

ORDINANCE NO. 4343

AN ORDINANCE OF THE PEOPLE OF THE CITY OF POMONA, CALIFORNIA, AMENDING VARIOUS SECTIONS OF ARTICLE XII OF CHAPTER 50 OF THE POMONA MUNICIPAL CODE MAINTAINING THE RATE OF THE CITY OF POMONA TRANSACTIONS AND USE TAX AT THREE-QUARTERS PERCENT (0.75%) AND EXTENDING THE TERM OF THE TAX BY REPEALING ITS MARCH 31, 2029 EXPIRATION DATE/SUNSET

THE PEOPLE OF THE CITY OF POMONA DO HEREBY ORDAIN AS FOLLOWS:

[NOTE: Deletions are in ~~strikethrough~~ and additions are in **bold underline**]

SECTION 1: AMENDMENTS TO MUNICIPAL CODE.

“Article XII Transaction and Use Tax

DIVISION 1. — GENERALLY

Sec. 50-601.- Operative Date. "Operative Date" as used herein means the first day of the first calendar quarter commencing more than one hundred and ten (110) days after the City Council declares the results of the Municipal Primary ~~general~~ election held on ~~November 6,~~ 2018. **March 5, 2024.**

Sec. 50-602. - Purpose. This Article is adopted to achieve the following purposes, among others, and directs that the provisions hereof be liberally interpreted in order to accomplish those purposes:

....

- C. To adopt a retail transactions and use tax that imposes a tax and provides a measure therefore that can be administered and collected by the ~~State Board of Equalization~~ **California Department of Tax and Fee Administration** in a manner that adopts 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~~ **California Department of Tax and Fee Administration** in administering and collecting the California Sales and Use Taxes.

....

Sec. 50.604. - Contract with the State. Prior to the Operative Date of this Article, the City shall contract with the ~~State Board of Equalization~~ **California Department of Tax and Fee Administration** to perform all functions incident to the administration and operation of this transactions and use tax; provided that if the City shall not have contracted with the ~~State Board of Equalization~~ **California Department of Tax and Fee Administration** prior to the Operative

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Date, it shall nevertheless so contract and in such case the Operative Date shall be the first day of the first calendar quarter following the execution of the contract.

Sec. 50- 605. Transaction Tax Rate. For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of three quarters of one percent (0.75%) 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 Article.

....

Sec. 50-607.- Use Tax Rate. An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date for storage, use, or other consumption in the City at the rate of three quarters of one percent (0.75%) 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.

....

Sec.- 50-609. - Limitations on Adoption of State Law and Collection of Use Taxes. In adopting the provisions of Part 1 of Division 2 of the Revenue & Taxations Code:

- A. Whenever the State of California is named or referred to as the taxing entity, the name of the City shall be substituted therefore. However, the substitution shall not be made when:
- 1) The word "State" is used as part of the title of the State Controller, State Treasurer, ~~State Board of Control~~ **California Victim Compensation Board**, ~~State Board of Equalization~~ **California Department of Tax and Fee Administration**, 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 the City or any agency, officer, or employee thereof rather than by or against the ~~State Board of Equalization~~ **California Department of Tax and Fee Administration**, in performing the functions incident to the administration or operation of this Article;
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- 5) The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in the business of this state" in Section 6203 and in the definition of that phrase in Section 6203.

a. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal

property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

....

Sec. 50-614. — Termination and repeal. The authority to levy the taxes imposed by this Article shall be in effect until ~~March 31, 2029~~, unless this Article is **repealed**.

Sec. 50-615 to 50-650. Reserved

DIVISION 2. – CITIZENS OVERSIGHT COMMITTEE

Sec.- 50-651.- Established. There is established a Citizens' Oversight Committee. Each Council Member shall appoint one committee member.

Sec. 50-652. Staff Liaison. The City Manager shall designate a member of city staff to serve as the staff liaison of the Citizens' Oversight Committee. The Staff Liaison shall:

- A. Serve as a liaison between the Citizens' Oversight Committee and the City Council and the City Manager;
- B. Assist the Committee in carrying out its duties and responsibilities as provided for by this division;
- C. Prepare reports as directed by the City Manager or City Council;
- D. Attend the Committee's meetings as necessary to carry out the Liaison's functions;
and
- E. Provide advice, information, and material to assist the Committee.

Sec. 50-653.- Duties and responsibilities: The Citizens' Oversight Committee serves in an advisory capacity. The Committee shall:

- A. Annually review the City's revenues and expenditures of the Transaction and Use Tax;
- B. Hold public meetings throughout the year, as often as City Council directs;
- C. Review annual audit reports related to the tax; and
- D. Prepare written reports to the City Council that summarize the Committee's findings and recommendations

Sec. 50-654 to 50-700. Reserved.”

SECTION 2. CONFLICTING/COMPETING MEASURE/EFFECTIVE DATE

A. Pursuant to California Elections Code Section 9217, this Ordinance must be approved by at least a majority of the eligible voters of the City of Pomona voting at the Municipal Primary Election of March 5, 2024.

B. Further, pursuant to California Elections Code 9221, this Ordinance is expressly declared by the voters to conflict with Pomona Measure “__” (the “Mendoza Initiative” establishing a different rate of sales taxation). Therefore, if both this Ordinance and the Mendoza Initiative are approved by a majority of eligible Pomona voters, the one receiving the highest number of affirmative votes shall become effective and the other shall be of no force and effect.

C. Either this Ordinance or the Mendoza Initiative, whichever receives the highest number of affirmative votes pursuant to California Elections Code Section 9221, shall be deemed adopted and take effect ten (10) days after the City Council has certified the results of that election by resolution.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The voters of the City of Pomona hereby declare that they would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid.

SECTION 4. AMENDMENT AND TERMINATION. The authority to levy this tax imposed by this Ordinance shall expire when repealed by the voters. The City Council may amend this Ordinance to reduce the rate of the taxes, either permanently or for a set period of time, and may reinstate the tax at up to the maximum rate approved in this Ordinance, without a further vote of the people. The City Council shall not amend this Ordinance to increase the Transactions and Use Tax rate above what is authorized by this Ordinance, unless such amendment is submitted to and approved by the voters.

SECTION 5. CERTIFICATION. The City Clerk shall certify to the adoption of this Ordinance.

I hereby certify that this Transactions and Use Tax Rate Maintenance and Extension Ordinance was PASSED, APPROVED, AND ADOPTED by the People of the City of Pomona on the 5th day of March, 2024.

CITY OF POMONA:



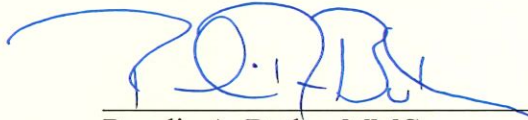
Tim Sandoval
Mayor

APPROVED AS TO FORM:



Sonia Carvalho
City Attorney

ATTEST:



Rosalia A. Butler, MMC
City Clerk