

AMENDED IN ASSEMBLY MAY 19, 1999
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 ~~Section~~ *Sections 7099.1 and 21028* to the Revenue and Taxation Code, *and to add Section 13019 to the Unemployment Insurance 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 administer various taxes and fees.

This bill, in modified conformity to federal income tax laws, would, with respect to tax advice, provide that certain protections that apply to a communication between a ~~taxpayer~~ *client* and an attorney shall also apply to a communication between a taxpayer and any 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~~ *client* and an attorney, as provided.

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 7099.1 is added to the Revenue
2 and Taxation Code, to read:

3 7099.1. (a) (1) With respect to tax advice, the
4 protections of confidentiality that apply to a
5 communication between a client and an attorney, as set
6 forth in Article 3 (commencing with Section 950) of
7 Chapter 4 of Division 8 of the Evidence Code, shall also
8 apply to a communication between a taxpayer and any
9 federally authorized tax practitioner to the extent the
10 communication would be considered a privileged
11 communication if it were between a client and an
12 attorney.

13 (2) Paragraph (1) may only be asserted in any
14 noncriminal tax matter before the State Board of
15 Equalization.

16 (3) For purposes of this section:

17 (A) "Federally authorized tax practitioner" means
18 any individual who is authorized under federal law to
19 practice before the Internal Revenue Service if the
20 practice is subject to federal regulation under Section 330
21 of Title 31 of the United States Code.

22 (B) "Tax advice" means advice given by an individual
23 with respect to a state tax matter, which may include
24 federal tax advice as defined in Section 7525 of the
25 Internal Revenue Code if it relates to the state tax matter.

26 (b) The privilege under subdivision (a) shall not apply
27 to any written communication between a federally
28 authorized tax practitioner and a director, shareholder,
29 officer, or employee, agent, or representative of a
30 corporation in connection with the promotion of the
31 direct or indirect participation of the corporation in any
32 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
33 the Internal Revenue Code).

34 (c) This section shall be operative for communications
35 made on or after the effective date of the act adding this
36 section.

37 SEC. 2. Section 21028 is added to the Revenue and
38 Taxation Code, to read:



1 21028. (a) (1) With respect to tax advice, the
2 protections of confidentiality that apply to a
3 communication between a ~~taxpayer~~ *client* and an
4 attorney, as set forth in Article 3 (commencing with
5 Section 950) of Chapter 4 of Division 7 8 of the Evidence
6 Code, shall also apply to a communication between a
7 taxpayer and any federally authorized tax practitioner to
8 the extent the communication would be considered a
9 privileged communication if it were between a ~~taxpayer~~
10 *client* and an attorney.

11 (2) Paragraph (1) may only be asserted in any
12 noncriminal tax matter before the Franchise Tax Board,
13 ~~the State Board of Equalization, or the Employment~~
14 ~~Development Department.~~

15 (3) For purposes of this section:

16 (A) “Federally authorized tax practitioner” means
17 any individual who is authorized under federal law to
18 practice before the Internal Revenue Service if the
19 practice is subject to federal regulation under Section 330
20 of Title 31 of the United States Code.

21 (B) “Tax advice” means advice given by an individual
22 with respect to a state tax matter, which may include
23 federal tax advice as defined in Section 7525 of the
24 Internal Revenue Code if it relates to the state tax matter.

25 (b) The privilege under subdivision (a) shall not apply
26 to any written communication between a federally
27 authorized tax practitioner and a director, shareholder,
28 officer, or ~~employer~~ *employee*, agent, or representative
29 of a corporation in connection with the promotion of the
30 direct or indirect participation of the corporation in any
31 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
32 the Internal Revenue Code).

33 (c) This section shall be operative for communications
34 made on or after the effective date of the act adding this
35 section.

36 *SEC. 3. Section 13019 is added to the Unemployment*
37 *Insurance Code, to read:*

38 *13019. (a) (1) With respect to tax advice, the*
39 *protections of confidentiality that apply to a*
40 *communication between a client and an attorney, as set*



1 *forth in Article 3 (commencing with Section 950) of*
2 *Chapter 4 of Division 8 of the Evidence Code, shall also*
3 *apply to a communication between a taxpayer and any*
4 *federally authorized tax practitioner to the extent the*
5 *communication would be considered a privileged*
6 *communication if it were between a client and an*
7 *attorney.*

8 (2) Paragraph (1) may only be asserted in any
9 noncriminal tax matter before the Employment
10 Development Department.

11 (3) For purposes of this section:

12 (A) "Federally authorized tax practitioner" means
13 any individual who is authorized under federal law to
14 practice before the Internal Revenue Service if the
15 practice is subject to federal regulation under Section 330
16 of Title 31 of the United States Code.

17 (B) "Tax advice" means advice given by an individual
18 with respect to a state tax matter, which may include
19 federal tax advice as defined in Section 7525 of the
20 Internal Revenue Code if it relates to the state tax matter.

21 (b) The privilege under subdivision (a) shall not apply
22 to any written communication between a federally
23 authorized tax practitioner and a director, shareholder,
24 officer, or employee, agent, or representative of a
25 corporation in connection with the promotion of the
26 direct or indirect participation of the corporation in any
27 tax shelter (as defined in Section 6662(d)(2)(C)(iii) of
28 the Internal Revenue Code).

29 (c) This section shall be operative for communications
30 made on or after the effective date of the act adding this
31 section.

