

Article 2: Sales Tax

§32.50

Short Title

Sections 32.50 and including Section 32.59 shall be known as the Uniform Local Sales and Use Tax Ordinance of the City of San Diego.
(“*Short Title*” added 2-28-1956 by O-6870 N.S.)

§32.51

Purpose

The City Council of The City of San Diego hereby declares that these sections are adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- (a) To adopt sales and use tax requirements which comply 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 sales and use tax requirements which incorporate 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 the said Revenue and Taxation Code;
- (c) To adopt a sales and use tax law which imposes one per cent (1%) 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 practical 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 sales and use tax requirements 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 city sales and use taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of these sections.

(Amended 12-12-1961 by O-8561 N.S., effective 1-1-1962.)

§32.52 Sales Tax

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the City at the rate of one percent (1%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in The City of San Diego on and after the operative date of the adoption of these provisions.

(“Sales Tax” added 2-28-1956 by O-6870 N.S.)

§32.52.1 Sales Tax — Place of Sale

For the purposes of this ordinance, all 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.

(Amended 12-12-1961 by O-8561 N.S., effective 1-1-1962.)

§32.52.2 Sales Tax — State Law Adopted by Reference

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to sales taxes are hereby adopted and made a part of this section though fully set forth herein.

(“Sales Tax — State Law Adopted by Reference” added 2-28-1956 by O-6870 N.S.)

§32.52.3 Sales Tax — State Law — Substitution of Names

Wherever, and to the extent 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 City of San Diego shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of The City of San Diego 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 City be substituted for that of the State in any section when the result

of that substitution would require action to be taken by or against the City 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 said 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 City 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.

(*"Sales Tax — State Law — Substitution of Names"* added 2-28-1956 by O-6870 N.S.)

§32.52.4 Sales Tax — Only One Seller's Permit Required

If a seller's permit has been issued to a retailer under Section 6067 of the said Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

(Amended 10-25-1973 by O-11148 N.S.)

§32.52.6 Sales Tax — Exclusions from Gross Receipts

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

- (a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the city 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.

(Amended 12-12-1983 by O-16092 N.S.)

§32.53 Use Tax

An excise tax is hereby imposed on the storage, use or other consumption in The City of San Diego of tangible personal property purchased from any retailer on or after the operative date of this ordinance, for storage, use or other consumption in the city at the rate of One percent (1%) of the sales price of the property. 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.

(“*Use Tax*” added 2-28-1956 by O-6870 N.S.)

§32.53.1 Use Tax — Adoption of State Law by Reference

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Part 1.5 of Division 2 of the said Revenue and Taxation Code, all of the provisions of Part 1 of Division 2 of said Code, as amended and in force and effect on April 1, 1956, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.

(“*Use Tax — Adoption of State Law by Reference*” added 2-28-1956 by O-6870 N.S.)

§32.53.2 Use Tax — State Law — Substitution of Names

Wherever, and to the extent 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 City shall be substituted therefor. Nothing in this subdivision shall be deemed to require the substitution of the name of this City 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 City be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the City 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 section or subsections; 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 the Code; and in addition, the name of the City 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 City 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.

(Amended 12-12-1961 by O-8561 N.S., effective 1-1-1962.)

§32.53.3 Use Tax — Exclusions from Taxes Due

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

- (a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has 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.

(Amended 12-12-1983 by O-16092 N.S.)

§32.53.4 Use Tax — Exclusions from Taxes Due

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

- (a) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.
- (b) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has 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.
- (c) 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.

(Amended 12-12-1983 by O-16092 N.S.)

§32.54**Amendments**

All amendments of the said Revenue and Taxation Code enacted subsequent to the effective 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 said Revenue and Taxation Code shall automatically become a part of these sections.

(“Amendments” added 2-28-1956 by O-6870 N.S.)

§32.55**Enjoining Collection Forbidden**

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 City, or against any officer of the State or this City, to prevent or enjoin the collection under these sections 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.

(“Enjoining Collection Forbidden” added 2-28-1956 by O-6870 N.S.)

§32.56**Existing Sales and Use Tax Sections Suspended**

At the time this ordinance goes into operation, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall be suspended and shall not again be of any force or effect until and unless for any reason the State Board of Equalization ceases to perform the functions incident to the administration and operation of the sales and use tax hereby imposed; provided, however, that if for any reason it is determined that The City of San Diego is without power to adopt this ordinance, or that the State Board of Equalization is without power to perform the functions incident to the administration and operation of the taxes imposed by this ordinance, the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall not be deemed to have been suspended, but shall be deemed to have been in full force and effect at the rate of One percent (1%) continuously from and after April 1, 1956. Upon the ceasing of the State Board of Equalization to perform the functions incident to the administration and operation of the taxes imposed by these sections the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code shall again be in full force and effect at the rate of One percent (1%). Nothing in this ordinance shall be construed as relieving any person of the obligation to pay to The City of San Diego any sales or use tax accrued and owing by

reason of the provisions of Sections 32.01 through 32.27 of the San Diego Municipal Code in force and effect prior to and including March 31, 1956.

(*"Existing Sales and Use Tax Sections Suspended"* added 2-28-1956 by O-6870 N.S.)

§32.57 **Penalties**

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 \$500.00 or by imprisonment for a period of not more than six (6) months in the City jail, or by both such fine and imprisonment.

(*"Penalties"* added 2-28-1956 by O-6870 N.S.)

§32.58 **Severability**

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 of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Council of The City of San Diego 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, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

(*"Severability"* added 2-28-1956 by O-6870 N.S.)

§32.59 **Operative Date — Contract with State**

This ordinance shall become operative on April 1, 1956, and prior thereto this City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this sales and use tax; provided, that if this City shall not have contracted with the said State Board of Equalization, as above set forth, prior to April 1, 1956, this ordinance shall not be operative until the first day of the first calendar quarter following the execution of such a contract by the City and by the State Board of Equalization, provided further that this ordinance shall not become operative prior to the operative date of the Uniform Local Sales and Use Tax Ordinance of the County of San Diego.

(*"Operative Date — Contract with State"* added 2-28-1956 by O-6870 N.S.)