



DATE: November 14, 2016

TO: Transportation Authority of Marin Finance and Policy Executive Committee

FROM: Dianne Steinhauser, Executive Director
David Chan, Programming Manager

SUBJECT: Pursue State Legislation for Exemption on the 2% Sales Tax Rate in Marin County (Action), Agenda Item No. 6

RECOMMENDATION

Recommend that the TAM Board pursue State legislation in 2017 to provide an exemption to the 2% cap on the local transaction and use taxes (also known as the district tax) in order to allow TAM to consider the pursuit of a new sales tax measure dedicated for transportation purposes. The bill would provide an exemption of no more than 0.5% for the Transportation Authority of Marin (TAM), affording flexibility to place items before voters to reauthorize or supplement the existing Transportation Sales Tax (Measure A) program.

BACKGROUND

Existing law authorizes various local governmental entities, subject to certain limitations and approval requirements, to levy a transactions and use tax for general purposes, in accordance with the procedures and requirements set forth in the Transactions and Use Tax Law, including a requirement that the combined rate of all taxes that may be imposed in accordance with that law in the county not exceed 2%.

In recent history, this cap is quickly reached when both cities and counties enact their own district taxes. It is particularly problematic for counties because if one city within a county has reached the cap, then the county is precluded from seeking voter approval to self-impose additional district taxes. Similarly, cities that have already reached the cap are constrained when seeking additional funding for programs and services above the cap.

At the present time, the Counties of Alameda, Contra Costa, Los Angeles, and San Mateo have reached the 2% limit. The Counties of Marin, Monterey, San Diego, and Sonoma are near the limit. The Legislature has previously granted exemptions to the 2% cap for transactions and use taxes to support countywide transportation programs, at both the county and local city level.

For example, the legislature authorized the Los Angeles County Metropolitan Transportation Authority an exemption (AB 23 (Feuer) Chapter 302) in 2008. In 2011, Alameda County was provided with an exemption (AB 1086 (Wieckowski) Chapter 327). Contra Costa County received an exemption in 2012 (AB 210 (Wieckowski), Chapter 194). In 2015, the legislature enacted SB 705 (Hill), Chapter 579, to provide San Mateo and Monterey Counties with an exemption.

Proposed legislation for TAM to increase the sales tax limit up to 0.5% would need to be approved by the Legislature and signed by the Governor.

The raising of the cap in and of itself does not allow a sales tax measure from being placed on the ballot. The placement of a tax on the ballot is a completely separate decision. A measure to actually raise the sales tax limit must first be approved through an ordinance by TAM and then be approved by $\frac{2}{3}$ of the county's registered voters to be imposed. TAM staff envisions a multi-year effort for the TAM Board to consider whether this should be done. The raising of the cap gives TAM maximum flexibility as it considers what, if any, additional sales tax for transportation should be pursued.

Current Sales Tax Rates in Marin County

The following table is a list of current sales tax levels in Marin County. After the passage of Proposition 55 at the November 8th Election (see below on its impact), the current maximum sales tax limit for Marin County is 9.25%, which includes the state sales tax limit of 7.25%, and is mutually exclusive of the local sales tax cap. The 2% local cap applies regardless of the state's cap.

