

Introduced by Senator CedilloFebruary 4, 2008

An act to amend Sections 19551 and 19551.1 of, and to add Section 19551.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as introduced, Cedillo. Tax administration: disclosure of information: Franchise Tax Board and cities and counties.

Existing franchise and income tax laws authorize the Franchise Tax Board to permit tax officials of any city that executed an agreement with the board, as provided, to obtain specified tax information from the board. Existing law authorizes the Franchise Tax Board, until December 31, 2011, to disclose to tax officials of any city, subject to certain specified requirements, a taxpayer's name, address, social security or taxpayer identification number, and business activity code, as provided, but limits the use of that information to employees of the taxing authority of a city.

This bill would revise those provisions by deleting that repeal date and by authorizing a city or a county that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to obtain specified tax information from the Franchise Tax Board, as provided. This bill would also allow a city or county to request any other information from the Franchise Tax Board by using an affidavit, as provided.

This bill would also require cities and counties to annually furnish to the board specified information that is collected in the course of administration of the city's or county's business tax program, as described.

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.

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

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

1 SECTION 1. Section 19551 of the Revenue and Taxation Code
2 is amended to read:

3 19551. (a) The Franchise Tax Board may permit the
4 Commissioner of Internal Revenue of the United States, other tax
5 officials of this state, the Multistate Tax Commission, the proper
6 officer of any state imposing an income tax or a tax measured by
7 income or the authorized representative of that officer, or the tax
8 officials of Mexico, if a reciprocal agreement exists, to inspect the
9 income tax returns of any taxpayer, or may furnish to the
10 commission, or the officer or the authorized representative thereof
11 an abstract of the return or supply thereto information concerning
12 any item of income contained in any return or disclosed by the
13 report of any investigation of the income or return. The information
14 shall be furnished to the Multistate Tax Commission, the federal
15 or state officer or his or her representative, or the officials of
16 Mexico for tax purposes only. Except when furnished pursuant to
17 a written agreement, information furnished pursuant to this section
18 shall be furnished only if the request is in the form of an affidavit
19 under penalty of perjury stating that the purpose for the request
20 relates to an investigation of the tax specified in the request and
21 that the information will be used in the ordinary performance of
22 the applicant’s official duties.

23 ~~(b) Notwithstanding subdivision (a), tax officials of political~~
24 ~~subdivisions of this state shall request information from the~~
25 ~~Franchise Tax Board by affidavit only. At the time a tax official~~
26 ~~makes the request, he or she shall provide the affected person with~~
27 ~~a copy of the affidavit and, upon request, make the information~~
28 ~~obtained available to that person.~~

1 (e)

2 (b) For purposes of this section, “reciprocal agreement” means
3 a formal agreement to exchange information between national
4 taxing officials of Mexico and taxing authorities of the State Board
5 of Equalization, the Franchise Tax Board, and the Employment
6 Development Department. Furthermore, the reciprocal agreement
7 shall be limited to the exchange of information which is essential
8 for tax administration purposes only. Taxing authorities of the
9 State of California shall be granted tax information only on
10 California residents. Taxing authorities of Mexico shall be granted
11 tax information only on Mexican nationals.

12 SEC. 2. Section 19551.1 of the Revenue and Taxation Code
13 is amended to read:

14 19551.1. (a) ~~The Franchise Tax Board may permit the~~ (1) *The*
15 *tax officials of any city or county that enters into a reciprocal*
16 *agreement with the Franchise Tax Board are authorized to obtain*
17 *tax information pursuant to from the Franchise Tax Board, as*
18 *specified in subdivision (a) of Section 19551 (b).*

19 (2) *For purposes of this section, “reciprocal agreement” means*
20 *a formal agreement to exchange information for tax administration*
21 *purposes between tax officials of a city or county and taxing*
22 *authorities of the Franchise Tax Board.*

23 (b) The information furnished to tax officials of a city *or county*
24 under this section shall be limited as follows:

25 (1) ~~When requested pursuant to a written agreement, the taxing~~
26 ~~authority~~ *The tax officials of a city may be granted tax or county*
27 *are authorized to receive information only with respect to taxpayers*
28 *with an address as reflected on the Franchise Tax Board’s records*
29 *within the jurisdictional boundaries of the city ~~who~~ or county, as*
30 *applicable, that report income from a trade or business to the*
31 *Franchise Tax Board.*

32 (2) The tax information that may be provided by the Franchise
33 Tax Board to a city *or county* is limited to a taxpayer’s name,
34 address, social security or taxpayer identification number, and
35 business activity code.

