



TOWN OF FAIRFAX

STAFF REPORT

January 18, 2017

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Authorize the Mayor to send a letter in support of the Transportation Authority of Marin's effort to seek State of California legislation providing an exemption to Marin County regarding the 2% cap on the local transaction and use tax

RECOMMENDATION

Authorize the Mayor to send a letter of support to the Transportation Authority of Marin (TAM) to 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) for the specific purpose of considering a future transportation-related sales tax.

DISCUSSION

The following questions and answers include information provided by TAM staff in support of this request.

Why is TAM requesting this support?

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 currently raises over \$25 million dollars each year dedicated to local transportation projects and programs, and it is approaching its 12th year of collection with a sunset date of March 31, 2025.

The TAM Board is considering the placement of a renewal and/or increase in the sales tax dedicated to transportation in an upcoming Marin general election. The earliest this could occur is 2018. If TAM chooses to simply renew its sales tax, there is no effect on the cap, and no legislation is required. However, the TAM Board would like to further consider both a renewal and a potential increase. An increase may not be feasible due to the cap that exists now.

The TAM Board has requested its staff to seek statements of support from each jurisdiction in Marin for TAM to seek legislation to provide an exemption to the 2% cap on the local transaction and use taxes for the specific purpose of considering a transportation-related sales tax in the future. If this state legislation is passed in 2017, TAM staff envisions beginning a community conversation about whether to pursue a new sales tax measure dedicated to transportation purposes in Marin County.

What would the exemption do?

The proposed legislation would provide an exemption of no more than 0.5% for TAM, affording flexibility to place a tax measure before voters to supplement Measure A. The proposed exemption would allow for the cap in Marin County to be 2.5%, which allows the sales tax to be cumulatively raised to a maximum of 9.75%.

Pursuit of legislation for this exemption would protect the existing sales tax capacity for local jurisdictions to pursue local district taxes they may want to propose in the future for their own local needs since the additional capacity for transportation would not expend existing capacity under the existing 2% cap. Attachment A is a Fact Sheet regarding the legislation, and Attachment B is the legislative language being pursued.

Has state legislation provided other communities with this type of exemption?

Yes. 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. All of these exemptions were specifically related to transportation related sales tax measures.

Do the current sales tax rates in Marin County impact the rate of a future transportation related sales tax?

Yes. The following table is a list of sales tax levels in Marin County, effective January 1st, 2017. After the passage of Statewide 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 the local sales tax allowance of 2%. The 2% local cap applies regardless of the state's sales tax rate. Without an exemption, no tax can be enacted countywide that puts any jurisdiction in the county over the 2% cap.

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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-Marin 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
8.50%	Novato	0.25% Measure C (2015) Sales Tax Extension and Reduction
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

Effective January 1st, 2017, the current available capacity for a countywide increase is 0.25% before reaching the 2.0% limit. Attachment C is a table that summarizes the ballot measure results for Marin County from the November 8th Election.

What are the next steps regarding this proposed legislation?

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. Senator Mike McGuire has been requested to consider sponsoring the legislation, with Assemblyman Marc Levine as principal co-author. Senator Mike McGuire has been responsive to TAM's request for sponsoring a bill seeking an exemption to the cap. The TAM Board has asked staff to seek a support position for this first step regarding the legislation.

If the proposed state legislation passes during 2017 and is signed into law by the Governor, the legislation would take effect on January 1, 2018.

What would be the next steps regarding a future transportation sales tax measure in Marin County?

A decision to place a local transportation sales tax on the ballot would be a separate process. Any future measure to raise or extend the sales tax limit must first be approved through an ordinance by TAM; an expenditure plan would need to be approved by TAM's member agencies at the local council level, including the Board of Supervisors; the Expenditure Plan would then need to be approved by TAM; the Board of Supervisors would need to agree to place the sales tax measure on the Countywide ballot, and then the imposing of the special tax must be approved by $\frac{2}{3}$ of the county's registered voters.

TAM staff envisions a multi-year public process and coordination with local jurisdictions, partner agencies, community-based organizations and the public to provide input to the TAM Board to define an Expenditure Plan and to determine whether to pursue an expanded Transportation Sales Tax Measure. The cap exemption would give TAM, local jurisdictions and the community flexibility in considering what, if any, additional sales tax for transportation should be pursued.

FISCAL IMPACT

The Town receives approximately \$100,000 per year from TAM for transportation projects.

ATTACHMENTS

- A: Draft Sample Fact Sheet
- B: Draft Sales Tax Exemption Language
- 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

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.

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>1/4 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>1/4 cent Sales Tax (increase from existing 1/2 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 benefitting 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%

<p>Kent Woodlands</p>	<p>Special Tax (Safety) "Measure N"</p>	<p>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.</p>	<p>Up to \$100 per living unit in fiscal 2016-17 and as much as \$11 per living unit each year thereafter.</p>	<p>In effect until repealed</p>	<p>2/3 Needed Passed 72.04%</p>
<p>County Service Area #29 (Paradise Cay)</p>	<p>Parcel Tax "Measure O"</p>	<p>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.</p>	<p>\$1,500 annually per original lots located within the Service Area (increase from \$1200)</p>	<p>10 years</p>	<p>2/3 Needed Passed 87.18%</p>