

Q4

2017



SBCTA

Sales Tax Update

First Quarter Receipts for Fourth Quarter Sales (October - December 2017)

Measure I In Brief

Receipts for San Bernardino County's Measure I from October through December were 5.5% above the fourth sales period in 2016, an increase of \$2,208,443 over the prior period.

Receipts from the business and industry group included a large infusion of utility-related revenues that rise and fall with the life of a project. The heavy industry segment is also seeing strong growth over the past few quarters.

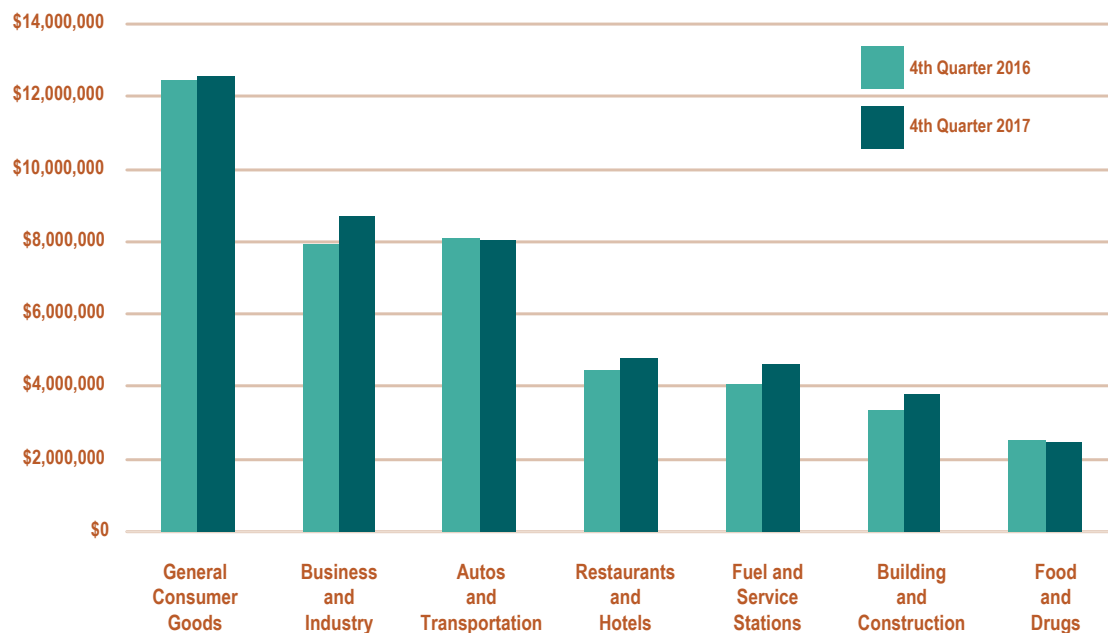
The holiday buying season brought solid gains for discount department stores, sellers of electronics and home furnishings while dining venues also reported a surge of business.

An unusually large gain in car sales a year ago negatively skewed receipts from the auto industry but gains from leasing activities, auto supplies and repair shops kept results positive.

Following the local trend, construction activity levels were well above the statewide average while higher fuel prices generated a 13% rise in fuel receipts.

Net of adjustments, taxable sales for all of San Bernardino County were up 4.1% over the comparable time period, while those of the entire Southern California Region were up 3.5%.

SALES TAX BY MAJOR BUSINESS GROUP



TOP 15 BUSINESS TYPES

*In thousands of dollars

Business Type	Measure A		HdL State Change From '16
	Q4 '17*	Change From '16	
Building Materials	542.4	15.6%	11.6%
Casual Dining	483.4	-2.3%	3.5%
Contractors	316.9	0.6%	13.9%
Department Stores	228.4	-12.0%	-5.4%
Discount Dept Stores	588.5	14.6%	4.1%
Electronics/Appliance Stores	332.7	5.5%	5.8%
Family Apparel	263.6	-2.4%	2.1%
Grocery Stores	389.1	-6.6%	-1.5%
Hotels-Liquor	198.5	25.4%	7.9%
Medical/Biotech	221.0	13.8%	4.9%
New Motor Vehicle Dealers	946.9	-2.4%	2.6%
Quick-Service Restaurants	425.5	1.1%	5.0%
Service Stations	626.9	6.2%	11.4%
Specialty Stores	232.6	2.5%	4.4%
Used Automotive Dealers	203.2	11.2%	0.4%