California and Marin County Sales and Use Tax Rates (November 9, 2016)		
3.69%	State	State's General Fund
0.25%	State	State's General Fund
0.25%	State	Economic Recovery Bonds (2004)
0.50%	State	Local Public Safety Fund (1993)
0.25%	State	State's Education Protection Account (2016 Proposition 55)
0.50%	State	Local Revenue Fund (local health & social services) (1991)
1.06%	State	Local Revenue Fund (2011)
1.00%	State	0.25% to county transportation funds 0.75% to city or county operations
7.25%	Statewide	Total Statewide Base Sales and Use Tax Rate
0.25%	Marin County	Marin Parks/Open Space/Farmland Preservation (2013)
0.50%	Marin County	TAM Transportation Sales Tax (2005)
0.25%	Marin County	Sonoma-Marín Area Rail Transit District (2009)
8.25%	Marin Countywide	All jurisdictions (including unincorporated Marin County, Belvedere, Mill Valley, Ross, and Tiburon), unless indicated below
8.75%	Corte Madera	0.50% Measure B (2013) Emergency Services, Transportation, Youth & Senior Programs
8.75%	Larkspur	0.50% Measure D (2013) Larkspur Street Repair/Essential City Services
8.75%	Novato	0.50% Measure F (2010) Fiscal Emergency & Vital City Services Revenue
8.75%	San Anselmo	0.50% Measure D (2014) Vital Services and Infrastructure Needs
8.75%	Sausalito	0.50% Measure O (2015) Essential Services
9.00%	San Rafael	0.75% Measure E (2013) Maintaining Emergency Services
9.00%	Fairfax	0.75% Measure C (2016) Vital Town Service Emergency Protection

As shown in the table, San Rafael had the highest sales tax at 9.25% before the November 8th Election. However, Fairfax's Measure C passed on November 8th to increase its sales tax to 9.25% as well. If TAM does not pursue a legislative amendment, the current available increase allowed for a countywide increase is 0.25% before reaching the 2.0% limit, since the County's Measure A 0.25% sales tax for child care and health services failed on November 8th. Attachment C is a table that summarizes the ballot measure results for Marin County from the November 8th Election.

If TAM were to pursue an increase of sales tax for transportation in the future of 0.5% and no other countywide or city specific sales taxes are enacted, it would need to pass legislation similar to past legislative exemptions identified above. It should be emphasized that legislative approval to for an exemption to the sales tax limit for Marin County does not actually increase the sales tax for Marin County. A measure would still need to be approved through an ordinance by TAM and then placed on the ballot at a later time for approval by 2/3 of the voters.

Proposition 55 Tax Extension to Fund Education and Healthcare

In 2012, California successfully passed Proposition 30 to temporarily raise income tax on couples making over \$500,000 per year through 2019 and temporarily increasing the statewide sales tax by 0.25% through 2016. Proposition 30 yielded over \$6 billion annually to help the Legislature pass a balanced budget.

In the November 8th Election, Proposition 55 was passed to allow the increased income tax on single filers making over \$250,000 or joint filers making over \$500,000 to continue until 2030, while allowing the 0.25% sales tax increase from Proposition 30 to expire. It is estimated that anywhere from \$4 billion to \$9 billion could be realized between 2019 and 2030, depending on the health of the economy and stock market.

The expiration of the sales tax increase from Proposition 55 reduced the State sales tax from 7.5% to 7.25%, as reflected in the table above, but does not affect the 2% local sales tax cap.

PURPOSE FOR LEGISLATION AUTHORIZATION

TAM's Transportation Sales Tax (Measure A) was approved by Marin voters on November 2, 2004 and started collecting revenues on a ½ cent sales tax on April 1, 2005. Measure A authorized the collection of sales tax revenues over a 20-year period. Measure A is approaching its 12th year of collection with a sunset date of March 31, 2025.

While the sunset date is a little less than nine years away, there have been positive signs that increasing our transportation sales tax, along with renewal, may be desirable. There are advantageous reasons to legislatively increase the maximum sales tax limit for Marin County in 2017. If legislation was approved by the legislature, it would not become effective until January 1, 2018.

Given what we have learned from Marin voters and other Congestion Management Agencies' (CMA's) effort to authorize transportation sales taxes, it would be prudent to approach Marin voters sooner for both a renewal and an increase than the last few years of Measure A.

Also, putting on a reauthorization ballot measure requires ample lead-time to build consensus among the stakeholders, such as the partner agencies, business leaders, citizens, community and interest groups, and so forth.

