

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2453

Introduced by Assembly Member Block

February 24, 2012

An act to amend Sections ~~6561, 7710, 8851, 12428, 30261, 32301, 38441, 40091, 41085, 43301, 45301, 46351, 50114, 55081, and 60350~~ *6562, 7710, 7711, 8851, 8852, 12428, 30261, 30262, 32301, 32302, 38441, 38443, 40091, 40093, 41085, 41087, 43301, 43303, 45301, 45303, 46351, 46353, 50114, 55081, 55083, 60350, and 60352* of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2453, as amended, Block. State Board of Equalization: administration: petition for redetermination.

Under the Sales and Use Tax Law, Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Timber Yield Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, Diesel Fuel Tax Law, and the laws governing the taxation of insurers, a taxpayer or feepayer against whom a notice of determination or notice of deficiency assessment is issued or a person directly interested may file a petition of redetermination within 30 days after service upon the person of notice.

This bill would extend that time period to ~~90~~ 60 days after service upon the person of notice.

Section 92 of Chapter 11 of the First Extraordinary Session of 2011 provides that that act is inoperative if any of its provisions are amended or repealed. This bill would provide that, notwithstanding Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, the provisions of Chapter 11 of the First Extraordinary Session of the Statutes of 2011 would not become inoperative by reason of the amendments to specified provisions of that act made in this bill.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6561 of the Revenue and Taxation Code
2 is amended to read:

3 6561. A person against whom a determination is made under
4 Article 2 (commencing with Section 6481) or *Article 3*
5 (commencing with Section 6511) or a person directly interested
6 may petition for a redetermination within ~~90~~ 60 days after service
7 upon the person of notice thereof. If a petition for redetermination
8 is not filed within the ~~90-day~~ 60-day period, the determination
9 becomes final at the expiration of that period.

10 SEC. 2. Section 6562 of the Revenue and Taxation Code is
11 amended to read:

12 6562. If a petition for redetermination is filed within the ~~30-day~~
13 60-day period, the board shall reconsider the determination and,
14 if the person has so requested in his *or her* petition, shall grant the
15 person an oral hearing and shall give him *or her* 10 days' notice
16 of the time and place of the hearing. The board may continue the
17 hearing from time to time as may be necessary.

18 ~~SEC. 2.~~

19 SEC. 3. Section 7710 of the Revenue and Taxation Code is
20 amended to read:

21 7710. A supplier against whom a determination is made by the
22 board under Article 3 (commencing with Section 7660) ~~and or~~
23 Article 4 (commencing with Section 7670) may petition for a
24 redetermination within ~~90~~ 60 days after the date the notice thereof
25 is given to him *or her*. If a petition for redetermination is not filed
26 within the ~~90-day~~ 60-day period, the determination becomes final
27 at the expiration of the period.

1 *SEC. 4. Section 7711 of the Revenue and Taxation Code is*
2 *amended to read:*

3 7711. If a petition for redetermination is filed within the ~~30-day~~
4 *60-day* period, the board shall reconsider the determination and,
5 if the supplier has so requested in his or her petition, shall grant
6 him or her an oral hearing and shall give him or her ~~10-days~~ *days'*
7 notice of the time and place of the hearing. Service of notice shall
8 be as prescribed by Section 7671. The board may continue the
9 hearing from time to time as may be necessary.

10 ~~SEC. 3.~~

11 *SEC. 5. Section 8851 of the Revenue and Taxation Code is*
12 *amended to read:*

13 8851. A user against whom a determination is made under
14 Article 2 (commencing with Section 8776) or *Article 3*
15 (commencing with Section 8801) may petition for a
16 redetermination within ~~90~~ *60* days after service upon the user of
17 notice thereof. If a petition for redetermination is not filed within
18 the ~~90-day~~ *60-day* period, the determination becomes final at the
19 expiration of the period.

20 *SEC. 6. Section 8852 of the Revenue and Taxation Code is*
21 *amended to read:*

22 8852. If a petition for redetermination is filed within the ~~30-day~~
23 *60-day* period, the board shall reconsider the determination and,
24 if the user has so requested in his *or her* petition, shall grant him
25 *or her* an oral hearing and shall give him *or her* 10 days' notice
26 of the time and place of the hearing. The board may continue the
27 hearing from time to time as may be necessary.

