

ORDINANCE NO. C. S. 1108

AN ORDINANCE OF THE STANISLAUS COUNTY BOARD OF SUPERVISORS  
IMPOSING A TRANSACTIONS AND USE TAX  
TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1. TITLE. This ordinance shall be known as the Stanislaus County Library Transactions and Use Tax Ordinance. This ordinance shall be applicable in the incorporated and unincorporated territory of the County of Stanislaus, which shall be referred to herein as "District."

Section 2. OPERATIVE DATE. "Operative Date" means the first day of July, 2013, commencing more than 110 days after the adoption of this ordinance, the date of each adoption being as set forth below.

Section 3. PURPOSE: This ordinance is adopted to achieve the following, among other purposes, and districts that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Division 2 of the Revenue and Taxation Code and Section 7286.59 which authorizes the District to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. This ordinance is to be submitted to the voters of Stanislaus County on June 5, 2012, the Board of Supervisors having previously called for an election on that date.

C. If two-thirds of the electors voting at said election approve the imposition of the tax, then the operative date of the imposition of this tax shall be on July 1, 2013.

D. The revenue collected from the tax shall be used only to fund county-wide library programs and operations, including but not limited to, providing purchases of new materials, technology, storytimes, programs for children and teens, and other programs and services.

E. To adopt a retail transactions 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 1.6 of Division 2 of the Revenue and Taxation Code.

F. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure therefore 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.

G. To adopt a retail transactions and use tax ordinance which can be administered in a manner which will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions 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.

Section 4. CONTRACT WITH STATE. Prior to the operative date, the District shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the District shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 5. TRANSACTIONS TAX RATE. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of one-eighth of one percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

Section 6. 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 or 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 State Board of Equalization.

Section 7. USE TAX RATE. An excise tax is hereby imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one-eighth of one percent of the sales price of property. The sales price shall include delivery charges when such charges are subject to state sale or use tax regardless of the place to which delivery is made.

Section 8. TERM. The transactions and use tax imposed by this ordinance shall be collected for a period not to exceed five years from and after the operative date of this ordinance. The Board of Supervisors of the County of Stanislaus pursuant to Revenue and Taxation Code 7286.59 may impose a transactions and use tax in any succeeding period not to exceed eight years per period if all the conditions contained in Revenue and Taxation Code Section 7286.59 are met.

Section 9. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

Section 10. LIMITATION ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this District shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance;

3. 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:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word "District" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 11. PERMIT NOT REQUIRED. If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

Section 12. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales 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.

2. Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the Retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such

point. For the purposes of this paragraph, delivery to a point outside the District shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sales of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sales of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this sections, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. 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. This exemption is in addition to the exemptions provided in Section 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of ordinance No. C.S. 581, effective July 1, 1995.

5. For the purposes of subsection (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the District shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business or the canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer.

7. "A retailer engaged in business in the District" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the District.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 13. AMENDMENTS. All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 of Division 2 of the Revenue and

Taxation Code, and all amendments to Part 1.6 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

.Section 14. 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 the District, or against any officer of the State or the District, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. .

Section 15. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 16, EFFECTIVE DATE. This ordinance relates to the levying and collecting of the District transactions and use taxes and shall take effect immediately.

Section 17. PUBLICATION. Before the expiration of fifteen (15) days after the passage of this ordinance, it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

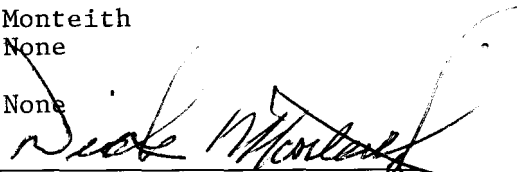
Upon motion of Supervisor O'Brien, seconded by Supervisor De Martini, the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 1st day of November, 2011, by the following called vote:

AYES: Supervisors: O'Brien, Chiesa, Withrow, De Martini, and Chairman

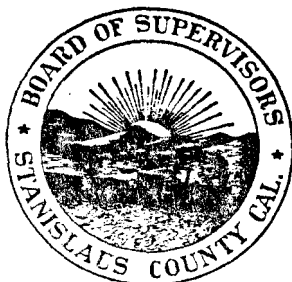
Monteith

NOES: Supervisors: None

ABSENT: Supervisors: None



Dick Monteith, Chairman of the Board of Supervisors  
Of the County of Stanislaus, State of California



ATTEST:

CHRISTINE M. FERRARO TALLMAN  
Clerk of the Board of Supervisors of  
County of Stanislaus, State of California

By *Suzi Gilbert, deputy clerk*

APPROVED AS TO FORM:

JOHN P. DOERING, County Counsel

By *Dean Wright*



STANISLAUS COUNTY ORDINANCE C.S. 1108

Upon motion of Supervisor O'Brien, seconded by Supervisor DeMartini, Ordinance C.S. 1108 was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 1st day of November 2011, by the following called vote:

AYES: SUPERVISORS: O'Brien, Chiesa, Withrow, DeMartini and Chairman Monteith  
NOES: None  
ABSENT: None  
ABSTAINING: None

Ordinance C.S. 1108 allows Stanislaus County to place on the June 5, 2012 Election Ballot, the extension of the existing one-eighth of one percent Library Transactions and Use Tax for 5 years, commencing on July 1, 2013 until June 30, 2018, for the continued exclusive funding of the Stanislaus County Library System. This tax will be administered by the State Board of Equalization with an independent citizens oversight committee ensuring these funds are spent only on Stanislaus County libraries.

NOTICE IS FURTHER GIVEN that a full copy of the ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Vanessa Czopek in the County Library Administration Office, at 209-558-7801, or at 1500 I St., Modesto, CA.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: September 20, 2011

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
of the Board of Supervisors  
of the County of Stanislaus,  
State of California

BY:

  
Elizabeth A. King, Assistant Clerk

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO**, County of **STANISLAUS**, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Nov 05, 2011

**STANISLAUS COUNTY  
ORDINANCE C.S. 1108**

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BY ORDER OF THE BOARD OF SUPERVISORS. DATED: September 20, 2011. ATTEST: Christine Ferraro Tallman, Clerk of the Board of Supervisors of the County of Stanislaus, State of California; BY: Elizabeth A. King, Assistant Clerk  
Pub Dates Nov. 5, 2011

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I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

**MODESTO, California** on

November 7th, 2011

(By Electronic Facsimile Signature)

*Marie Dieckmann*

11/1/11 A3