

AMENDED IN SENATE JUNE 7, 2012
AMENDED IN ASSEMBLY MARCH 19, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2453

Introduced by Assembly Member ~~Members~~ Block and Harkey

February 24, 2012

An act to amend Sections 6561, 6562, 7710, 7711, 8851, 8852, 12428, 30261, 30262, 32301, 32302, 38441, 38443, 40091, 40093, 41085, 41087, 43301, 43303, 45301, 45303, 46351, 46353, 50114, 55081, 55083, 60350, and 60352 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2453, as amended, Block. State Board of Equalization: administration: petition for redetermination.

Under the Sales and Use Tax Law, Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Timber Yield Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, Diesel Fuel Tax Law, and the laws governing the taxation of insurers, a taxpayer or feepayer against whom a notice of determination or notice of deficiency assessment is issued or a person directly interested may file a petition of redetermination within 30 days after service upon the person of notice.

This bill would extend that time period to 60 days after service upon the person of notice.

Section 92 of Chapter 11 of the First Extraordinary Session of 2011 provides that that act is inoperative if any of its provisions are amended or repealed. This bill would provide that, notwithstanding Section 92 of Chapter 11 of the First Extraordinary Session of the Statutes of 2011, the provisions of Chapter 11 of the First Extraordinary Session of the Statutes of 2011 would not become inoperative by reason of the amendments to specified provisions of that act made in this bill.

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

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

1 SECTION 1. Section 6561 of the Revenue and Taxation Code
2 is amended to read:

3 6561. A person against whom a determination is made under
4 Article 2 (commencing with Section 6481) or Article 3
5 (commencing with Section 6511) or a person directly interested
6 may petition for a redetermination within 60 days after service
7 upon the person of notice thereof. If a petition for redetermination
8 is not filed within the 60-day period, the determination becomes
9 final at the expiration of that period.

10 SEC. 2. Section 6562 of the Revenue and Taxation Code is
11 amended to read:

12 6562. If a petition for redetermination is filed within the 60-day
13 period, the board shall reconsider the determination and, if the
14 person has so requested in his or her petition, shall grant the person
15 an oral hearing and shall give him or her 10 days' notice of the
16 time and place of the hearing. The board may continue the hearing
17 from time to time as may be necessary.

18 SEC. 3. Section 7710 of the Revenue and Taxation Code is
19 amended to read:

20 7710. A supplier against whom a determination is made by the
21 board under Article 3 (commencing with Section 7660) or Article
22 4 (commencing with Section 7670) may petition for a
23 redetermination within 60 days after the date the notice thereof is
24 given to him or her. If a petition for redetermination is not filed
25 within the 60-day period, the determination becomes final at the
26 expiration of the period.

1 SEC. 4. Section 7711 of the Revenue and Taxation Code is
2 amended to read:

3 7711. If a petition for redetermination is filed within the 60-day
4 period, the board shall reconsider the determination and, if the
5 supplier has so requested in his or her petition, shall grant him or
6 her an oral hearing and shall give him or her 10 days' notice of
7 the time and place of the hearing. Service of notice shall be as
8 prescribed by Section 7671. The board may continue the hearing
9 from time to time as may be necessary.

10 SEC. 5. Section 8851 of the Revenue and Taxation Code is
11 amended to read:

12 8851. A user against whom a determination is made under
13 Article 2 (commencing with Section 8776) or Article 3
14 (commencing with Section 8801) may petition for a
15 redetermination within 60 days after service upon the user of notice
16 thereof. If a petition for redetermination is not filed within the
17 60-day period, the determination becomes final at the expiration
18 of the period.

19 SEC. 6. Section 8852 of the Revenue and Taxation Code is
20 amended to read:

21 8852. If a petition for redetermination is filed within the 60-day
22 period, the board shall reconsider the determination and, if the user
23 has so requested in his or her petition, shall grant him or her an
24 oral hearing and shall give him or her 10 days' notice of the time
25 and place of the hearing. The board may continue the hearing from
26 time to time as may be necessary.

27 SEC. 7. Section 12428 of the Revenue and Taxation Code, as
28 amended by Section 45 of Chapter 11 of the First Extraordinary
29 Session of the Statutes of 2011, is amended to read:

30 12428. (a) An insurer or surplus line broker against which a
31 deficiency assessment is made under Section 12424 or 12425 may
32 petition for redetermination of the deficiency assessment within
33 60 days after service upon the insurer or surplus line broker of the
34 notice thereof, by filing with the board a written petition setting
35 forth the grounds of objection to the deficiency assessment and
36 the correction sought. At the time the petition is filed with the
37 board, a copy of the petition shall be filed with the commissioner.

38 If a petition for redetermination is not filed within the period
39 prescribed by this section, the deficiency assessment becomes ~~final~~
40 ~~and final~~, due, and payable at the expiration of that period.

1 (b) This section shall become operative on July 1, 2012.

