

Assembly Bill No. 1360

CHAPTER 281

An act to amend Sections 19033 and 19049 of the Revenue and Taxation Code, relating to the administration of taxes.

[Approved by Governor October 5, 2007. Filed with
Secretary of State October 5, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, Anderson. Taxation: Franchise Tax Board administration: notice of proposed deficiency.

Existing tax laws impose various taxes and fees, and authorize the Franchise Tax Board to administer the assessment, audit, and collection of various taxes and fees. Existing law requires the Franchise Tax Board to mail notice to the taxpayer of any deficiency proposed to be assessed, or of any final deficiency, on tax returns filed by the taxpayer pursuant to the Personal Income Tax Law or the Corporation Tax Law.

This bill would require the Franchise Tax Board to postmark every notice of proposed deficiency assessment and every notice of final deficiency mailed to taxpayers after January 1, 2008.

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

SECTION 1. Section 19033 of the Revenue and Taxation Code is amended to read:

19033. (a) If the Franchise Tax Board determines that the tax disclosed by the taxpayer on an original or amended return, including an amended return reporting federal adjustments pursuant to Section 18622, is less than the tax disclosed by its examination, it shall mail notice to the taxpayer of the deficiency proposed to be assessed. In no case shall the determination of the deficiency be arbitrary or without foundation.

(b) (1) Except as provided in paragraph (2), the Franchise Tax Board, in connection with the determination described in subdivision (a), shall examine the original or amended return or related electronically stored return data.

(2) If the return or return data described in paragraph (1) has been destroyed or cannot be located after reasonable effort, the Franchise Tax Board shall request the taxpayer to provide a paper or electronic copy of the return. If the taxpayer fails to provide a copy within 30 days, which may be extended an additional 30 days for reasonable cause, from the date of the request, paragraph (1) shall not apply.

(c) As used in this section, “electronically stored return data” means an electronic record of line items from an original or amended return and accompanying schedules that is routinely created as a return is processed.

(d) The amendments to this section made by Chapter 414 of the Statutes of 2000 shall apply to notices of deficiencies proposed to be assessed issued on or after January 1, 2001.

(e) The notice described in subdivision (a) shall be mailed in a manner that includes a postmark. For purposes of this subdivision, postmark means a postal marking made on a letter, package, or postcard indicating the date on which the item is delivered to the United States Postal Service.

(f) The amendments made to this section by the act adding this subdivision shall apply to notices of deficiencies proposed to be assessed issued on or after January 1, 2008.

SEC. 2. Section 19049 of the Revenue and Taxation Code is amended to read:

19049. (a) When a deficiency is determined and the assessment becomes final, the Franchise Tax Board shall mail notice and demand to the taxpayer for the payment thereof. The deficiency assessed is due and payable at the expiration of 15 days from the date of the notice and demand.

(b) The amendments made by Chapter 600 of the Statutes of 1997 are operative for notices issued on or after January 1, 1998.

(c) The notice described in subdivision (a) shall be mailed in a manner that includes a postmark. For purposes of this subdivision, postmark means a postal marking made on a letter, package, or postcard indicating the date on which the item is delivered to the United States Postal Service.

(d) The amendments made to this section by the act adding this subdivision are operative for notices issued on or after January 1, 2008.