Staff believes the time is ripe to legislatively increase the sales tax cap limit for Marin County in anticipation of reauthorizing or increasing transportation sales tax. There is evidence that the public may support an extend-and-expand option for Marin's transportation related sales tax, allowing for more transportation needs to be met. Governor Brown has consistently approved local sales tax cap legislation for transportation purposes.

It is necessary to sponsor legislation and be assured of its passage before engaging in the final development and approval processes of a sales tax expenditure plan. The legislation must be considered in 2017 in order for the sales tax ballot initiative to be considered for 2018's general election.

Process and Schedule for Legislation Introduction

While the 2017 calendar has not been published yet, the deadline for submissions is typically the end of January. TAM would ideally notify one of Marin's legislative delegations to get language in Legislative Counsel as soon as possible in order to draft the language and prepare it for introduction. TAM would then need to introduce legislation by the third week of February at the latest.

Staff is seeking TAM Board approval now in order to coordinate with our legislative delegates regarding the sponsoring of the bill.

Once a bill is introduced, TAM will await its assignment to a policy committee. The 2017 Legislative Session is the first year of a two-year session. Bills will most likely be heard in early April. Since TAM's legislation is only requesting for permission to lift a cap and not change a vote threshold, the bill would be a majority vote item if it were to clear policy committee and head to the Floor. The bill would not be designated as fiscal, meaning that it would avoid the Appropriations Committee.

After heading to policy committee and a Floor vote, the process repeats in the other house. If TAM's legislation passes with a majority vote bill and it is signed into law by the Governor, the bill would take effect on January 1, 2018.

NEXT STEP

Recommend that the TAM Board pursue State legislation in 2017 to provide an exemption to the 2% cap on the local transaction and use taxes (also known as the district tax) in order to allow TAM to consider the pursuit of a new sales tax measure dedicated for transportation purposes. The bill would provide an exemption of no more than 0.5% for the Transportation Authority of Marin (TAM), affording flexibility to place items before voters to reauthorize or supplement the existing Transportation Sales Tax (Measure A) program.

ATTACHMENT

- Attachment A: Draft Sample Fact Sheet
- Attachment B: Draft Sales Tax Exemption Language
- Attachment C: Marin November 2016 Ballot Measures and Results

ATTACHMENT A

PURPOSE

Senate Bill XXXX would provide an exemption to the 2% cap on the local transaction and use taxes (also known as the district tax) in order to allow the Transportation Authority of Marin to pursue a measure dedicated for transportation purposes. The bill would provide an exemption of no more than .5% for the Transportation Authority of Marin (TAM), affording flexibility to place items before voters to fund local transportation programs.

EXISTING LAW

Current law allows cities and counties to impose transaction and use taxes, also known as district taxes, at a rate of up to 2% of total sales. This cap is quickly reached when both cities and counties enact their own district taxes. It is particularly problematic for counties because if one city within a county has reached the cap, then the county is precluded from seeking voter approval to self-impose additional district taxes. Similarly, cities that have already reached the cap are constrained when seeking additional funding for programs and services above the cap.

PROBLEM & BACKGROUND

The 2% cap was implemented more than a decade ago, in 2003. Since then, several bills have gone through the Legislature to create individual exceptions to the cap, including SB 705 (Hill), which the Governor signed in 2015 to allow the Counties of San Mateo and Monterey exemptions of .5% and .375%, respectively, to place transportation sales tax measures on the ballot.

In Marin, the City of San Rafael is currently at 9.25%, leaving only .25% of capacity for any measure. If San Rafael takes up the remaining capacity the County would be precluded pursue a measure for any purpose. Voters approved Measure A in 2004, which provided \$331 million over a 20 year period for local transportation projects in Marin County. With the expiration of

Measure A on the horizon, TAM is considering placing another measure for voter approval to continue to address Marin County's infrastructure needs. They cannot place a measure on the ballot without the capacity to do so.