2 SEC. 8. Section 30261 of the Revenue and Taxation Code is
3 amended to read:

4 30261. A person against whom a determination is made under
5 Article 2 (commencing with Section 30201) or Article 3
6 (commencing with Section 30221) may petition for a
7 redetermination within 60 days after service upon the person of
8 notice thereof. If a petition for redetermination is not filed within
9 the 60-day period, the determination becomes final at the expiration
10 of the period.

11 SEC. 9. Section 30262 of the Revenue and Taxation Code is
12 amended to read:

13 30262. If a petition for redetermination is filed within the
14 60-day period, the board shall reconsider the determination and,
15 if the person has so requested in his or her petition, shall grant him
16 or her an oral hearing and shall give him or her at least 10 days'
17 notice of the time and place of the hearing. The board may continue
18 the hearing from time to time as may be necessary.

19 SEC. 10. Section 32301 of the Revenue and Taxation Code is
20 amended to read:

21 32301. A person from whom an amount is determined to be
22 due under Article 2 (commencing with Section 32271) or Article
23 3 (commencing with Section 32291) or a person directly interested
24 may petition for a redetermination thereof within 60 days after
25 service upon him or her of notice of the determination. If a petition
26 for redetermination is not filed within the 60-day period, the
27 amount determined to be due becomes final at the expiration
28 thereof.

29 SEC. 11. Section 32302 of the Revenue and Taxation Code is
30 amended to read:

31 32302. If a petition for redetermination is filed within the
32 60-day period, the board shall reconsider the amount determined
33 to be due, and if the person has so requested in his or her petition,
34 shall grant him or her an oral hearing and shall give him or her 10
35 days' notice of the time and place of the hearing. The board may
36 continue the hearing from time to time as may be necessary.

37 SEC. 12. Section 38441 of the Revenue and Taxation Code is
38 amended to read:

39 38441. A person against whom a determination is made under
40 Article 2 (commencing with Section 38411) or Article 3

1 (commencing with Section 38421) or a person directly interested
2 may petition for a redetermination within 60 days after service
3 upon the person of notice thereof. If a petition for redetermination
4 is not filed within the 60-day period, the determination becomes
5 final at the expiration of the period.

6 SEC. 13. Section 38443 of the Revenue and Taxation Code is
7 amended to read:

8 38443. If a petition for redetermination is filed within the
9 60-day period, the board shall reconsider the determination and,
10 if the person has so requested in his or her petition, shall grant the
11 person an oral hearing and shall give him or her 10 days' notice
12 of the time and place of the hearing. The board may continue the
13 hearing from time to time as may be necessary.

14 SEC. 14. Section 40091 of the Revenue and Taxation Code is
15 amended to read:

16 40091. A person against whom a determination is made under
17 Article 3 (commencing with Section 40071) or Article 4
18 (commencing with Section 40081) may petition for a
19 redetermination within 60 days after service upon the person of
20 notice thereof. If a petition for redetermination is not filed within
21 the 60-day period, the determination becomes final at the expiration
22 of the period.

23 SEC. 15. Section 40093 of the Revenue and Taxation Code is
24 amended to read:

25 40093. If a petition for redetermination is filed within the
26 60-day period, the board shall reconsider the determination and,
27 if the person has so requested in his or her petition, shall grant the
28 person an oral hearing and shall give him or her 10 days' notice
29 of the time and place of the hearing. The board may continue the
30 hearing from time to time as may be necessary.

31 SEC. 16. Section 41085 of the Revenue and Taxation Code is
32 amended to read:

33 41085. A person against whom a determination is made under
34 Article 3 (commencing with Section 41070) or Article 4
35 (commencing with Section 41080) may petition for a
36 redetermination within 60 days after service upon the person of
37 notice thereof. If a petition for redetermination is not filed within
38 the 60-day period, the determination becomes final at the expiration
39 of the period.

1 SEC. 17. Section 41087 of the Revenue and Taxation Code is
2 amended to read:

3 41087. If a petition for redetermination is filed within the
4 60-day period, the board shall reconsider the determination and,
5 if the person has so requested in his or her petition, shall grant the
6 person an oral hearing and shall give him or her 10 days' written
7 notice of the time and place of the hearing. The board may continue
8 the hearing from time to time as may be necessary.

9 SEC. 18. Section 43301 of the Revenue and Taxation Code is
10 amended to read:

11 43301. A person from whom an amount is determined to be
12 due under Article 2 (commencing with Section 43201), or a person
13 directly interested, may petition for a redetermination thereof
14 within 60 days after service upon him or her of notice of the
15 determination. If a petition for redetermination is not filed within
16 the 60-day period, the amount determined to be due becomes final
17 at the expiration thereof.

18 A petition for redetermination of taxes determined under this
19 part shall not be accepted or considered by the board if the petition
20 is founded upon the grounds that the director has improperly or
21 erroneously determined that any substance is a hazardous or
22 extremely hazardous waste. An appeal of a determination that a
23 substance is a hazardous or extremely hazardous waste shall be
24 made to the director.