28 ~~SEC. 4.~~

29 *SEC. 7. Section 12428 of the Revenue and Taxation Code, as*
30 *amended by Section 45 of Chapter 11 of the First Extraordinary*
31 *Session of the Statutes of 2011, is amended to read:*

32 12428. (a) An insurer or surplus line broker against which a
33 deficiency assessment is made under Section 12424 or 12425 may
34 petition for redetermination of the deficiency assessment within
35 ~~90~~ *60* days after service upon the insurer or surplus line broker of
36 the notice thereof, by filing with the board a written petition setting
37 forth the grounds of objection to the deficiency assessment and
38 the correction sought. At the time the petition is filed with the
39 board, a copy of the petition shall be filed with the commissioner.

1 If a petition for redetermination is not filed within the period
2 prescribed by this section, the deficiency assessment becomes final
3 and due and payable at the expiration of that period.

4 (b) This section shall become operative on July 1, 2012.

5 ~~SEC. 5.~~

6 *SEC. 8.* Section 30261 of the Revenue and Taxation Code is
7 amended to read:

8 30261. A person against whom a determination is made under
9 Article 2 (commencing with Section 30201) or *Article 3*
10 (commencing with Section 30221) may petition for a
11 redetermination within ~~90~~ 60 days after service upon the person
12 of notice thereof. If a petition for redetermination is not filed within
13 the ~~90-day~~ 60-day period, the determination becomes final at the
14 expiration of the period.

15 *SEC. 9.* Section 30262 of the Revenue and Taxation Code is
16 amended to read:

17 30262. If a petition for redetermination is filed within the
18 ~~30-day~~ 60-day period, the board shall reconsider the determination
19 and, if the person has so requested in his *or her* petition, shall grant
20 him *or her* an oral hearing and shall give him *or her* at least 10
21 days' notice of the time and place of the hearing. The board may
22 continue the hearing from time to time as may be necessary.

23 ~~SEC. 6.~~

24 *SEC. 10.* Section 32301 of the Revenue and Taxation Code is
25 amended to read:

26 32301. A person from whom an amount is determined to be
27 due under Article 2 (commencing with Section 32271) or *Article*
28 3 (commencing with Section 32291) or a person directly interested
29 may petition for a redetermination thereof within ~~90~~ 60 days after
30 service upon him or her of notice of the determination. If a petition
31 for redetermination is not filed within the ~~90-day~~ 60-day period,
32 the amount determined to be due becomes final at the expiration
33 thereof.

34 *SEC. 11.* Section 32302 of the Revenue and Taxation Code is
35 amended to read:

36 32302. If a petition for redetermination is filed within the
37 ~~30-day~~ 60-day period, the board shall reconsider the amount
38 determined to be due, and if the person has so requested in his *or*
39 *her* petition, shall grant him *or her* an oral hearing and shall give
40 him *or her* 10 days' notice of the time and place of the hearing.

1 The board may continue the hearing from time to time as may be
2 necessary.

3 ~~SEC. 7.~~

4 *SEC. 12.* Section 38441 of the Revenue and Taxation Code is
5 amended to read:

6 38441. A person against whom a determination is made under
7 Article 2 (commencing with Section 38411) or Article 3
8 (commencing with Section 38421) ~~of this chapter~~ or a person
9 directly interested may petition for a redetermination within ~~90~~ 60
10 days after service upon the person of notice thereof. If a petition
11 for redetermination is not filed within the ~~90-day~~ 60-day period,
12 the determination becomes final at the expiration of the period.

13 *SEC. 13.* Section 38443 of the Revenue and Taxation Code is
14 amended to read:

15 38443. If a petition for redetermination is filed within the
16 ~~30-day~~ 60-day period, the board shall reconsider the determination
17 and, if the person has so requested in his *or her* petition, shall grant
18 the person an oral hearing and shall give him *or her* 10 days' notice
19 of the time and place of the hearing. The board may continue the
20 hearing from time to time as may be necessary.

