each local jurisdiction the gross receipts from the qualified sale of tangible personal property shipped or delivered to a purchaser in that jurisdiction. The bill would subject a qualified retailer who fails or refuses to timely furnish that schedule to a penalty of \$5,000. The bill would define terms for its purposes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 6452.5 is added to the Revenue and Taxation Code, to read:

**6452.5.** (a) For purposes of this section, the following definitions shall apply:

(1) "Local jurisdiction" means the city or city and county in which the shipment or delivery address of the purchaser is located. If the purchaser's shipment or delivery address is not located within a city or city and county, then "local jurisdiction" means the county in which the shipment or delivery address of the purchaser is located.

(2) "Qualified retailer" means a retailer that had qualified sales of tangible personal property transacted online that exceeded fifty million dollars (\$50,000,000) in the preceding calendar year.

(3) "Qualified sale" means a retail sale of tangible personal property transacted online, the gross receipts from which are subject to both the sales tax imposed pursuant to Chapter 2 (commencing with Section 6051) and a local sales tax imposed in accordance with the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), excluding any sale consummated at a retail store open to the public.

(b) For reporting periods beginning on or after January 1, 2022, a qualified retailer shall include with each tax return required to be filed pursuant to Section 6452 a schedule, in a form prescribed by the department, that reports for each local jurisdiction the gross receipts from the qualified sale of tangible personal property shipped or delivered to a purchaser in that jurisdiction.

(c) A sale is "transacted online" if both of the following conditions are met:

(1) The purchaser placed the order for the sale of tangible personal property on an internet website or web-based application that automatically processed the purchaser's payment.

(2) The qualified retailer shipped or delivered the tangible personal property to an address provided by the purchaser, other than a location of the qualified retailer, pursuant to a contract of sale.

(d) A qualified retailer who fails or refuses to timely furnish a schedule required to be filed pursuant to subdivision (b) shall pay a penalty of five thousand dollars (\$5,000).

(e) Except as provided in subdivision (d), a violation of this section shall not subject a person to any civil or criminal penalties pursuant to this part.