Q4 2017

City of Cupertino Sales Tax *Update*

CUPERTINO EST. 1955

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

Cupertino In Brief

Cupertino's receipts from October through December were 18.7% above the fourth sales period in 2016.

Growth in tax revenue from restaurants was supported by the recent addition of casual dining and fast-casual establishments, pushing results higher than the state and county trends.

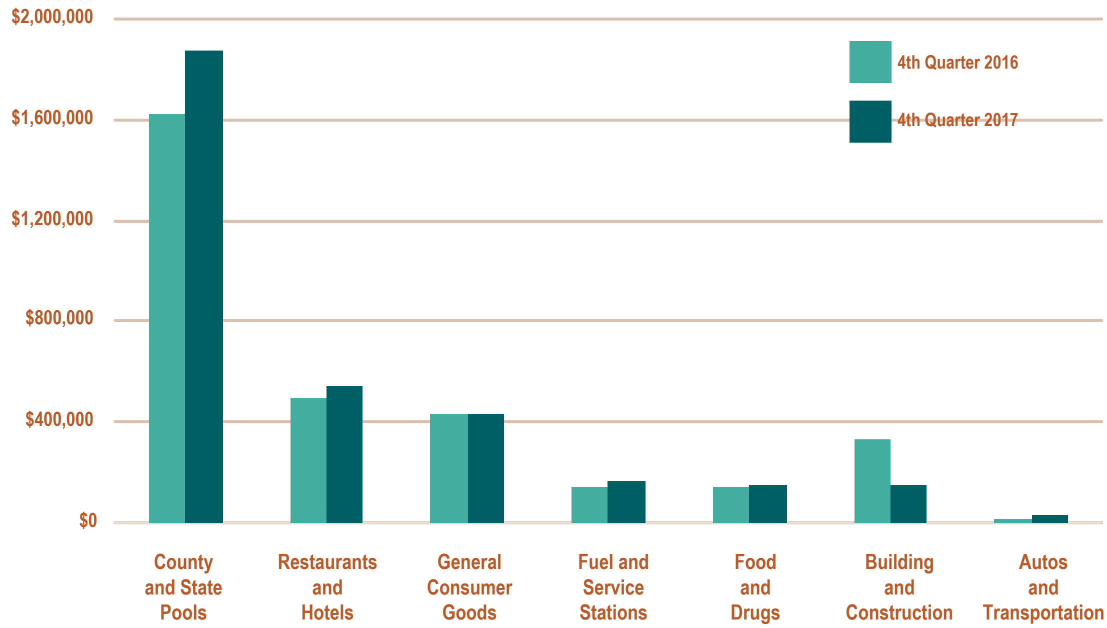
Steady price increases at the pump, mostly due to global crude oil and the implementation of SB-1 locally, were largely responsible for the improved service station receipts. Solid holiday shopping at major retailers also lifted general consumer goods.

These increases in local point of sale revenue and increased capital and online purchases of items shipped into the region boosted allocations from the countywide use tax pool, further contributing to the positive outcome.

As work at the Apple Campus begins to diminish compared to last year, returns from contractors, electrical equipment providers and office furniture suppliers also declined as expected.

Net of aberrations, taxable sales for all of Santa Clara County grew 5.2% over the comparable time period; the Bay Area was up 4.5%.

Sales Tax by Major Business Group



Top 25 Producers

In Alphabetical Order

- 7 Eleven
- 99 Ranch Market
- Alexander's Steak House
- Alliance
- Apple
- Argonaut Window & Door
- BJs Restaurant & Brewhouse
- Brightview Landscape Development
- Brightview Tree Company
- Chevron
- Columbia Stone
- Dental Arts of California
- Estel Group
- Insight Direct
- Lazy Dog Cafe
- Mirapath
- Permasteelisa North America
- Rotten Robbie
- Safeway
- Scandinavian Designs
- Shane Company
- Superior Air Handling
- Target
- TJ Maxx
- Whole Foods Market

Revenue Comparison

Three Quarters – Fiscal Year To Date

	2016-17	2017-18
Point-of-Sale	$19,113,455	$22,682,948
County Pool	3,830,234	4,171,889
State Pool	12,638	4,924
Gross Receipts	**$22,956,327**	**$26,859,761**

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NOTES

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.

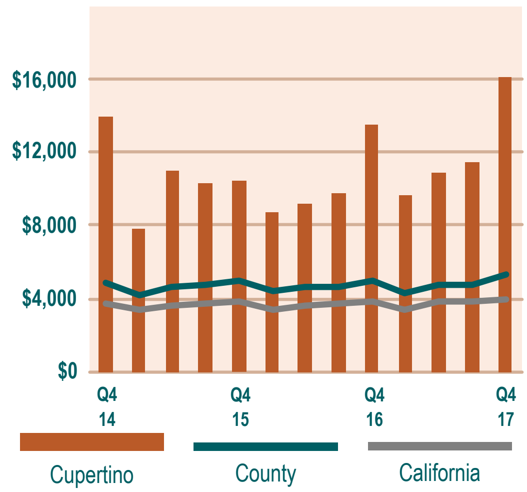
The State has also increased the number of out-of-state sellers required to collect sales tax through broader definitions of what constitutes physical presence including a requirement that larger internet retailers collect and remit sales tax if paying a commission for customer referrals obtained via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

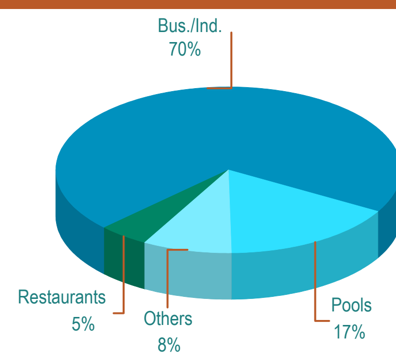
Oral arguments are scheduled for April with a decision expected by the end of June 2018.

Sales Per Capita



Revenue By Business Group

Cupertino This Quarter



Cupertino Top 15 Business Types

In thousands of dollars	Cupertino		County	HdL State
Business Type	**Q4 '17***	**Change**	**Change**	**Change**
Casual Dining	333.6	11.3%	3.3%	3.5%
Contractors	143.4	-55.7%	0.8%	13.9%
Discount Dept Stores	— CONFIDENTIAL —		7.6%	4.1%
Electrical Equipment	61.2	-47.2%	6.3%	5.7%
Family Apparel	74.4	3.4%	-0.1%	2.1%
Fast-Casual Restaurants	65.2	28.6%	10.7%	8.9%
Fine Dining	— CONFIDENTIAL —		11.2%	10.4%
Fulfillment Centers	— CONFIDENTIAL —		36.9%	55.5%
Garden/Agricultural Supplies	64.2	398.2%	21.9%	2.4%
Grocery Stores	110.9	4.9%	1.7%	-1.5%
Jewelry Stores	— CONFIDENTIAL —		19.7%	2.3%
Office Equipment	— CONFIDENTIAL —		1.4%	3.2%
Office Supplies/Furniture	82.6	-82.3%	-27.1%	-105.6%
Quick-Service Restaurants	66.4	-5.0%	3.1%	4.9%
Service Stations	166.1	16.0%	9.9%	11.4%
Total All Accounts	**9,482.8**	**19.3%**	**6.6%**	**4.0%**
County & State Pool Allocation	**1,876.5**	**15.8%**	**3.6%**	**0.8%**
Gross Receipts	**11,359.4**	**18.7%**	**6.1%**	**3.6%**