36 (3) Tax information provided to the taxing authority of a city
37 *or county* may not be furnished to, or used by, any person other
38 than an employee of that taxing authority.

39 (4) ~~Section 19542 applies to this section~~ *The information*
40 *provided to the tax officials of the city or county by the Franchise*

1 *Tax Board under this section is subject to Section 19542, and may*
2 *not be used for any purpose other than the city's or county's tax*
3 *enforcement, or as otherwise authorized by law.*

4 (5) Section 19542.1 applies to this section.

5 ~~(e) The Franchise Tax Board may not provide any information~~
6 ~~pursuant to this section until all of the following have occurred:~~

7 ~~(1) An agreement has been executed between a city and the~~
8 ~~Franchise Tax Board, that provides that an amount equal to all~~
9 ~~first year costs necessary to furnish the city information pursuant~~
10 ~~to this section shall be received by the Franchise Tax Board before~~
11 ~~the Franchise Tax Board incurs any costs associated with the~~
12 ~~activity permitted by this section. For purposes of this section, first~~
13 ~~year costs include costs associated with, but not limited to, the~~
14 ~~purchasing of equipment, the development of processes, and labor.~~

15 ~~(2) An agreement has been executed between a city and the~~
16 ~~Franchise Tax Board, that provides that the annual costs incurred~~
17 ~~by the Franchise Tax Board, as a result of the activity permitted~~
18 ~~by this section, shall be reimbursed by the city to the board.~~

19 ~~(3) Pursuant to the agreement described in paragraph (1), the~~
20 ~~Franchise Tax Board has received an amount equal to the first year~~
21 ~~costs.~~

22 *(c) Any information, other than the type of tax information*
23 *specified in subdivision (b), may be requested by the tax officials*
24 *of a city or county from the Franchise Tax Board by affidavit. At*
25 *the time a tax official makes the request, he or she shall provide*
26 *the person whose information is the subject of the request, with a*
27 *copy of the affidavit and, upon request, make the information*
28 *obtained available to that person.*

29 (d) This section does not invalidate any other law. This section
30 does not preclude any city or ~~city and~~ county from obtaining
31 information about individual taxpayers, including those taxpayers
32 exempt from this section, by any other means permitted by state
33 or federal law.

34 ~~(e) This section shall remain in effect only until December 31,~~
35 ~~2011, and as of that date is repealed.~~

36 ~~(f)~~

37 (e) Nothing in this section shall be construed to affect any
38 obligations, rights, or remedies regarding personal information
39 provided under state or federal law.

1 SEC. 3. Section 19551.5 is added to the Revenue and Taxation
2 Code, to read:

3 19551.5. (a) Notwithstanding any other law, each city or
4 county that assesses, respectively, a city or county business tax or
5 requires a city or county business license shall annually furnish to
6 the Franchise Tax Board the information that is collected in the
7 course of administration of the city's or county's business tax
8 program, as described in subdivision (b).

9 (b) Information, collected in the course of administration of the
10 city's or county's business tax program, shall be limited to the
11 following:

12 (1) Name of the business, if the business is a corporation,
13 partnership, or limited liability company, or the owner's name if
14 the business is a sole proprietorship.

15 (2) Business mailing address.

16 (3) Federal employer identification number, if applicable, or
17 the business owner's social security number.

18 (4) Standard Industrial Classification Code (SIC) or North
19 American Industry Classification System (NAICS) Code.

20 (5) Business start date.

21 (6) Business cease date.

22 (7) City or county number, as applicable.

23 (8) Ownership type.

24 (c) The reports required under this section shall be filed on
25 magnetic media such as tapes or compact discs, through a secure
26 electronic process, or in other machine-readable form, according
27 to standards prescribed by regulations promulgated by the
28 Franchise Tax Board.

29 (d) Cities and counties shall begin providing to the Franchise
30 Tax Board with the information required by this section as soon
31 as economically feasible, but no later than December 31, 2009.
32 The information shall be furnished annually at a time and in the
33 form that the Franchise Tax Board may prescribe by regulation.

34 (e) The city or county data provided to the Franchise Tax Board
35 under this section is subject to Section 19542, and may not be used
36 for any purpose other than state tax enforcement or as otherwise
37 authorized by law.

38 SEC. 4. If the Commission on State Mandates determines
39 that this act contains costs mandated by the state, reimbursement
40 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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