

**ASSEMBLY BILL**

**No. 2031**

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**Introduced by Assembly Member Dahle**

February 20, 2014

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An act to amend Section 4629.5 of the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 2031, as introduced, Dahle. Forest resources: timber assessment.

Existing law imposes an assessment on a person who purchases from a retailer a lumber product or an engineered wood product for the storage, use, or other consumption in this state, at the rate of 1% of the sales price. Existing law requires the retailer, as defined according to existing tax laws, to charge the person the amount of the assessment as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the purchaser. Existing law requires the retailer to collect the assessment from the person at the time of sale, as provided.

Under existing law, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state is required to collect a "use tax," is relieved from liability for this collection in cases in which certain accounts are found to be worthless and are charged off for income tax purposes, and is authorized to take certain income tax deductions if the surcharge has been previously paid. Existing law establishes similar procedures for an electric utility required to collect a surcharge imposed on the consumption in this state of electrical energy purchased from the electric utility.

This bill would establish a similar procedure that would relieve a retailer from liability to collect the assessment on the purchase of lumber

and wood products insofar as the measure of the assessment is represented by a retail account that has been found to be worthless and charged off for income tax purposes by the retailer or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting principles. The bill would authorize the retailer that has previously paid the assessment, under rules and regulations adopted by the State Board of Equalization, to take as a deduction on its income tax returns the amount found worthless and charged off by the retailer, but would require the payment of the assessment to the extent the retail account is thereafter collected.

This bill would, for purposes of all of the above provisions, define “retailer” as one who has total sales of qualified lumber products and engineered wood products of \$25,000 or more during the previous calendar year.

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 4629.5 of the Public Resources Code is
- 2 amended to read:
- 3 4629.5. (a) (1) ~~On and after January 1, 2013, there~~ *There* is
- 4 hereby imposed an assessment on a person who purchases a lumber
- 5 product or an engineered wood product for the storage, use, or
- 6 other consumption in this state, at the rate of 1 percent of the sales
- 7 price.
- 8 (2) A retailer shall charge the person the amount of the
- 9 assessment as a charge that is separate from, and not included in,
- 10 any other fee, charge, or other amount paid by the purchaser.
- 11 (3) The retailer shall collect the assessment from the person at
- 12 the time of sale, and may retain an amount equal to the amount of
- 13 reimbursement, as determined by the State Board of Equalization
- 14 pursuant to regulations, for any costs associated with the collection
- 15 of the assessment, to be taken on the first return or next consecutive
- 16 returns until the entire reimbursement amount is retained. For
- 17 purposes of this paragraph, the State Board of Equalization may
- 18 adopt emergency regulations pursuant to Section 11346.1 of the
- 19 Government Code. The adoption of any regulation pursuant to this
- 20 paragraph shall be deemed to be an emergency and necessary for

1 the immediate preservation of the public peace, health, and safety,  
2 and general welfare.

3 (b) The retailer shall separately state the amount of the  
4 assessment imposed under this section on the sales receipt given  
5 by the retailer to the person at the time of sale.

6 (c) (1) The State Board of Equalization shall administer and  
7 collect the assessment imposed by this section pursuant to the Fee  
8 Collection Procedures Law (Part 30 (commencing with Section  
9 55001) of Division 2 of the Revenue and Taxation Code) with  
10 those changes as may be necessary to conform to the provisions  
11 of this article. For purposes of this section, the references in the  
12 Fee Collection Procedures Law to “fee” shall include the  
13 assessment imposed by this section, *and references to “feepayer”*  
14 *shall include a person required to pay the assessment imposed by*  
15 *the article, which includes the retailer.*

