

## Assembly Bill No. 2411

### CHAPTER 329

An act to amend Sections 4836, 5097, and 5151 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 2008. Filed with Secretary of State September 26, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2411, Caballero. Property tax: refunds.

Existing law requires the assessor to notify an assessee, if a correction to the roll will increase the amount of unpaid taxes, of the procedure for obtaining review by the county board and the procedure for applying for cancellation.

This bill would require the auditor, if a correction to the roll will result in a reduction of an assessment that would entitle the assessee to a refund, to either process the refund or notify the assessee in writing, as specified, of the requirements for obtaining a refund.

Existing property tax law requires property taxes to be refunded upon the filing of a claim filed within 4 years after making the payment sought to be refunded, within one year after the mailing of a specified notice, or within a specified period agreed to, whichever is later. Existing property tax law also provides for the payment of interest on those refunds at the greater of, 3% per annum or the county pool apportioned rate.

This bill would require property taxes to be refunded, if a specified application for a reduction in an assessment or an application for equalization of an assessment has been filed, upon the filing of a claim within specified time periods. This bill would also make clarifying changes to the method used to calculate interest on the refunds.

This bill would provide that changes made by this act shall not affect any litigation involving property tax refunds pending before January 1, 2009, as specified, and would declare that nothing in the legislative history of this act shall be construed as any indication of the meaning of the law as it existed prior to the effective date of this act.

By changing the manner in which local officials administer property tax refunds, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 4836 of the Revenue and Taxation Code is amended to read:

4836. (a) If the correction will result in a reduction of an assessment that would entitle the assessee to a refund, the auditor shall either process the refund or notify the assessee in writing of the requirements for obtaining a refund pursuant to Section 5097. The notice shall state that the assessee is entitled to a refund and that a claim for a refund shall be filed, pursuant to Section 5097, within 60 days of the date of the notice. Notwithstanding Section 5097, a claim for a refund shall be deemed timely filed if it is filed within 60 days of the date of the notice.

(b) If the correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Section 1605 and the procedure for applying for cancellation under Section 4986.

SEC. 2. Section 5097 of the Revenue and Taxation Code is amended to read:

5097. (a) No order for a refund under this article shall be made, except on a claim:

(1) Verified by the person who paid the tax, his or her guardian, executor, or administrator.

(2) Except as provided in paragraph (3), filed within four years after making the payment sought to be refunded, or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, or within 60 days of the date of the notice prescribed by subdivision (a) of Section 4836, whichever is later.

(3) (A) Filed within one year, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, of either of the following events, whichever occurs first:

(i) After the county assessment appeals board makes a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property, and mails a written notice of its determination to the applicant and the notice does not advise the applicant to file a claim for refund.

(ii) After the expiration of the time period specified in subdivision (c) of Section 1604 if the county assessment appeals board fails to hear evidence and fails to make a final determination on the application for reduction in assessment or on the application for equalization of an escape assessment of the property.

(B) Filed within six months, if an application for a reduction in an assessment or an application for equalization of an assessment has been filed pursuant to Section 1603 and the applicant does not state in the application that the application is intended to constitute a claim for a refund, after the county assessment appeals board makes a final determination on

the application for reduction in assessment or on the application for equalization of an escape assessment, and mails a written notice of its determination to the applicant and the notice advises the applicant to file a claim for refund within six months of the date of the county assessment appeals board's final determination.

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he or she may thereafter and within the period provided in paragraph (3) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which the applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (3) of subdivision (a).

SEC. 3. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. (a) Interest at the greater of 3 percent per annum or the county pool apportioned rate shall be paid, when that interest is ten dollars (\$10) or more, on any amount refunded under Section 5096.7, or refunded to a taxpayer for any reason whatsoever. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice. For purposes of this section, "county pool apportioned rate" means the annualized rate of interest earned on the total amount of pooled idle funds from all accounts held by the county treasurer, in excess of the county treasurer's administrative costs with respect to that amount, as of June 30 of the fiscal year preceding the date the refund is calculated by the auditor. For each fiscal year, the county treasurer shall advise the Controller of the county pool apportioned rate, and of computations made in deriving that rate, no later than 60 days after the end of that fiscal year. Any interest paid on a refund at a rate provided for by this subdivision as it read prior to January 1, 2009, shall be deemed to be correct.

(b) The interest rate provided for in subdivision (a) does not apply to interest on refunds of those amounts of tax that became due and payable before March 1, 1993. Interest on refunds of amounts of a qualified tax shall be paid at that rate provided for by this section as it read prior to January 1, 1993. As used in this section, a "qualified tax" means a tax that became due and payable before March 1, 1993, and had not been refunded as of April 6, 1995. This subdivision shall not be construed to affect the interest paid on refunds of those amounts of tax that became due and payable before March 1, 1993, and have been refunded as of April 6, 1995.

(c) (1) The interest computation period shall commence with the date of payment of the tax when any of the following applies:

(A) A timely application for reduction in an assessment was filed, without regard to whether the refund ultimately results from a judgment or order of a court, an order of a board of equalization or assessment appeals board, or an assessor's correction to the assessment roll.

(B) The refund is pursuant to a roll correction resulting from the determination or adjustment by the assessor or a local assessment appeals board of a base year value.

(C) The refund results from a correction to the assessment roll pursuant to Section 4831 or 4876.

(2) Interest on refunds of taxes on property acquired by a public agency in eminent domain shall accrue from the date of recordation of the deed.

(3) In all other cases the interest computation period shall commence on the date of filing a claim for refund or payment of the tax, whichever is later. However, in the event of the granting of property tax relief pursuant to Section 69, 69.3, or 170, interest is not payable on any resulting refund of taxes, provided that payment of that refund of taxes is made within 120 days after the county assessor has sent authorization for the reduction to the county auditor.

(d) The computation of interest shall terminate as of a date within 30 days of the date of mailing or personal delivery of the refund payment.

(e) The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

(f) The amendments made to this section by Section 4 of Chapter 801 of the Statutes of 1996 shall apply to all refunds made after January 1, 1997.

SEC. 4. (a) The amendments made by this act to Sections 5097 and 5151 of the Revenue and Taxation Code shall not affect any litigation involving property tax refunds pending before January 1, 2009, that assert either of the following:

(1) Claims of miscalculation of interest paid under Section 5151 of the Revenue and Taxation Code.

(2) Claims interposing noncompliance with Section 2635 of the Revenue and Taxation Code to revive property tax refund claims otherwise outside the tax refund limitation period of Section 5097 of the Revenue and Taxation Code.

(b) Nothing in the legislative history of the amendments made by this act shall be construed as any indication of the meaning of the law as it existed prior to the effective date of the amendments made by this act.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.