

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2754

**Introduced by Committee on Revenue and Taxation (Bocanegra
(Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)**

March 24, 2014

An act to amend Section 17054 of, and to add Sections 18621.10 and 19171 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2754, as amended, Committee on Revenue and Taxation. Franchise Tax Board: administration: dependent credit: electronic filing.

The Personal Income Tax Law allows a credit for each dependent of a taxpayer and does not require a tax identification number of the dependent to be included on the return filed with the Franchise Board.

This bill would require, for taxable years beginning on or after January 1, 2015, the tax identification number of a dependent to be included on the taxpayer's return and would allow the taxpayer who did not provide the taxpayer identification number on the return to thereafter claim a credit or refund of that amount, as provided.

Existing law requires every taxpayer subject to the Personal Income Tax Law or the Corporation Tax Law to timely file a return with the Franchise Tax Board, unless exempt, on a form prescribed by the Franchise Tax Board.

This bill, for taxable years beginning on or after January 1, 2014, would require an acceptable return, as defined, of a business entity, as defined, that was prepared using a tax preparation software to be filed using electronic technology in a form and manner prescribed by the Franchise Tax Board. This bill would require a business entity that fails

to comply with that filing requirement for returns filed for taxable years beginning on or after January 1, ~~2016~~, 2017, to pay a penalty of \$500 *specified penalties* for each failure unless the failure is due to reasonable cause, and not willful neglect. This bill would require the Franchise Tax Board to conduct programs to educate business entities on these requirements and liberally interpret and grant waivers of the penalty, as specified.

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 17054 of the Revenue and Taxation Code
 2 is amended to read:
 3 17054. In the case of individuals, the following credits for
 4 personal exemption may be deducted from the tax imposed under
 5 Section 17041 or 17048, less any increases imposed under
 6 paragraph (1) of subdivision (d) or paragraph (1) of subdivision
 7 (e), or both, of Section 17560.
 8 (a) In the case of a single individual, a head of household, or a
 9 married individual making a separate return, a credit of fifty-two
 10 dollars (\$52).
 11 (b) In the case of a surviving spouse (as defined in Section
 12 17046), or a husband and wife making a joint return, a credit of
 13 one hundred four dollars (\$104). If one spouse was a resident for
 14 the entire taxable year and the other spouse was a nonresident for
 15 all or any portion of the taxable year, the personal exemption shall
 16 be divided equally.
 17 (c) In addition to any other credit provided in this section, in
 18 the case of an individual who is 65 years of age or over by the end
 19 of the taxable year, a credit of fifty-two dollars (\$52).
 20 (d) (1) A credit of two hundred twenty-seven dollars (\$227)
 21 for each dependent (as defined in Section 17056) for whom an
 22 exemption is allowable under Section 151(c) of the Internal
 23 Revenue Code, relating to additional exemption for dependents.
 24 The credit allowed under this subdivision for taxable years
 25 beginning on or after January 1, 1999, shall not be adjusted
 26 pursuant to subdivision (i) for any taxable year beginning before
 27 January 1, 2000.

1 (2) (A) For taxable years beginning on or after January 1, 2015,
2 a credit shall not be allowed under paragraph (1) with respect to
3 any individual unless the identification number, as defined in
4 Section 6109 of the Internal Revenue Code, of that individual is
5 included on the return claiming the credit.

6 (B) A disallowance of a credit due to the omission of a correct
7 identification number required under this paragraph, may be
8 assessed by the Franchise Tax Board in the same manner as is
9 provided by Section 19051 in the case of a mathematical error
10 appearing on the return. A claimant shall have the right to claim
11 a credit or refund of adjusted amounts within the period provided
12 in Section 19306, 19307, 19308, or 19311, whichever period
13 expires later.

14 (3) (A) For taxable years beginning on or after January 1, 2009,
15 the credit allowed under paragraph (1) for each dependent shall
16 be equal to the credit allowed under subdivision (a). This
17 subparagraph shall cease to be operative for taxable years beginning
18 on or after January 1, 2011, unless the Director of Finance makes
19 the notification pursuant to Section 99040 of the Government
20 Code, in which case this subparagraph shall cease to be operative
21 for taxable years beginning on or after January 1, 2013.

22 (B) For taxable years that subparagraph (A) ceases to be
23 operative, the credit allowed under paragraph (1) for each
24 dependent shall be equal to the amount that would be allowed if
25 subparagraph (A) had never been operative.

26 (e) A credit for personal exemption of fifty-two dollars (\$52)
27 for the taxpayer if he or she is blind at the end of his or her taxable
28 year.

29 (f) A credit for personal exemption of fifty-two dollars (\$52)
30 for the spouse of the taxpayer if a separate return is made by the
31 taxpayer, and if the spouse is blind and, for the calendar year in
32 which the taxable year of the taxpayer begins, has no gross income
33 and is not the dependent of another taxpayer.

