

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2031

Introduced by Assembly Member Dahle

February 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2031, as amended, 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 exclude from the definition of “retailer” as one a retailer who has total sales of qualified lumber products and engineered wood products of \$25,000 or more less than \$5,000 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) There is hereby imposed an assessment on a
- 4 person who purchases a lumber product or an engineered wood
- 5 product for ~~the~~ storage, use, or other consumption in this state, at
- 6 the rate of 1 percent of the sales price.
- 7 (2) A retailer shall charge the person the amount of the
- 8 assessment as a charge that is separate from, and not included in,
- 9 any other fee, charge, or other amount paid by the purchaser.
- 10 (3) The retailer shall collect the assessment from the person at
- 11 the time of sale, and may retain an amount equal to the amount of
- 12 reimbursement, as determined by the State Board of Equalization
- 13 pursuant to regulations, for any costs associated with the collection
- 14 of the assessment, to be taken on the first return or next consecutive
- 15 returns until the entire reimbursement amount is retained. For
- 16 purposes of this paragraph, the State Board of Equalization may
- 17 adopt emergency regulations pursuant to Section 11346.1 of the
- 18 Government Code. The adoption of any regulation pursuant to this
- 19 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 this article. For
11 purposes of this section, the references in the Fee Collection
12 Procedures Law to “fee” shall include the assessment imposed by
13 this section, and references to “feepayer” shall include a person
14 required to pay the assessment imposed by the article, which
15 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 retail
26 account is thereafter, in whole or in part, collected by the retailer,
27 the amount collected shall be included in the first return filed after
28 the collection and the assessment shall be paid with the return.~~

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

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

1 the assessment. This part does not impose any obligation upon a
 2 retailer to take any legal action to enforce the collection of the
 3 assessment imposed by this section.

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

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

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

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

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

21 (2) “Retailer” means a retailer, as that term is defined in Section
 22 6015 of the Revenue and Taxation Code, ~~who has total~~ *Code. A*
 23 *retailer with de minimis* sales of qualified lumber products and
 24 *engineered wood products of twenty-five thousand dollars*
 25 *(\$25,000) or more less than five thousand dollars (\$5,000) during*
 26 *the previous calendar year are not retailers for purposes of this*
 27 *section.*

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) A person required to pay the assessment imposed under
 35 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 the person’s place or places of business,
 40 and any other information that the State Board of Equalization

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

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