

AMENDED IN ASSEMBLY MAY 1, 2012
AMENDED IN ASSEMBLY MARCH 29, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2323

Introduced by Assembly Member Perea

February 24, 2012

An act to ~~amend Section 6355 of~~ *add Section 40* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2323, as amended, Perea. State Board of Equalization: ~~nonmonetized bullion and numismatic coins: adjustment date. administration: opinions.~~

The California Constitution establishes the State Board of Equalization and prescribes its various powers and duties in connection with various taxes, including administration, assessment, and collection. The State Board of Equalization also collects and administers various fees imposed under specified programs and serves as an arbiter for the resolution of disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board.

This bill would require the board to publish and make available on its Internet Web site a written formal legal opinion or a written memorandum opinion for each case in which the amount in controversy is \$500,000 or more. This bill would require each published opinion to contain specified information, and would require the board to determine the precedential value of each formal opinion and each memorandum opinion at its discretion.

~~The Sales and Use Tax Law exempts from the sales and use taxes the gross receipts from the sales in bulk of monetized bullion, nonmonetized gold and silver bullion, and numismatic coins, and the storage, use, or other consumption of those bullion and coins, as provided, and requires the State Board of Equalization to adjust the initial bulk threshold amount on or before September 1.~~

~~This bill would change the adjustment date to October 1.~~

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

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

1 SECTION 1. Section 40 is added to the Revenue and Taxation
2 Code, to read:

3 40. (a) The board shall publish and make available on its
4 Internet Web site a written formal legal opinion or a written
5 memorandum opinion for each case in which the amount in
6 controversy is five hundred thousand dollars (\$500,000) or more.

7 (b) Each published opinion shall include all of the following:

- 8 (1) Factual background.
- 9 (2) The legal issue or issues presented.
- 10 (3) Applicable law.
- 11 (4) Analysis.
- 12 (5) Disposition.
- 13 (6) Names of concurring board members.

14 (c) A board member may write a dissenting opinion should he
15 or she disagree with the majority opinion.

16 (d) The board shall determine the precedential value of each
17 formal legal opinion and each memorandum opinion at its
18 discretion.

19 SECTION 1. ~~Section 6355 of the Revenue and Taxation Code~~
20 ~~is amended to read:~~

21 6355. (a) ~~There are exempted from the taxes imposed by this~~
22 ~~part the gross receipts from the sale in bulk of monetized bullion,~~
23 ~~nonmonetized gold or silver bullion, and numismatic coins that~~
24 ~~are substantially equivalent to transactions in securities or~~
25 ~~commodities through a national securities or commodities exchange~~
26 ~~and the storage, use, or other consumption in this state of monetized~~
27 ~~bullion, nonmonetized gold or silver bullion, and numismatic coins~~
28 ~~so sold.~~

1 ~~(b) (1) A sale in bulk, for purposes of this section, shall be~~
2 ~~deemed to have occurred if the amount of monetized bullion,~~
3 ~~nonmonetized gold or silver bullion, and numismatic coins sold~~
4 ~~in the transaction totals, in market value, the sum of one thousand~~
5 ~~dollars (\$1,000) or more, or its equivalent.~~

6 ~~(2) The board shall adjust the one thousand dollar (\$1,000)~~
7 ~~amount specified in paragraph (1) as follows:~~

8 ~~(A) On or before September 1, 1994, and on or before each~~
9 ~~October 1 of each year thereafter, the board shall multiply the~~
10 ~~amount applicable for the current calendar year by the inflation~~
11 ~~factor adjustment determined by the Franchise Tax Board pursuant~~
12 ~~to subdivision (h) of Section 17041, the resulting amount to be the~~
13 ~~applicable amount for the succeeding calendar year. The applicable~~
14 ~~amount shall be operative as an adjustment of the amount specified~~
15 ~~in paragraph (1) only when the applicable amount computed is~~
16 ~~equal to or exceeds a new operative threshold, as defined in~~
17 ~~subparagraph (C).~~

18 ~~(B) When the applicable amount equals or exceeds an operative~~
19 ~~threshold specified in subparagraph (C), the resulting applicable~~
20 ~~amount, rounded to the nearest multiple of five hundred dollars~~
21 ~~(\$500), shall be operative for purposes of paragraph (1) beginning~~
22 ~~January 1 of the succeeding calendar year.~~

23 ~~(C) For purposes of this paragraph, “operative threshold” means~~
24 ~~an amount that exceeds by at least five hundred dollars (\$500), the~~
25 ~~greater of either the amount specified in paragraph (1) or the~~
26 ~~amount computed pursuant to subparagraphs (A) and (B) as the~~
27 ~~operative adjustment to the amount specified in paragraph (1).~~

28 ~~(e) “Monetized bullion,” for purposes of this section, means~~
29 ~~coins or other forms of money manufactured of gold, silver, or~~
30 ~~other metal and heretofore, now, or hereafter used as a medium of~~
31 ~~exchange under the laws of this state, the United States, or any~~
32 ~~foreign nation. “Monetized bullion,” for purposes of this section,~~
33 ~~also means gold medallions struck under authority of the American~~
34 ~~Arts Gold Medallion Act (Title IV of Public Law 95-630).~~

35 ~~(d) A sale of monetized bullion, nonmonetized gold or silver~~
36 ~~bullion, or numismatic coins, for purposes of this section, shall be~~
37 ~~deemed to be substantially equivalent to a transaction in securities~~
38 ~~or commodities through a national securities or commodities~~
39 ~~exchange, if the sale is by or through a person registered pursuant~~

- 1 ~~to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not~~
- 2 ~~required to be registered under the Commodity Exchange Act.~~

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