34 (g) For the purposes of this section, an individual is blind only
35 if either (1) his or her central visual acuity does not exceed 20/200
36 in the better eye with correcting lenses, or (2) his or her visual
37 acuity is greater than 20/200 but is accompanied by a limitation
38 in the fields of vision such that the widest diameter of the visual
39 field subtends an angle no greater than 20 degrees.

1 (h) In the case of an individual with respect to whom a credit
2 under this section is allowable to another taxpayer for a taxable
3 year beginning in the calendar year in which the individual's
4 taxable year begins, the credit amount applicable to that individual
5 for that individual's taxable year is zero.

6 (i) For each taxable year beginning on or after January 1, 1989,
7 the Franchise Tax Board shall compute the credits prescribed in
8 this section. That computation shall be made as follows:

9 (1) The California Department of Industrial Relations shall
10 transmit annually to the Franchise Tax Board the percentage change
11 in the California Consumer Price Index for all items from June of
12 the prior calendar year to June of the current calendar year, no
13 later than August 1 of the current calendar year.

14 (2) The Franchise Tax Board shall add 100 percent to the
15 percentage change figure which is furnished to them pursuant to
16 paragraph (1), and divide the result by 100.

17 (3) The Franchise Tax Board shall multiply the immediately
18 preceding taxable year credits by the inflation adjustment factor
19 determined in paragraph (2), and round off the resulting products
20 to the nearest one dollar (\$1).

21 (4) In computing the credits pursuant to this subdivision, the
22 credit provided in subdivision (b) shall be twice the credit provided
23 in subdivision (a).

24 SEC. 2. Section 18621.10 is added to the Revenue and Taxation
25 Code, to read:

26 18621.10. (a) For taxable years beginning on or after January
27 1, 2014, if an acceptable return of a business entity was prepared
28 using a tax preparation software, that return shall be filed using
29 electronic technology in a form and manner prescribed by the
30 Franchise Tax Board.

31 (b) For purposes of this section:

32 (1) "Acceptable return" means any original or amended return
33 that is required to be filed pursuant to Article 2 (commencing with
34 Section 18601), Section 18633, Section 18633.5, or Article 3
35 (commencing with Section 23771) of Chapter 4 of Part 11, other
36 than the return for unrelated business taxable income required by
37 Section 23771.

38 (2) "Business entity" means a corporation, including an "S"
39 corporation, an organization exempt from tax pursuant to Chapter

1 4 (commencing with Section 23701) of Part 11, a partnership, or
2 a limited liability company.

3 (3) “Tax preparation software” means any computer software
4 program used to prepare an acceptable return or for use in tax
5 compliance.

6 (4) “Electronic technology” includes, but is not limited to, the
7 Internet, cloud computing, or an electronic information delivery
8 system.

9 (5) “Technology constraints” means an inability of the tax
10 preparation software used by a ~~taxpayer~~ *business entity* to
11 electronically file the acceptable return as required by this section
12 as a result of the complex nature of the return or inadequacy of
13 the software.

14 (c) Any business entity required to file a return electronically
15 under this section may annually request a waiver of the
16 requirements of this section from the Franchise Tax Board with
17 respect to an acceptable return filed for a taxable year. The
18 Franchise Tax Board may grant a waiver if it determines the
19 business entity is unable to comply with the requirements of this
20 section due to, but not limited to, technology constraints, where
21 compliance would result in undue financial burden, or due to
22 circumstances that constitute reasonable cause, and not willful
23 neglect, as applicable with respect to the penalty imposed under
24 Section 19171.

25 (d) This section applies to an acceptable return required to be
26 filed on or after January 1, 2015.

27 SEC. 3. Section 19171 is added to the Revenue and Taxation
28 Code, to read:

29 19171. (a) A business entity required to electronically file a
30 return pursuant to Section 18621.10 that files a return in a manner
31 that fails to comply with Section 18621.10, shall be subject to a
32 *penalty in the amount of one hundred dollars (\$100) for an initial*
33 *failure and a penalty in the amount of five hundred dollars (\$500)*
34 *for each subsequent failure unless the failure is due to reasonable*
35 *cause, and not willful neglect.*

36 (b) *If a group return is filed on behalf of eligible electing*
37 *taxpayer members of a combined reporting group, the penalties*
38 *described in subdivision (a) shall apply to the combined reporting*
39 *group and not to a taxpayer member of the combined reporting*
40 *group.*

1 (b)

2 (c) This section shall apply to returns filed for taxable years
3 beginning on or after January 1, ~~2016~~ 2017.

4 SEC. 4. The Franchise Tax Board shall conduct a robust
5 education program advising business entities affected by Section
6 18621.10 of the Revenue and Taxation Code of the requirements
7 of that section and liberally interpret and grant waivers of the
8 penalty imposed under Section 19171 of the Revenue and Taxation
9 Code to minimize any unnecessary adverse impacts to business
10 entities that experience difficulty complying with these new
11 requirements.

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