AMENDED IN ASSEMBLY MAY 7, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL No. 1151

Introduced by Assembly Member Ting

February 22, 2013

An act to add Chapter 14.5 (commencing with Section 22260) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 1151, as amended, Ting. Tax agent registration.

Existing law requires every assessor to assess all property subject to general property taxation at its full value and to prepare an assessment roll in which all property within the county which it is the assessor's duty to assess is required to be listed. Existing law requires a county board of equalization or an assessment appeals board to equalize the valuation of taxable property within the county for the purpose of taxation. Existing law authorizes a taxpayer, with respect to each assessment year, to file an application for a reduction in an assessment, as provided, with the county board, which is the county board of supervisors meeting as a county board of equalization of an assessment appeals board.

This bill would, commencing July 1, 2014, prohibit a tax agent, defined as any individual who is employed, is under contract, or otherwise receives compensation to communicate directly with any county official for the purpose of influencing official action relating to the establishment of a taxable value for any property subject to taxation, from representing a taxpayer before a county official without first being registered and issued a registration number by the Secretary of State. The bill would require a tax agent to file with the Secretary of State an application for registration that includes specified information and an unspecified registration fee. The bill would make the registration subject to biennial renewal and require the payment of an unspecified renewal fee.

This bill would require the Secretary of State to semiannually develop a list of registered tax agents and to make that list publicly available on its Internet Web site. The bill would authorize the Secretary of State to send a tax agent and the represented taxpayer a notice of noncompliance for the failure to comply with these provisions, as specified. The bill would also authorize the Attorney General to pursue civil fines for the failure to comply with these provisions subject to specified procedures. The bill would authorize the Secretary of State to adopt rules and regulations for the purpose of carrying out these provisions.

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

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

SECTION 1. Chapter 14.5 (commencing with Section 22260) is added to Division 8 of the Business and Professions Code, to read:

Chapter 14.5. Tax Agents

22260. The following definitions apply for the purposes of this chapter:

(a) “County official” means the county assessor, an assessment appeals board member, an assessment hearing officer, and any other county employee within those offices whose duties are not primarily clerical or manual.

(b) “Influencing official action” means representing a taxpayer as an agent in connection with any matter before any county official by promoting, supporting, influencing, seeking modification of, opposing, or seeking delay of any official action by any means. The filing or submitting of required county forms for compliance purposes and communication relating to those filings shall not be considered influencing official action.

(c) “Official action” means corrections to values and any other changes in taxable value set; applying all legal exemptions to assessments; and deciding all property assessment disputes between taxpayers and a county official, including hearings before an assessment hearing officer or a county assessment appeals board.

(d) “Public official” and “public employee” mean any government official or employee of any state or local government agency.

(e) “Tax agent” means any individual who is employed, under contract, or otherwise receives compensation to communicate directly, or through agents, employees, or subcontractors, with any county official for the purpose of influencing official action. A tax agent shall not include:

(1) An elected or appointed public official or public employee when acting in his or her official capacity.

(2) A person representing any of the following:

(A) Himself or herself.

(B) An immediate family member.

(C) An entity of which the person is a partner or owner of 10 percent or more of the value of the entity.

(3) An in-house tax professional or in-house employee representing his or her employer by influencing official action.

22260.2. (a) (1) Each tax agent, within 30 days after July 1, 2014, shall file with the Secretary of State an application for a registration containing the following information:

(A) The tax agent’s full name, business address, business telephone number, and business email address, if applicable.

(B) The name of the tax agent’s employing tax agent firm, if applicable.

(2) A tax agent shall also pay the Secretary of State a registration fee in the amount of ____ dollars ($____).

(b) If the requirements of subdivision (a) are satisfied, the Secretary of State shall issue a tax agent registration number to a tax agent.

(c) Beginning July 1, 2014, no tax agent shall represent taxpayers before a county official without first being registered and issued a registration number pursuant to this section.

(d) A registration issued pursuant to this section shall expire two years from its date of issuance unless and until that person terminates the registration. An expired registration may be renewed biennially if the registrant pays an annual renewal registration fee in the amount of ____ dollars ($____) to the Secretary of State.

(e) A person may not register or provide services as a tax agent if that person:

(1) Has been convicted of any felony under state or federal tax laws.

(2) Has been convicted of any other criminal offense involving dishonesty, breach of trust, or moral turpitude.

(3) Has been disbarred or suspended for any reason other than the failure to pay dues from practice as an attorney, certified public accountant, public accountant, actuary, real estate broker, real estate salesperson, or licensed real estate appraiser by any duly constituted authority of any state, territory, or possession of the United States, including a commonwealth, or the District of Columbia, any court of record, or any agency, body, or board.

(f) Fees collected pursuant to this chapter shall be deposited in the Secretary of State's Business Fees Fund established in Section 12176 of the Government Code.

22260.3. No county supervisor or member of a county assessment appeals board may act as a tax agent in the county in which they currently serve in as a county supervisor or as a member of a county assessment appeals board.

22260.4. (a) Within 30 days of any change in any of the registration information submitted pursuant to Section 22260.2, a tax agent shall file updated registration information with the Secretary of State.

(b) When a tax agent ceases all activities related to influencing official action, this fact shall be reported to the Secretary of State.

(c) It shall be a violation of this chapter for any person to act as a tax agent if that person is not registered as a tax agent pursuant to Section 22260.2 or if that person was previously registered as a tax agent pursuant to Section 22260.2 but that person is no longer registered as a tax agent.

22260.5. Nothing in this chapter shall be construed to prohibit a county from, by ordinance, enacting tax agent reporting requirements for campaign contributions to elected officials in that county.

22260.8. The secretary shall semiannually develop a list of registered tax agents and make that list available to the public on its Internet Web site.

22260.12. (a) If, after investigation, it is determined by the Secretary of State that any tax agent acting on behalf of the taxpayer fails to comply with this chapter and the tax agent has failed to cure the violation within 30 days of first receiving notice, the Secretary of State shall send the tax agent and the taxpayer or taxpayers whom the tax agent represents a notice of the tax agent's noncompliance.

(b) Any person may file a complaint with the Attorney General that any tax agent has violated any provision of this chapter.

(c) For any violation of this chapter, the Attorney General shall have the discretion to pursue civil fines for noncompliance or violations of this chapter. The Attorney General shall be designated as the enforcement officer for determination and imposition of the civil fines and noncompliance fees to be issued.

(d) Notwithstanding subdivision (c), no administrative fine shall be issued if the first violation of this chapter is cured within 30 days of the date ~~in~~ *on* which the ~~tax agent receives notice of the violation from the~~ Attorney General *sends notice of the violation to the tax agent*.

22260.14. Subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the Secretary of State may develop rules and regulations for the administration of this chapter.

22260.16. This chapter shall become operative on July 1, 2014.

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