

AMENDED IN ASSEMBLY APRIL 21, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1016

Introduced by Assembly Member Briggs

February 25, 1999

An act to add ~~Part 32 (commencing with Section 70001) to Division 2 of Section 21028~~ to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Briggs. Confidentiality: taxpayer communications.

Under existing law, the Employment Development Department, the State Board of Equalization, *and* the Franchise Tax Board, ~~and the Department of Motor Vehicles~~ administer various taxes and fees.

This bill, in modified conformity to federal income tax laws, would, with respect to tax advice, provide that ~~the same common-law~~ *certain* protections that apply to a communication between a taxpayer and an attorney shall also apply to a communication between a taxpayer and any ~~state~~ *federally* authorized tax practitioner before the aforementioned state agencies to the extent the communication would be considered a privileged communication if it were between a taxpayer and an attorney, as provided.

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

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

1 ~~SECTION 1. Part 32 (commencing with Section~~
2 SECTION 1. Section 21028 is added to the Revenue
3 and Taxation Code, to read:
4 21028. (a) (1) With respect to tax advice, the
5 protections of confidentiality that apply to a
6 communication between a taxpayer and an attorney, as
7 set forth in Article 3 (commencing with Section 950) of
8 Chapter 4 of Division 7 of the Evidence Code, shall also
9 apply to a communication between a taxpayer and any
10 federally authorized tax practitioner to the extent the
11 communication would be considered a privileged
12 communication if it were between a taxpayer and an
13 attorney.
14 (2) Paragraph (1) may only be asserted in any
15 noncriminal tax matter before the Franchise Tax Board,
16 the State Board of Equalization, or the Employment
17 Development Department.
18 (3) For purposes of this section:
19 (A) "Federally authorized tax practitioner" means
20 any individual who is authorized under federal law to
21 practice before the Internal Revenue Service if the
22 practice is subject to federal regulation under Section 330
23 of Title 31 of the United States Code.
24 (B) "Tax advice" means advice given by an individual
25 with respect to a state tax matter, which may include
26 federal tax advice as defined in Section 7525 of the
27 Internal Revenue Code if it relates to the state tax matter.
28 (b) The privilege under subdivision (a) shall not apply
29 to any written communication between a federally
30 authorized tax practitioner and a director, shareholder,
31 officer, or employer, agent, or representative of a
32 corporation in connection with the promotion of the
33 direct or indirect participation of the corporation in any
34 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
35 the Internal Revenue Code).
36 (c) This section shall be operative for communications
37 made on or after the effective date of the act adding this
38 section.



1 ~~70001) is added to Division 2 of the Revenue and Taxation~~
2 ~~Code, to read:~~

3
4 ~~PART 32. CONFIDENTIALITY OF TAXPAYER~~
5 ~~COMMUNICATIONS~~
6

7 ~~70001. (a) (1) With respect to tax advice, the same~~
8 ~~protections of confidentiality that apply to a~~
9 ~~communication between a taxpayer and an attorney shall~~
10 ~~also apply to a communication between a taxpayer and~~
11 ~~any state authorized tax practitioner to the extent the~~
12 ~~communication would be considered a privileged~~
13 ~~communication if it were between a taxpayer and an~~
14 ~~attorney.~~

15 ~~(2) Paragraph (1) may only be asserted in:~~

16 ~~(A) Any noncriminal tax matter before the~~
17 ~~Employment Development Department, the State~~
18 ~~Board of Equalization, the Franchise Tax Board, or the~~
19 ~~Department of Motor Vehicles.~~

20 ~~(B) Any noncriminal tax proceeding in state court~~
21 ~~brought by or against this state.~~

22 ~~(3) For purposes of this section:~~

23 ~~(A) "State authorized practitioner" means any~~
24 ~~individual who is authorized under state law to practice~~
25 ~~before the Employment Development Department, the~~
26 ~~State Board of Equalization, the Franchise Tax Board, or~~
27 ~~the Department of Motor Vehicles.~~

28 ~~(B) "Tax advice" means advice given by an individual~~
29 ~~with respect to a matter which is within the scope of the~~
30 ~~individual's authority to practice described in~~
31 ~~subparagraph (A).~~

32 ~~(b) The privilege under subdivision (a) shall not apply~~
33 ~~to any written communication between a state~~
34 ~~authorized tax practitioner and a director, shareholder,~~
35 ~~officer, employee, agent, or representative of a~~
36 ~~corporation in connection with the promotion of the~~
37 ~~direct or indirect participation of that corporation in any~~

1 ~~tax shelter (as defined in Section 6662(d)(2)(C)(iii) of~~
2 ~~the Internal Revenue Code).~~

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