25 SEC. 19. Section 43303 of the Revenue and Taxation Code is
26 amended to read:

27 43303. If a petition for redetermination is filed within the
28 60-day period, the board shall reconsider the amount determined
29 to be due, and, if the person has so requested in his or her petition,
30 the board shall grant him or her an oral hearing and shall give him
31 or her 10 days' notice of the time and place of the hearing. The
32 board may continue the hearing from time to time as may be
33 necessary.

34 SEC. 20. Section 45301 of the Revenue and Taxation Code is
35 amended to read:

36 45301. A person from whom an amount is determined to be
37 due under Article 2 (commencing with Section 45201), or a person
38 directly interested, may petition for a redetermination thereof
39 within 60 days after service upon him or her of notice of the
40 determination. If a petition for redetermination is not filed within

1 the 60-day period, the amount determined to be due becomes final
2 at the expiration thereof.

3 SEC. 21. Section 45303 of the Revenue and Taxation Code is
4 amended to read:

5 45303. If a petition for redetermination is filed within the
6 60-day period, the board shall reconsider the amount determined
7 to be due, and, if the person has so requested in his or her petition,
8 the board shall grant him or her an oral hearing and shall give him
9 or her 10 days' notice of the time and place of the hearing. The
10 board may continue the hearing from time to time as may be
11 necessary.

12 SEC. 22. Section 46351 of the Revenue and Taxation Code is
13 amended to read:

14 46351. A person from whom an amount is determined to be
15 due under Article 2 (commencing with Section 46201) or Article
16 3 (commencing with Section 46251), or a person directly interested,
17 may petition for a redetermination thereof within 60 days after
18 service upon him or her of notice of the determination. If a petition
19 for redetermination is not filed within the 60-day period, the
20 amount determined to be due becomes final at the expiration
21 thereof.

22 SEC. 23. Section 46353 of the Revenue and Taxation Code is
23 amended to read:

24 46353. If a petition for redetermination is filed within the
25 60-day period, the board shall reconsider the amount determined
26 to be due, and, if the person has so requested in his or her petition,
27 the board shall grant him or her an oral hearing and shall give him
28 or her 10 days' notice of the time and place of the hearing. The
29 board may continue the hearing from time to time as may be
30 necessary.

31 SEC. 24. Section 50114 of the Revenue and Taxation Code is
32 amended to read:

33 50114. A person from whom an amount is determined to be
34 due under Article 2 (commencing with Section 50113), or a person
35 directly interested, may petition for a redetermination thereof
36 within 60 days after service of a notice of determination on that
37 person. If a petition for redetermination is not filed within the
38 60-day period, the amount determined to be due becomes final at
39 the expiration of that time period.

1 SEC. 25. Section 55081 of the Revenue and Taxation Code is
2 amended to read:

3 55081. A person from whom an amount is determined to be
4 due under Article 2 (commencing with Section 55061), or a person
5 directly interested, may petition for a redetermination thereof
6 within 60 days after service upon him or her of notice of the
7 determination. If a petition for redetermination is not filed within
8 the 60-day period, the amount determined to be due becomes final
9 at the expiration thereof.

10 SEC. 26. Section 55083 of the Revenue and Taxation Code is
11 amended to read:

12 55083. If a petition for redetermination is filed within the
13 60-day period, the board shall reconsider the amount determined
14 to be due, and, if the person has so requested in his or her petition,
15 the board shall grant him or her an oral hearing and shall give him
16 or her 10 days' notice of the time and place of the hearing. The
17 board may continue the hearing from time to time as may be
18 necessary.

19 SEC. 27. Section 60350 of the Revenue and Taxation Code is
20 amended to read:

21 60350. A person against whom a determination is made by the
22 board under Article 2 (commencing with Section 60301) and
23 Article 3 (commencing with Section 60310) may petition for a
24 redetermination within 60 days after the date the notice thereof is
25 given to him or her. If a petition for redetermination is not filed
26 within the 60-day period, the determination becomes final at the
27 expiration of the period.

28 SEC. 28. Section 60352 of the Revenue and Taxation Code is
29 amended to read:

30 60352. If a petition for redetermination is filed within the
31 60-day period, the board shall reconsider the determination and,
32 if the person has so requested in his or her petition, shall grant him
33 or her an oral hearing and shall give him or her 10 days' notice of
34 the time and place of the hearing. Service of notice shall be as
35 prescribed by Section 60173. The board may continue the hearing
36 from time to time as may be necessary.

37 SEC. 29. Notwithstanding Section 92 of Chapter 11 of the First
38 Extraordinary Session of the Statutes of 2011, the provisions of
39 Chapter 11 of the First Extraordinary Session of the Statutes of
40 2011 shall not become inoperative upon the amendment of any

- 1 provision of Chapter 11 of the First Extraordinary Session of the
- 2 Statutes of 2011 made by this act.

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