

Introduced by Senator Johnson

February 19, 2002

An act to amend Section 6814 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1501, as introduced, Johnson. Sales and use tax: successor liability.

The Sales and Use Tax Law provides that in the case of the purchase and sale of a business or stock of goods under a contract, the successor or purchase is required to withhold an amount sufficient to cover the sales and use tax liability of the seller. The failure to do so results in the successor's liability for the obligation, along with interest and penalties, as specified.

This bill would require the State Board of Equalization to exhaust all remedies against the seller before proceeding against the successor, and relieve the successor of any interest and penalty on the obligation that has accrued prior to the board exhausting those remedies, as provided.

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

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

- 1 SECTION 1. Section 6814 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 6814. (a) ~~The~~ *Subject to subdivision (c) the* obligation of the
- 4 successor shall be enforced by serving a notice of successor
- 5 liability on the person. The notice shall be served in the manner
- 6 prescribed for service of a notice of a deficiency determination, not

1 later than three years after the date the board is notified of the
2 purchase of the business or stock of goods. The successor may
3 petition for reconsideration in the manner provided in Article 5
4 (commencing with Section 6561) of Chapter 5 of this part. The
5 notice shall become final and the amount due and payable in the
6 manner provided in that article except that no additional penalty
7 shall apply if not paid when due and payable. The provisions of this
8 chapter with respect to the collection of any amount required to be
9 paid under this part shall apply when the notice becomes final.

10 (b) (1) If the board finds that a successor's failure to withhold
11 a sufficient amount of the purchase price to cover the amount owed
12 by the former owner is due to reasonable cause and circumstances
13 beyond the successor's control, and occurred notwithstanding the
14 exercise of ordinary care and in the absence of willful neglect, the
15 successor may be relieved of any penalty included in the notice of
16 successor liability.

17 (2) Any successor seeking to be relieved of the penalty shall file
18 with the board a statement under penalty of perjury setting forth
19 the facts upon which he or she bases his or her claim for relief.

20 (c) *Notwithstanding any other provision of this part to the*
21 *contrary, the board shall exhaust all available remedies, legal and*
22 *administrative, to collect any amount due under this part from the*
23 *seller of the business or stock in trade under a contract prior to*
24 *enforcing the obligation against the successor. The successor is*
25 *relieved of any penalty and interest on the obligation until the*
26 *board has exhausted its remedies against the seller.*

