

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN SENATE MAY 1, 2007

AMENDED IN SENATE APRIL 11, 2007

SENATE BILL

No. 920

Introduced by Senator Oropeza

February 23, 2007

An act to amend ~~Sections 7056 and~~ *Section* 19554 of the Revenue and Taxation Code, relating to tax administration.

LEGISLATIVE COUNSEL'S DIGEST

SB 920, as amended, Oropeza. Taxpayer information: disclosure: unclaimed property.

Existing law ~~prohibits the disclosure of any information concerning any taxpayer by the State Board of Equalization, except as specifically authorized by statute.~~ Existing law also limits the information that the Franchise Tax Board may provide to the Controller for purposes of assisting the Controller's office in locating owners of unclaimed property, as specified, and prohibits the Controller or any officer, employee, or agent, as provided, from disclosing or using that information for any purpose except for the purpose of locating owners of unclaimed property.

This bill would ~~permit the State Board of Equalization to disclose to the Controller information in the board's possession that will assist the Controller in determining compliance with the unclaimed property laws, as provided.~~ This bill would also authorize the Franchise Tax Board to provide the Controller, on an annual basis, with certain specified information about taxpayers from business entity income tax returns

and other business entity records maintained by the Franchise Tax Board.

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 7056 of the Revenue and Taxation Code~~
2 ~~is amended to read:~~

3 ~~7056. (a) (1) Excepting the information set forth on permits~~
4 ~~issued under Article 2 (commencing with Section 6066) of Chapter~~
5 ~~2, the information set forth on certificates of registration issued~~
6 ~~pursuant to Section 6226, and the terms of any settlement made~~
7 ~~pursuant to Section 19442 (as amended by Chapter 138 of the~~
8 ~~Statutes of 1994), it is unlawful for the board, any person having~~
9 ~~an administrative duty under this part or any person who obtains~~
10 ~~access to information contained in, or derived from, sales or~~
11 ~~transactions and use tax records of the board pursuant to~~
12 ~~subdivision (b), to make known in any manner whatever the~~
13 ~~business affairs, operations, or any other information pertaining~~
14 ~~to any retailer or any other person required to report to the board~~
15 ~~or pay a tax pursuant to this part, or the amount or source of~~
16 ~~income, profits, losses, expenditures, or any particular thereof, set~~
17 ~~forth or disclosed in any return, or to permit any return or copy~~
18 ~~thereof or any book containing any abstract or particulars thereof~~
19 ~~to be seen or examined by any person.~~

20 ~~(2) It is also unlawful for any person, other than an officer or~~
21 ~~employee of a county, city and county, city, or district, who obtains~~
22 ~~access to information contained in, or derived from, sales or~~
23 ~~transactions and use tax records of the board pursuant to~~
24 ~~subdivision (b), to retain that information after that person's~~
25 ~~contract with the county, city and county, city, or district has~~
26 ~~expired.~~

27 ~~(3) Notwithstanding paragraphs (1) and (2), the Governor may,~~
28 ~~by general or special order, authorize examination by other state~~
29 ~~officers, by tax officers of another state, by the federal government,~~
30 ~~if a reciprocal arrangement exists, by the tax officials of Mexico,~~
31 ~~if a reciprocal agreement exists, or by any other person of the~~
32 ~~records maintained by the board under this part. The information~~
33 ~~so obtained pursuant to the order of the Governor shall not be made~~

1 public except to the extent and in the manner that the order may
2 authorize that it be made public.

3 (b) ~~When requested by resolution of the legislative body of any
4 county, city and county, city, or district, the board shall permit any
5 duly authorized officer or employee of the county, city and county,
6 city, or district, or other person designated by that resolution, to
7 examine all of the sales or transactions and use tax records of the
8 board pertaining to the ascertainment of those sales or transactions
9 and use taxes to be collected for the county, city and county, city,
10 or district by the board pursuant to contract entered into between
11 the board and the county, city and county, city, or district under
12 the Bradley-Burns Uniform Local Sales and Use Tax Law (Part
13 1.5 (commencing with Section 7200)) or the Transactions and Use
14 Tax Law (Part 1.6 (commencing with Section 7251)). Except as
15 otherwise provided herein, this subdivision shall not be construed
16 to allow any officer, employee, or other person authorized or
17 designated by a county, city and county, city, or district to examine
18 any sales or transactions and use tax records of any taxpayer. The
19 costs that are incurred by the board in complying with a request
20 made pursuant to this subdivision shall be deducted by the board
21 from those revenues collected by the board on behalf of the county,
22 city and county, city, or district making the request.~~