21 ~~SEC. 8.~~

22 *SEC. 14.* Section 40091 of the Revenue and Taxation Code is
23 amended to read:

24 40091. A person against whom a determination is made under
25 Article 3 (commencing with Section 40071) or *Article 4*
26 (commencing with Section 40081) ~~of this chapter~~ may petition for
27 a redetermination within ~~90~~ 60 days after service upon the person
28 of notice thereof. If a petition for redetermination is not filed within
29 the ~~90-day~~ 60-day period, the determination becomes final at the
30 expiration of the period.

31 *SEC. 15.* Section 40093 of the Revenue and Taxation Code is
32 amended to read:

33 40093. If a petition for redetermination is filed within the
34 ~~30-day~~ 60-day period, the board shall reconsider the determination
35 and, if the person has so requested in his *or her* petition, shall grant
36 the person an oral hearing and shall give him *or her* 10 days' notice
37 of the time and place of the hearing. The board may continue the
38 hearing from time to time as may be necessary.

1 ~~SEC. 9.~~

2 ~~SEC. 16.~~ Section 41085 of the Revenue and Taxation Code is
3 amended to read:

4 41085. A person against whom a determination is made under
5 Article 3 (*commencing with Section 41070*) or Article 4
6 (*commencing with Section ~~41050~~ 41080*) ~~of this chapter~~ may
7 petition for a redetermination within ~~90~~ 60 days after service upon
8 the person of notice thereof. If a petition for redetermination is not
9 filed within the ~~90-day~~ 60-day period, the determination becomes
10 final at the expiration of the period.

11 ~~SEC. 17.~~ Section 41087 of the Revenue and Taxation Code is
12 amended to read:

13 41087. If a petition for redetermination is filed within the
14 ~~30-day~~ 60-day period, the board shall reconsider the determination
15 and, if the person has so requested in his *or her* petition, shall grant
16 the person an oral hearing and shall give him *or her* 10 days'
17 written notice of the time and place of the hearing. The board may
18 continue the hearing from time to time as may be necessary.

19 ~~SEC. 10.~~

20 ~~SEC. 18.~~ Section 43301 of the Revenue and Taxation Code is
21 amended to read:

22 43301. A person from whom an amount is determined to be
23 due under Article 2 (*commencing with Section 43201*), or a person
24 directly interested, may petition for a redetermination thereof
25 within ~~90~~ 60 days after service upon him or her of notice of the
26 determination. If a petition for redetermination is not filed within
27 the ~~90-day~~ 60-day period, the amount determined to be due
28 becomes final at the expiration thereof.

29 A petition for redetermination of taxes determined under this
30 part shall not be accepted or considered by the board if the petition
31 is founded upon the grounds that the director has improperly or
32 erroneously determined that any substance is a hazardous or
33 extremely hazardous waste. An appeal of a determination that a
34 substance is a hazardous or extremely hazardous waste shall be
35 made to the director.

36 ~~SEC. 19.~~ Section 43303 of the Revenue and Taxation Code is
37 amended to read:

38 43303. If a petition for redetermination is filed within the
39 ~~30-day~~ 60-day period, the board shall reconsider the amount
40 determined to be due, and, if the person has so requested in his or

1 her petition, the board shall grant him or her an oral hearing and
2 shall give him or her 10 days' notice of the time and place of the
3 hearing. The board may continue the hearing from time to time as
4 may be necessary.

5 ~~SEC. 11.~~

6 *SEC. 20.* Section 45301 of the Revenue and Taxation Code is
7 amended to read:

8 45301. A person from whom an amount is determined to be
9 due under Article 2 (commencing with Section 45201), or a person
10 directly interested, may petition for a redetermination thereof
11 within ~~90~~ 60 days after service upon him or her of notice of the
12 determination. If a petition for redetermination is not filed within
13 the ~~90-day~~ 60-day period, the amount determined to be due
14 becomes final at the expiration thereof.

15 *SEC. 21.* Section 45303 of the Revenue and Taxation Code is
16 amended to read:

17 45303. If a petition for redetermination is filed within the
18 ~~30-day~~ 60-day period, the board shall reconsider the amount
19 determined to be due, and, if the person has so requested in his or
20 her petition, the board shall grant him or her an oral hearing and
21 shall give him or her 10 days' notice of the time and place of the
22 hearing. The board may continue the hearing from time to time as
23 may be necessary.

