

AMENDED IN ASSEMBLY JUNE 20, 2012

SENATE BILL

No. 1158

Introduced by Senator Price

February 22, 2012

An act to amend Sections 18572 and 19109 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, as amended, Price. Income taxes: administration.

The Personal Income Tax Law conforms to federal law by allowing the postponement of certain tax-related deadlines for those taxpayers affected by federally declared disasters or terroristic or military action.

This bill would extend the provisions relating to postponement to those taxpayers determined by the Franchise Tax Board to be affected by a state of emergency declared by the Governor of California.

Existing law provides for an abatement of interest accrued against the income tax liability of an individual during a filing extension period authorized for individuals determined to be affected by a presidentially declared disaster, if that individual is located in an area affected by a presidentially declared disaster or in a county or city that is proclaimed by the Governor to be in a state of disaster.

This bill would additionally authorize the Franchise Tax Board, after a written request by a taxpayer, to abate specified interest accrued against the income tax liability of individuals, under specified circumstances related to a presidentially declared disaster or in a county or city that is proclaimed by the Governor to be in a state of emergency, as provided.

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. Section 18572 of the Revenue and Taxation Code
2 is amended to read:

3 18572. (a) Section 7508A of the Internal Revenue Code,
4 relating to postponement of certain tax-related deadlines, shall
5 apply, except as otherwise provided.

6 (b) Section 7508A of the Internal Revenue Code, relating to
7 postponement of certain tax-related deadlines, shall apply to a
8 taxpayer determined by the Franchise Tax Board to be affected by
9 a state of emergency declared by the Governor.

10 SEC. 2. Section 19109 of the Revenue and Taxation Code is
11 amended to read:

12 19109. (a) If the Franchise Tax Board extends for any period
13 the time for filing a return under Section 18572 or subdivision (a)
14 of Section 18567 and the time for paying the tax under Section
15 18572 or subdivision (c) of Section 18567 (and waives any
16 penalties relating to the failure to so file or so pay) for any taxpayer
17 located in a presidentially declared disaster area or any county or
18 city in this state which is proclaimed by the Governor to be in a
19 state of emergency that incurred a loss, the Franchise Tax Board
20 shall abate for that period the assessment of any interest prescribed
21 under this article on that tax.

22 (b) (1) The Franchise Tax Board may, after written request by
23 a taxpayer, abate the interest on any deficiency or related to a
24 proposed deficiency described in Section 19033 or on a payment
25 of tax to the extent that interest is attributable in whole or in part
26 to the Franchise Tax Board's delay in the mailing of a notice or
27 other correspondence that requires a response from a taxpayer, in
28 connection with a presidentially declared disaster area, or any
29 county or city in this state that is proclaimed by the Governor to
30 be in a state of emergency.

31 (2) (A) Except as provided in paragraph (4), after the Franchise
32 Tax Board mails its notice of determination not to abate interest,
33 a taxpayer may appeal the Franchise Tax Board's determination
34 to the board within the following period, as applicable:

35 (i) Thirty days in the case of any unpaid interest described under
36 paragraph (1).

37 (ii) Ninety days in the case of any paid interest described under
38 paragraph (1).

1 (B) The board shall have jurisdiction over the appeal to
2 determine whether the Franchise Tax Board's failure to abate
3 interest under this subdivision was an abuse of discretion, and may
4 order an abatement.

5 (3) If the Franchise Tax Board fails to mail its notice of
6 determination on a request to abate interest within six months after
7 the request is filed, it shall be considered that the Franchise Tax
8 Board has determined not to abate interest and the taxpayer may
9 appeal that determination to the board. This paragraph shall not
10 apply to requests for abatement of interest made under paragraph
11 (4).

12 (4) A request for abatement of interest related to a proposed
13 deficiency may be made with the written protest of the underlying
14 proposed deficiency filed under Section 19041 or with an appeal
15 to the board under Section 19045 in the form and manner required
16 by the Franchise Tax Board. The action of the Franchise Tax Board
17 denying any portion of the request for abatement of interest related
18 to the proposed deficiency shall be considered as part of the appeal
19 of the action of the Franchise Tax Board on the protest of the
20 proposed deficiency. If the taxpayer filed an appeal from the
21 Franchise Tax Board's action on the protest of a proposed
22 deficiency and the deficiency is final pursuant to Section 19048,
23 the taxpayer may not thereafter request an abatement of interest
24 accruing prior to the time the deficiency is final. The taxpayer,
25 however, may thereafter request an abatement pursuant to this
26 subdivision limited to the interest accruing after the deficiency is
27 final.

28 (5) This subdivision shall apply to requests for abatement of
29 interest made on or after the effective date of the act adding this
30 paragraph, ~~except that the period referred to in clauses (i) and (ii)~~
31 ~~of subparagraph (A) of paragraph (2) shall be deemed to commence~~
32 ~~no earlier than the effective date of the act adding this paragraph.~~

33 (c) For purposes of this section, the term "presidentially declared
34 disaster area" means, with respect to any taxpayer, any area which
35 the President has determined warrants assistance by the federal
36 government under the Disaster Relief and Emergency Assistance
37 Act.

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