

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1006**

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**Introduced by Assembly Member Cook**

February 18, 2011

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An act to add Part 10.1 (commencing with Section 15706) to Division 3 of Title 2 of the Government Code, and to amend ~~Sections 17024.5, 18526, 19032, 19057, 19058, 19060, 19061, 19065, 19066.5, 23051.5, 24273.5, and 24945~~ Section 19032 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1006, as amended, Cook. Taxation: Franchise Tax Board: ~~statute of limitations:~~ burden of proof.

Existing law imposes income taxes that are administered and collected by the Franchise Tax Board. Existing law ~~establishes a general four-year statute of limitations, subject to specified exceptions, for actions by the Franchise Tax Board regarding tax liability and also~~ provides that the taxpayer has the burden of proof in court proceedings for purposes of state income tax laws.

This bill would provide that the Franchise Tax Board shall have the burden of proof in any court or administrative tax proceedings with respect to any factual issue relevant to ascertaining the tax liability of ~~a taxpayer~~ *specified taxpayers*. This bill would also provide that these provisions shall not subject ~~a taxpayer~~ *those taxpayers* to unreasonable search or access to records in violation of the law. This bill would additionally ~~revise the statute of limitations regarding specified actions, including audits, conducted by the board and~~ would require the board to have just cause before beginning any audit.

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. This act shall be known, and may be cited, as  
2 “The Tax Fairness Act of 2011.”

3 SEC. 2. Part 10.1 (commencing with Section 15706) is added  
4 to Division 3 of Title 2 of the Government Code, to read:  
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6 PART 10.1. BURDEN OF PROOF  
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8 15706. (a) The Franchise Tax Board shall have the burden of  
9 proof in any court or administrative tax proceeding with respect  
10 to a factual issue related to ascertaining the tax liability of a  
11 taxpayer.

12 (b) For purposes of this section:

13 (1) “Administrative tax proceeding” means, for disputes  
14 concerning taxes collected by the Franchise Tax Board, the oral  
15 hearing before the members of the State Board of Equalization.

16 (2) “Tax liability” means any tax or fee assessed or determined  
17 by the Franchise Tax Board, including any interest accrued or  
18 penalties levied in association with the tax or fee.

19 (c) Unless provided otherwise, the burden of proof for purposes  
20 of this part shall be a preponderance of the evidence.

21 (d) Nothing in this section shall subject a taxpayer to  
22 unreasonable search or access to records in violation of the United  
23 States Constitution, the California Constitution, or any other law.

24 (e) This section shall apply only to court and administrative  
25 proceedings involving assessments or notices of determination  
26 issued on or after the date on which this act becomes operative.

27 (f) *This section shall apply only to the following taxpayers:*

28 (1) *Taxpayers (A) whose filing status is as a single taxpayer, a*  
29 *married taxpayer filing separately, a registered domestic partner*  
30 *filing separately, a head of household, or as a qualifying widow*  
31 *or widower, and (B) whose adjusted gross income is less than one*  
32 *hundred thousand dollars (\$100,000) for the taxable year.*

33 (2) *Taxpayers (A) whose filing status is a married taxpayer*  
34 *filing jointly or a registered domestic partner filing jointly, and*

1 (B) whose adjusted gross income is less than two hundred fifty  
2 thousand dollars (\$250,000) for that taxable year.

3 SEC. 3. Section 19032 of the Revenue and Taxation Code is  
4 amended to read:

5 19032. (a) As soon as practicable after the return is filed, the  
6 Franchise Tax Board shall examine it and shall determine the  
7 correct amount of the tax.

8 (b) The Franchise Tax Board shall have just cause in order to  
9 begin any audit.

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Assembly, February 18, 2011. (JR11)**