24 ~~SEC. 12.~~

25 *SEC. 22.* Section 46351 of the Revenue and Taxation Code is
26 amended to read:

27 46351. A person from whom an amount is determined to be
28 due under Article 2 (commencing with Section 46201) or Article
29 3 (commencing with Section 46251), or a person directly interested,
30 may petition for a redetermination thereof within ~~90~~ 60 days after
31 service upon him or her of notice of the determination. If a petition
32 for redetermination is not filed within the ~~90-day~~ 60-day period,
33 the amount determined to be due becomes final at the expiration
34 thereof.

35 *SEC. 23.* Section 46353 of the Revenue and Taxation Code is
36 amended to read:

37 46353. If a petition for redetermination is filed within the
38 ~~30-day~~ 60-day period, the board shall reconsider the amount
39 determined to be due, and, if the person has so requested in his or
40 her petition, the board shall grant him or her an oral hearing and

1 shall give him or her 10 days' notice of the time and place of the
2 hearing. The board may continue the hearing from time to time as
3 may be necessary.

4 ~~SEC. 13.~~

5 *SEC. 24.* Section 50114 of the Revenue and Taxation Code is
6 amended to read:

7 50114. A person from whom an amount is determined to be
8 due under Article 2 (commencing with Section 50113), or a person
9 directly interested, may petition for a redetermination thereof
10 within ~~90~~ 60 days after service of a notice of determination on that
11 person. If a petition for redetermination is not filed within the
12 ~~90-day~~ 60-day period, the amount determined to be due becomes
13 final at the expiration of that time period.

14 ~~SEC. 14.~~

15 *SEC. 25.* Section 55081 of the Revenue and Taxation Code is
16 amended to read:

17 55081. A person from whom an amount is determined to be
18 due under Article 2 (commencing with Section 55061), or a person
19 directly interested, may petition for a redetermination thereof
20 within ~~90~~ 60 days after service upon him or her of notice of the
21 determination. If a petition for redetermination is not filed within
22 the ~~90-day~~ 60-day period, the amount determined to be due
23 becomes final at the expiration thereof.

24 *SEC. 26.* *Section 55083 of the Revenue and Taxation Code is*
25 *amended to read:*

26 55083. If a petition for redetermination is filed within the
27 ~~30-day~~ 60-day period, the board shall reconsider the amount
28 determined to be due, and, if the person has so requested in his or
29 her petition, the board shall grant him or her an oral hearing and
30 shall give him or her 10 days' notice of the time and place of the
31 hearing. The board may continue the hearing from time to time as
32 may be necessary.

33 ~~SEC. 15.~~

34 *SEC. 27.* Section 60350 of the Revenue and Taxation Code is
35 amended to read:

36 60350. A person against whom a determination is made by the
37 board under Article 2 (commencing with Section 60301) and
38 Article 3 (commencing with Section 60310) may petition for a
39 redetermination within ~~90~~ 60 days after the date the notice thereof
40 is given to him or her. If a petition for redetermination is not filed

1 within the ~~90-day~~ 60-day period, the determination becomes final
2 at the expiration of the period.

3 *SEC. 28. Section 60352 of the Revenue and Taxation Code is*
4 *amended to read:*

5 60352. If a petition for redetermination is filed within the
6 ~~30-day~~ 60-day period, the board shall reconsider the determination
7 and, if the person has so requested in his or her petition, shall grant
8 him or her an oral hearing and shall give *him or her* 10 days' notice
9 of the time and place of the hearing. Service of notice shall be as
10 prescribed by Section 60173. The board may continue the hearing
11 from time to time as may be necessary.

12 ~~SEC. 16.~~

13 *SEC. 29.* Notwithstanding Section 92 of Chapter 11 of the First
14 Extraordinary Session of the Statutes of 2011, the provisions of
15 Chapter 11 of the First Extraordinary Session of the Statutes of
16 2011 shall not become inoperative upon the amendment of any
17 provision of Chapter 11 of the First Extraordinary Session of the
18 Statutes of 2011 made by this act.