16 (2) *A retailer is relieved from liability to collect the assessment*  
17 *imposed by this section that became due and payable, insofar as*  
18 *the base upon which the assessment is imposed is represented by*  
19 *accounts that have been found to be worthless and charged off for*  
20 *income tax purposes by the retailer or, if the retailer is not required*  
21 *to file income tax returns, charged off in accordance with generally*  
22 *accepted accounting principles. A retailer that has previously paid*  
23 *the assessment may, under rules and regulations prescribed the*  
24 *State Board of Equalization, take as a deduction on its return the*  
25 *amount found worthless and charged off by the retailer. If the*  
26 *retail account is thereafter, in whole or in part, collected by the*  
27 *retailer, the amount collected shall be included in the first return*  
28 *filed after the collection and the assessment shall be paid with the*  
29 *return.*

30 (d) (1) The assessment is required to be collected by a retailer  
31 and any amount unreturned to the person who paid an amount in  
32 excess of the assessment, but was collected from the person under  
33 the representation by the retailer that it was owed as an assessment,  
34 constitutes debts owed by the retailer to this state.

35 (2) ~~Every~~A person who purchases a lumber product or an  
36 engineered wood product for storage, use, or other consumption  
37 in this state is liable for the assessment until it has been paid to  
38 this state, except that payment to a retailer relieves the person from  
39 further liability for the assessment. Any assessment collected from  
40 a person that has not been remitted to the State Board of

1 Equalization shall be a debt owed to the state by the retailer  
 2 required to collect and remit the assessment. ~~Nothing in this part~~  
 3 ~~shall~~ *This part does not* impose any obligation upon a retailer to  
 4 take any legal action to enforce the collection of the assessment  
 5 imposed by this section.

6 (e) Except as provided in paragraph (3) of subdivision (a), the  
 7 State Board of Equalization may prescribe, adopt, and enforce  
 8 regulations relating to the administration and enforcement of this  
 9 section, including, but not limited to, collections, reporting, refunds,  
 10 and appeals.

11 (f) (1) The assessment imposed by this section is due and  
 12 payable to the State Board of Equalization quarterly on or before  
 13 the last day of the month next succeeding each quarterly period.

14 (2) On or before the last day of the month following each  
 15 quarterly period, a return for the preceding quarterly period shall  
 16 be filed with the State Board of Equalization using electronic  
 17 media, in the form prescribed by the State Board of Equalization.  
 18 Returns shall be authenticated in a form or pursuant to methods,  
 19 as prescribed by the State Board of Equalization.

20 (g) For purposes of this section, all of the following shall apply:

21 (1) “Purchase” has the same meaning as that term is defined in  
 22 Section 6010 of the Revenue and Taxation Code.

23 (2) ~~“Retailer” has the same meaning~~ *means a retailer*, as that  
 24 term is defined in Section 6015 of the Revenue and Taxation Code,  
 25 *who has total sales of qualified lumber products and engineered*  
 26 *wood products of twenty-five thousand dollars (\$25,000) or more*  
 27 *during the previous calendar year.*

28 (3) “Sales price” has the same meaning as that term is defined  
 29 in Section 6011 of the Revenue and Taxation Code.

30 (4) “Storage” has the same meaning as that term is defined in  
 31 Section 6008 of the Revenue and Taxation Code.

32 (5) “Use” has the same meaning as that term is defined in  
 33 Section 6009 of the Revenue and Taxation Code.

34 (h) (1) ~~Every~~ *A* person required to pay the assessment imposed  
 35 under this article shall register with the State Board of Equalization.  
 36 Every application for registration shall be made in a form  
 37 prescribed by the State Board of Equalization and shall set forth  
 38 the name under which the applicant transacts or intends to transact  
 39 business, the location of ~~his or her~~ *the person’s* place or places of  
 40 business, and ~~such~~ *any* other information ~~as~~ *that* the State Board

1 of Equalization may require. An application for registration shall  
2 be authenticated in a form or pursuant to methods as may be  
3 prescribed by the State Board of Equalization.

4 (2) An application for registration filed pursuant to this section  
5 may be filed using electronic media as prescribed by the State  
6 Board of Equalization.

7 (3) Electronic media includes, but is not limited to, computer  
8 modem, magnetic media, optical disc, facsimile machine, or  
9 telephone.