SOLUTION

SB XXX provides an exemption on the cap on district taxes in Marin County, allowing the county and their cities to seek voter approval at the current two-thirds vote threshold for incremental tax increases.

SUPPORT

STAFF CONTACT

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ATTACHMENT B

Please draft the following bill to amend Sections 7299 and 7300 of the Revenue and Taxation Code to read as follows:

SB XXXX (Legislator). Transactions and use taxes: Transportation Authority of Marin

Existing law authorizes various local governmental entities, subject to certain limitations and approval requirements, to levy a transactions and use tax for general purposes, in accordance with the procedures and requirements set forth in the Transactions and Use Tax Law, including a requirement that the combined rate of all taxes that may be imposed in accordance with that law in the county not exceed 2%.

This bill would authorize the Transportation Authority of Marin to impose a transaction and use tax for the support of countywide transportation programs at a rate of up to 0.5% that, in combination with other specified taxes, would exceed the combined rate limit.

These provisions would be repealed by their own terms on January 1, 2028, if an ordinance is not approved, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Marin.

7299. Notwithstanding any other law, the Transportation Authority of Marin may impose a transactions and use tax for the support of countywide transportation programs at a rate of up to 0.5% percent that would, in combination with all taxes imposed in accordance with Part 1.6 (commencing with Section 7251), exceed the limit established in Section 7251.1, if all of the following requirements are met:

(a) The Transportation Authority of Marin adopts an ordinance proposing the transactions and use tax by any applicable voting approval requirement.

(b) The ordinance proposing the transactions and use tax is submitted to the electorate and is approved by the voters voting on the ordinance in accordance with Article XIII C of the California Constitution.

(c) The transactions and use tax conforms to the Transactions and Use Tax Law, Part 1.6 (commencing with Section 7251), other than Section 7251.1.

7300. If the ordinance proposing the transactions and use tax is not approved as required by subdivision (b) of Section 7299, this chapter shall be repealed as of January 1, 2028.

SEC. 3. (a) The Legislature finds and declares that the special law contained in Section 1 of this measure is necessary and that a general law.

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ATTACHMENT C

NOVEMBER 2016 MARIN BALLOT MEASURES

Jurisdiction	Tax Type & Name	What does the tax pay for?	Amount	Duration if passed	Result
Countywide tax	Sales Tax “Measure A”	Sales Tax for expanded preschool, child care and health services for low-income children: Fifty percent of the funds would be used to fund quality preschool. A quarter of the proceeds would be used for affordable child care. Fifteen percent would be used for health care services and wellness programs. And 10 percent of the tax money would pay for afterschool and summer programs for children in kindergarten through second grade.	<u>¼ cent Sales Tax</u>	9 Years	2/3 Needed Failed 62.99%
Kentfield (School District)	Parcel Tax “Measure B”	Parcel tax benefiting the Kentfield School District: The measure seeks authority to levy \$1,600 per parcel annually. The measure would also extend the tax for 10 years and permit annual 5 percent increases in the rate. The new tax would replace a parcel tax approved by Kentfield voters in 2007 to fund the school district; Measure A is due to expire in the 2017-18 fiscal year.	\$1,600 Annually	10 Years	2/3 Needed Failed 57.72%
Fairfax	Sales Tax “Measure C”	Sales tax to maintain and enhance quality public safety and general services, improve infrastructure such as repairing sidewalks, pedestrian trails, repaving streets, and enhancing downtown: Fairfax voters will be asked to approve a 0.25 percentage point increase in the town’s existing 0.5 percent sales tax to 0.75 percent and extend the tax for 10 years.	<u>¼ cent Sales Tax (increase from existing ½ cent sales tax)</u>	10 years	Majority Needed Passed 76.49%
Mill Valley (School District)	Parcel Tax “Measure E”	Parcel tax benefiting the Mill Valley School District: Increase and an extension of a parcel tax for the Mill Valley School District. The ballot measure proposes boosting the \$865 annual parcel tax to \$980 yearly beginning July 1, 2017. The measure would renew the tax for another 12 years and allow it to increase 5 percent each year through 2029.	\$980 Annually	12 years	2/3 Needed Failed 66.30%

Highlighted texts indicate that streets and roads are eligible components of the measure and underlined texts indicate a sales tax measure.