Total All Accounts

10,027.3

1.2%

4.0%

California Overall

Factored for accounting anomalies, statewide fourth quarter receipts from local government's one cent sales tax were 4.4% higher than the holiday quarter of 2016.

Rising fuel prices and solid gains from building/construction supplies, restaurants and e-commerce were the primary contributors to the overall increase. A healthy quarter for auto sales and construction equipment were additional factors. Tax revenues from general consumer goods sold through brick and mortar stores rose a modest 1% over last year's comparable quarter while receipts from online sales increased 13.2%.

Performance for the inland areas of the state were generally stronger than the coastal areas which had earlier recovered from the previous downturn.

Nexus Issue to be Revisited

In 1992, the U.S. Supreme Court ruled in *Quill v. North Dakota* that businesses lacking a physical presence or "nexus" in a state cannot be required to collect or remit that state's taxes. This does not excuse

buyers from paying a corresponding use tax but the costs of enforcement, particularly on smaller purchases, is difficult and local brick and mortar retailers are placed at a competitive disadvantage.

California has been more effective at collecting use tax than most states with an aggressive program of auditing major business purchases, requiring CPA's to report unpaid use tax on client's annual returns and requiring businesses with annual gross receipts of \$100,000 or more to register for the purposes of reporting use tax.

The State has also increased the number of out-of-state sellers required to collect sales tax through broader definitions of what constitutes physical presence including a requirement that larger internet retailers collect and remit sales tax if paying a commission for customer referrals obtained via a link on a California seller's website.

Still, the estimated revenue losses are substantial particularly for agencies with voter-approved transactions tax districts. Because of *Quill*, retailers are not required to collect the tax for purchases in an adjacent jurisdiction if the retailer

has no physical presence in that jurisdiction. The resulting loss to local governments projected by the State Board of Equalization in 2016-17 was \$756 Million in uncollected tax revenues and losses to the state of \$697 Million: (<https://www.boe.ca.gov/legdiv/pdf/e-commerce-2017F.pdf>).

Congress has refused to act on numerous attempts to seek legislative relief over the last two decades. However, three justices – Clarence Thomas, Neil Gorsuch and Anthony Kennedy have recently expressed doubts about the *Quill* decision with Kennedy noting in 2015, that the ruling has produced a "startling revenue shortfall" in many states as well as "unfairness to local retailers and customers."

In January 2018, the U.S. Supreme Court agreed to hear arguments in the case of *South Dakota v. Wayfair Inc.* where *Wayfair* is challenging the State's recently adopted requirement that retailers collect and remit, or pay, sales tax on purchases made by South Dakota residents.

Oral arguments are scheduled for April with a decision expected by the end of June 2018.

POINT OF SALE TRENDS BY COUNTY

Percent Change from 4th Quarter 2016 *

	Autos/Tran.	Bldg/Const	Bus/Ind.	Food/Drug	Fuel	Cons. Goods	Restaurants
Monterey Co.	4.7	12.6	-9.1	2.4	10.5	2.6	5.7
San Benito Co.	-1.2	0.8	4.6	7.5	25.9	-0.2	3.2
San Luis Obispo Co.	1.3	17.1	1.2	2.3	8.7	-1.6	3.9
Santa Barbara Co.	-3.1	12.5	-5.9	-0.1	10.6	-0.6	-1.5
Santa Cruz Co.	8.0	16.8	3.0	1.2	13.0	-1.3	4.7

* Reporting aberrations adjusted to better reflect actual sales activity