

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 1502, as amended, 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 purchaser 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, *under specified circumstances*, relieve the successor of any ~~interest and~~ penalty on the obligation that has accrued prior to a specified notice.

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 obligation of the successor shall be enforced by
- 4 serving a notice of successor liability on the person. The notice
- 5 shall be served in the manner prescribed for service of a notice of

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

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

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

21 (c) (1) Notwithstanding any other provision of this part to the
22 contrary, the successor is, *except as otherwise provided in*
23 *paragraph (2)*, relieved of any penalty ~~and interest~~ on the
24 obligation of the seller of the business or stock ~~in trade under a~~
25 ~~contract~~ *of goods* that has accrued prior to the successor being
26 notified by the board of the seller's unpaid obligation.

27 (2) *Paragraph (1) shall not apply to successor liability*
28 *incurred by persons related to the seller. For purposes of this*
29 *paragraph, "persons related to the seller" means any person that*
30 *is, under the provisions of either Section 267 or 318 of the Internal*
31 *Revenue Code, considered to be related to the seller.*

