

Assembly Bill No. 2323

CHAPTER 788

An act to add Section 40 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 2012. Filed with
Secretary of State September 29, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2323, Perea. State Board of Equalization: administration: opinions.

The California Constitution establishes the State Board of Equalization, and existing law prescribes its various powers and duties with respect to various taxes and fees, including administration, assessment, and collection and prescribes its functions with respect to property taxes. The State Board of Equalization is the appellate body for disputes arising under franchise and income tax laws. The State Board of Equalization decides disputes arising under tax and fee laws administered by the board and decides specified petitions and applications arising under property tax laws.

This bill would require the board to publish and make available on its Internet Web site a written formal opinion, a written memorandum opinion, or a written summary decision for each decision of the board, as specified, in which the amount in controversy is \$500,000 or more, within 120 days of the date upon which the board rendered its decision. This bill would require each published opinion or decision to contain specified information.

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

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

40. (a) (1) The board shall publish on its Internet Web site a written formal opinion, a written memorandum opinion, or a written summary decision for each decision of the board in which the amount in controversy is five hundred thousand dollars (\$500,000) or more, within 120 days of the date upon which the board rendered its decision.

(2) A decision of the board shall not include consent calendar actions taken by the board.

(b) Each formal opinion, memorandum opinion, and summary decision as described in subdivision (a) shall include all of the following:

- (1) Findings of fact.
- (2) The legal issue or issues presented.
- (3) Applicable law.
- (4) Analysis.

(5) Disposition.

(6) Names of adopting board members.

(c) (1) A board member may submit a dissenting opinion setting forth his or her rationale for disagreeing with the memorandum opinion or formal opinion.

(2) A board member may submit a concurring opinion setting forth the board member's rationale for agreeing with the result reached in the memorandum opinion or formal opinion, if different than the rationale set forth in the memorandum opinion or formal opinion.

(3) A dissenting opinion and a concurring opinion shall be published in the same manner as prescribed in subdivision (a) for a formal opinion or memorandum opinion.

(d) A formal opinion or memorandum opinion adopted by the board may be cited as precedent in any matter or proceeding before the board, unless the opinion has been depublished, overruled, or superseded. A summary decision may not be cited as precedent in any matter or proceeding before the board.