Novato (School District)	Bond Measure “Measure G”	Bond measure benefiting Novato Unified School District: Bond to pay for repairs, upgrades and new furniture in Novato Unified School District schools. The maximum possible cost to homeowners would be \$60 per \$100,000 of assessed property value for 25 years.	Up to \$60 per \$100,000 of assessed property value	25 years	55% Needed Passed 56.66%
Mill Valley	Special Property Tax “Measure H”	Special property tax to pay for maintenance and repair of local roads and fire suppression efforts, including vegetation removal: Proposal to replace the city’s municipal services tax with a special property tax to pay for maintenance and repair of local roads and fire suppression efforts, including vegetation removal.	\$266 annually for owners of single-family residences, with a 2 percent annual adjustment.	10 years	2/3 Needed Passed 77.35%
Ross	Parcel Tax “Measure K”	Parcel tax used to pay for public safety services: The tax, which is due to expire June 30, 2017, would cost both residential and commercial property owners \$970 per dwelling unit. The measure would extend the tax for another eight years, with increases based on the consumer price index.	\$970 annually per dwelling unit	8 years	2/3 Needed Passed 78.13%
Muir Beach (Community Services District)	Parcel Tax “Measure L”	Parcel tax to pay for fire protection services: A tax that used to serve that purpose expired June 30, 2016. The measure proposes a new tax of \$213 per parcel annually beginning in fiscal year 2016-17 and continuing 10 years until fiscal year 2025-26, with annual consumer price index increases allowable. Exemptions would be available to the owners of single-family residences who live in their own homes and have a household income of 80 percent and below of median income for Marin County.	\$213 annually per parcel	10 years	2/3 Needed Passed 77.50%
Kent Woodlands	Special Tax (Safety) “Measure M”	Increase of the tax that pays for a Marin County Sheriff’s Office deputy to patrol the Kent Woodlands neighborhood: The measure proposes increasing the tax from \$260 per living unit yearly to \$360 per living unit yearly, with an annual adjustment for inflation not to exceed 3 percent per year.	\$360 annually per living unit (increase from \$260 per living unit)	In effect until repealed	2/3 Needed Passed 68.81%

Information from: <http://www.marincounty.org/depts/rv/election-info/election-schedule/page-data/tabs-collection/2016/nov-8/measure/list>

Kent Woodlands	Special Tax (Safety) "Measure N"	New special tax to pay for the installation and maintenance of surveillance cameras that read the license plates of vehicles entering and exiting the community: A special tax to purchase and install License Plate Readers (LPR) that record the license plates of vehicles traveling through the Kent Woodlands neighborhood so as to deter criminal activities, such as burglary.	Up to \$100 per living unit in fiscal 2016-17 and as much as \$11 per living unit each year thereafter.	In effect until repealed	2/3 Needed Passed 72.04%
County Service Area #29 (Paradise Cay)	Parcel Tax "Measure O"	Renew of a parcel tax paid by Paradise Cay voters to dredge the channels that connect the Tiburon yacht harbor to San Francisco Bay and increase the tax by 25 percent: Under the ballot measure, the tax would increase from \$1,200 on each original lot to \$1,500. Voters in Paradise Cay first agreed to the dredging tax in 1992.	\$1,500 annually per original lots located within the Service Area (increase from \$1200)	10 years	2/3 Needed Passed 87.18%

Information from: <http://www.marincounty.org/depts/rv/election-info/election-schedule/page-data/tabs-collection/2016/nov-8/measure/list>

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