23 (1) ~~The resolution shall certify that any person designated by
24 the resolution, other than an officer or employee, meets all of the
25 following conditions:~~

26 (A) ~~Has an existing contract with the county, city and county,
27 city, or district to examine those sales and use tax records.~~

28 (B) ~~Is required by that contract to disclose information contained
29 in, or derived from, those sales or transactions and use tax records
30 only to an officer or employee of the county, city and county, city,
31 or district who is authorized by the resolution to examine the
32 information.~~

33 (C) ~~Is prohibited by that contract from performing consulting
34 services for a retailer during the term of that contract.~~

35 (D) ~~Is prohibited by that contract from retaining the information
36 contained in, or derived from, those sales or transactions and use
37 tax records, after that contract has expired.~~

38 (2) ~~Information obtained by examination of board records as
39 permitted in this subdivision shall be used only for purposes related
40 to the collection of local sales or transactions and use taxes by the~~

1 board pursuant to the contract, or for purposes related to other
2 governmental functions of the county, city and county, city, or
3 district set forth in the resolution.

4 (e) If the board believes that any information obtained pursuant
5 to subdivision (b) has been disclosed to any person not authorized
6 or designated by the resolution of the legislative body of the county,
7 city and county, city, or district, or has been used for purposes not
8 permitted by subdivision (b), then notwithstanding subdivision
9 (b), the board may impose conditions on access to its sales and
10 use tax records which the board considers reasonable, in order to
11 protect the confidentiality of those records.

12 (d) Predecessors, successors, receivers, trustees, executors,
13 administrators, assignees, and guarantors, if directly interested,
14 may be given information as to the items included in the measure
15 and amounts of any unpaid tax or amounts of tax required to be
16 collected, interest, and penalties.

17 (e) When requested by the Controller's office, the board may
18 permit any duly authorized representative of that office to obtain
19 information available in the board's records that will assist the
20 Controller's office in determining compliance with the provisions
21 of the Unclaimed Property Law (Title 10 (commencing with
22 Section 1300) of Part 3 of the Code of Civil Procedure).

23 (f) For purposes of this section, "reciprocal agreement" means
24 a formal agreement to exchange information between national
25 taxing officials of Mexico and taxing authorities of the State Board
26 of Equalization, the Franchise Tax Board, and the Employment
27 Development Department. Furthermore, the reciprocal agreement
28 shall be limited to the exchange of information which is essential
29 for tax administration purposes only. Taxing authorities of the
30 State of California shall be granted tax information only on
31 California residents. Taxing authorities of Mexico shall be granted
32 tax information only on Mexican nationals.

33 ~~SEC. 2.~~

34 *SECTION 1.* Section 19554 of the Revenue and Taxation Code
35 is amended to read:

36 19554. (a) Subject to the limitations of this section and federal
37 law, the Franchise Tax Board may provide the Controller with the
38 address or other identification or location information from income
39 tax returns or other records which is necessary for the Controller
40 to locate owners of unclaimed property pursuant to Title 10

1 (commencing with Section 1300) of Part 3 of the Code of Civil
2 Procedure.

3 (b) Subject to the limitations of this section and Section 6103(d)
4 of the Internal Revenue Code, the Franchise Tax Board may
5 provide the Controller, on an annual basis, with the following
6 information from business entity income tax returns or other
7 business entity records maintained by the Franchise Tax Board:

8 (1) The taxpayer's name.

9 (2) The taxpayer's identification number.

10 (3) The taxpayer's address.

11 (4) The taxpayer's principal business activity code.

12 ~~(5) The gross receipts, as reported by the taxpayer, to the~~
13 ~~Franchise Tax Board.~~

14 (c) (1) The information provided to the Controller under this
15 section is subject to Section 19542.

16 (2) Neither the Controller nor any officer, employee, or agent,
17 or former officer, employee, or agent of the Controller may disclose
18 or use any information obtained from the Franchise Tax Board
19 pursuant to this section except for the purpose of locating owners
20 of unclaimed property as provided in subdivision (a), or for the
21 purpose of determining compliance with the Unclaimed Property
22 Law (Title 10 (commencing with Section 1300) of Part 3 of the
23 Code of Civil Procedure), as provided in subdivision (b).