

Assembly Bill No. 2643

CHAPTER 161

An act to amend Sections 2635.5 and 5151 of, and to add Section 4985.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 23, 2012. Filed with Secretary of State July 23, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2643, Ma. Property taxation.

(1) Existing law authorizes the tax collector to apply any refund due a taxpayer, or a taxpayer's agent, to specified delinquent taxes, except when a refund is due to a taxpayer because the taxpayer or the agent for the taxpayer submitted a replicated tax payment, as defined.

This bill would eliminate the exception described above.

(2) Existing law, in the case in which a taxpayer has failed to pay taxes on an assessment that is the subject of a pending assessment appeal, limits, as provided, the amount of penalty relief to the difference between the final determination of value by the county board, as defined, and the value on the assessment roll for the fiscal year covered by the application.

This bill would similarly limit penalty relief in the case in which a taxpayer has failed to pay taxes on an assessment that is the subject of a pending informal review due to a decline in value as a result of damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value. This bill would require the tax collector to accept a payment in the amount of 80% of the amount of tax finally determined due if that payment was made within 30 days of the taxpayer filing an application for reassessment. This bill would require the county tax collector to provide notice to taxpayers of these penalty provisions. This bill would also provide that these provisions shall apply in a county only if the county board of supervisors, with the approval of the county's tax collector and the county's auditor, adopts a resolution or ordinance approving the penalty relief, as provided.

(3) Existing law requires the payment of interest on property tax refunds at the greater of 3% per annum or the county pool apportioned rate. Existing law requires, for each fiscal year, the county treasurer to advise the Controller of the county pool apportioned rate, and of computations made in deriving that rate, no later than 60 days after the end of that fiscal year.

This bill would extend the time period the county treasurer has to advise the Controller of the county pool apportioned rate from 60 to 90 days.

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

SECTION 1. Section 2635.5 of the Revenue and Taxation Code is amended to read:

2635.5. Notwithstanding any other law, the tax collector may apply any refund due a taxpayer, or the taxpayer's agent, to any delinquent taxes due for the same property for which the same taxpayer, or his or her agent, is liable.

SEC. 2. Section 4985.5 is added to the Revenue and Taxation Code, to read:

4985.5. (a) Notwithstanding Section 2610.5, in the case of cancellations made to the roll pursuant to Section 1646.1, where a taxpayer has failed to pay an amount of tax computed upon assessed value that is the subject of a pending informal review based upon paragraph (2) of subdivision (a) of Section 51, the relief from penalties shall apply only to the difference between the county assessor's final determination of value and the value on the assessment roll for the fiscal year covered by the application.

(b) This section shall apply only to those properties upon which an application for an informal review based upon paragraph (2) of subdivision (a) of Section 51 is pending before the county assessor on the effective date of the act adding this section or those applications for an informal review based upon paragraph (2) of subdivision (a) of Section 51 that are filed with the county board after the effective date of the act adding this section.

(c) For any taxpayer that has paid at least 80 percent of the amount of tax finally determined due by the county assessor within 30 days of filing an application for reassessment, the tax collector shall accept payment of the balance of the tax due without penalties or interest.

(d) The county tax collector shall notify all taxpayers that receive a tax bill of the provisions of this section.

(e) This section shall only become operative if the board of supervisors of a county, with the approval of the county's tax collector and the county's auditor, adopts a resolution or ordinance approving this section.

SEC. 3. Section 5151 of the Revenue and Taxation Code is amended to read:

5151. (a) Interest at the greater of 3 percent per annum or the county pool apportioned rate shall be paid, when that interest is ten dollars (\$10) or more, on any amount refunded under Section 5096.7, or refunded to a taxpayer for any reason whatsoever. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice. For purposes of this section, "county pool apportioned rate" means the annualized rate of interest earned on the total amount of pooled idle funds from all accounts held by the county treasurer, in excess of the county treasurer's administrative costs with respect to that amount, as of June 30 of the fiscal year preceding the date the refund is calculated by the auditor. For each fiscal year, the county treasurer shall advise the Controller of the county pool apportioned rate, and of

computations made in deriving that rate, no later than 90 days after the end of that fiscal year. Any interest paid on a refund at a rate provided for by this subdivision as it read prior to January 1, 2009, shall be deemed to be correct.

(b) The interest rate provided for in subdivision (a) does not apply to interest on refunds of those amounts of tax that became due and payable before March 1, 1993. Interest on refunds of amounts of a qualified tax shall be paid at that rate provided for by this section as it read prior to January 1, 1993. As used in this section, a “qualified tax” means a tax that became due and payable before March 1, 1993, and had not been refunded as of April 6, 1995. This subdivision shall not be construed to affect the interest paid on refunds of those amounts of tax that became due and payable before March 1, 1993, and have been refunded as of April 6, 1995.

(c) (1) The interest computation period shall commence with the date of payment of the tax when any of the following applies:

(A) A timely application for reduction in an assessment was filed, without regard to whether the refund ultimately results from a judgment or order of a court, an order of a board of equalization or assessment appeals board, or an assessor’s correction to the assessment roll.

(B) The refund is pursuant to a roll correction resulting from the determination or adjustment by the assessor or a local assessment appeals board of a base year value.

(C) The refund results from a correction to the assessment roll pursuant to Section 4831 or 4876.

(2) Interest on refunds of taxes on property acquired by a public agency in eminent domain shall accrue from the date of recordation of the deed.

(3) In all other cases the interest computation period shall commence on the date of filing a claim for refund or payment of the tax, whichever is later. However, in the event of the granting of property tax relief pursuant to Section 69, 69.3, or 170, interest is not payable on any resulting refund of taxes, provided that payment of that refund of taxes is made within 120 days after the county assessor has sent authorization for the reduction to the county auditor.

(d) The computation of interest shall terminate as of a date within 30 days of the date of mailing or personal delivery of the refund payment.

(e) The interest charged shall be apportioned to the appropriate funds, as determined by the county auditor.

(f) The amendments made to this section by Section 4 of Chapter 801 of the Statutes of 1996 shall apply to all refunds made after January 1, 1997.