

AMENDED IN SENATE APRIL 16, 2013

SENATE BILL

No. 442

Introduced by Senator Wyland

February 21, 2013

An act to amend Sections 7096, 9274, 30459.4, 32474, 40214, 41174, 43525, 45870, 46625, 50156.14, 55335, and 60633.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 442, as amended, Wyland. State Board of Equalization: erroneous charges.

Existing law requires the State Board of Equalization to administer the Sales and Use Tax Law, Use Fuel Tax Law, Cigarette and Tobacco Products Tax Law, Alcoholic Beverage Tax Law, Energy Resources Surcharge Law, Emergency Telephone Users Surcharge Act, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Underground Storage Tank Maintenance Fee Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law, and authorizes the board to undertake collection action on delinquent accounts, including issuing a levy or notice to withhold. Under existing sales and use tax laws, a taxpayer *and a feepayer* may file a claim with the board for reimbursement of bank charges or any other reasonable 3rd-party check charge fees incurred by the taxpayer *or the feepayer* as a direct result of an erroneous levy or notice to withhold by the board or erroneous processing or collection action within 90 days of the date of the board action. Under the other laws, a taxpayer *and a feepayer* may only file a claim for those charges or fees incurred as a direct result of an erroneous levy or notice to withhold.

This bill would extend to those other laws the authorization for a taxpayer *and a feepayer* to also file a reimbursement claim with the board for bank charges and other reasonable 3rd-party check charge fees incurred as a direct result of an erroneous processing action or erroneous collection action by the board within ~~90-days~~ *90 days* of the board action. ~~The bill would authorize the board to waive the 90 day filing period for reasonable cause.~~

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 7096 of the Revenue and Taxation Code
2 is amended to read:
3 7096. (a) A taxpayer may file a claim with the board for
4 reimbursement of bank charges and any other reasonable
5 third-party check charge fees incurred by the taxpayer as the direct
6 result of an erroneous levy or notice to withhold, erroneous
7 processing action, or erroneous collection action by the board.
8 Bank and third-party charges include a financial institution's or
9 third party's customary charge for complying with the levy or
10 notice to withhold instructions and reasonable charges for
11 overdrafts that are a direct consequence of the erroneous levy or
12 notice to withhold, erroneous processing action, or erroneous
13 collection action. The charges are those paid by the taxpayer and
14 not waived or reimbursed by the financial institution or third party.
15 Each claimant applying for reimbursement shall file a claim with
16 the board that shall be in the form as may be prescribed by the
17 board. In order for the board to grant a claim, the board shall
18 determine that both of the following conditions have been satisfied:
19 (1) The erroneous levy or notice to withhold, erroneous
20 processing action, or erroneous collection action was caused by
21 board error.
22 (2) Prior to the erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action, the taxpayer
24 responded to all contacts by the board and provided the board with
25 any requested information or documentation sufficient to establish
26 the taxpayer's position. This provision may be waived by the board
27 for reasonable cause.

1 (b) Claims pursuant to this section shall be filed within 90 days
2 from the date of the erroneous levy or notice to withhold, erroneous
3 processing action, or erroneous collection action. This provision
4 may be waived by the board for reasonable cause *the bank and*
5 *third-party charges were incurred by the taxpayer*. Within 30 days
6 from the date the claim is received, the board shall respond to the
7 claim. If the board denies the claim, the taxpayer shall be notified
8 in writing of the reason or reasons for the denial of the claim.

9 SEC. 2. Section 9274 of the Revenue and Taxation Code is
10 amended to read:

11 9274. (a) A taxpayer may file a claim with the board for
12 reimbursement of bank charges and any other reasonable
13 third-party check charge fees incurred by the taxpayer as the direct
14 result of an erroneous levy or notice to withhold, erroneous
15 processing action, or erroneous collection action by the board.
16 Bank and third-party charges include a financial institution's or
17 third party's customary charge for complying with the levy or
18 notice to withhold instructions and reasonable charges for
19 overdrafts that are a direct consequence of the erroneous levy or
20 notice to withhold, erroneous processing action, or erroneous
21 collection action. The charges are those paid by the taxpayer and
22 not waived for reimbursement by the financial institution or third
23 party. Each claimant applying for reimbursement shall file a claim
24 with the board that shall be in a form as may be prescribed by the
25 board. In order for the board to grant a claim, the board shall
26 determine that both of the following conditions have been satisfied:

27 (1) The erroneous levy or notice to withhold was caused by
28 board error, erroneous processing action, or erroneous collection
29 action.

30 (2) Prior to the erroneous levy or notice to withhold, erroneous
31 processing action, or erroneous collection action, the taxpayer
32 responded to all contacts by the board and provided the board with
33 any requested information or documentation sufficient to establish
34 the taxpayer's position. This provision may be waived by the board
35 for reasonable cause.

36 (b) Claims pursuant to this section shall be filed within 90 days
37 from the date of the erroneous levy or notice to withhold, erroneous
38 processing action, or erroneous collection action. This provision
39 may be waived by the board for reasonable cause *the bank and*
40 *third-party charges were incurred by the taxpayer*. Within 30 days

1 from the date the claim is received, the board shall respond to the
2 claim. If the board denies the claim, the taxpayer shall be notified
3 in writing of the reason or reasons for the denial of the claim.

4 SEC. 3. Section 30459.4 of the Revenue and Taxation Code
5 is amended to read:

6 30459.4. (a) A taxpayer may file a claim with the board for
7 reimbursement of bank charges and any other reasonable
8 third-party check charge fees incurred by the taxpayer as the direct
9 result of an erroneous levy or notice to withhold, erroneous
10 processing action, or erroneous collection action by the board.
11 Bank and third-party charges include a financial institution's or
12 third party's customary charge for complying with the levy or
13 notice to withhold instructions and reasonable charges for
14 overdrafts that are a direct consequence of the erroneous levy or
15 notice to withhold, erroneous processing action, or erroneous
16 collection action. The charges are those paid by the taxpayer and
17 not waived for reimbursement by the financial institution or third
18 party. Each claimant applying for reimbursement shall file a claim
19 with the board that shall be in a form as may be prescribed by the
20 board. In order for the board to grant a claim, the board shall
21 determine that both of the following conditions have been satisfied:

22 (1) The erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action was caused by
24 board error.

25 (2) Prior to the erroneous levy or notice to withhold, erroneous
26 processing action, or erroneous collection action, the taxpayer
27 responded to all contacts by the board and provided the board with
28 any requested information or documentation sufficient to establish
29 the taxpayer's position. This provision may be waived by the board
30 for reasonable cause.

31 (b) Claims pursuant to this section shall be filed within 90 days
32 from the date of the erroneous levy or notice to withhold, erroneous
33 processing action, or erroneous collection action. This provision
34 may be waived by the board for reasonable cause *the bank and*
35 *third-party charges were incurred by the taxpayer.* Within 30 days
36 from the date the claim is received, the board shall respond to the
37 claim. If the board denies the claim, the taxpayer shall be notified
38 in writing of the reason or reasons for the denial of the claim.

39 SEC. 4. Section 32474 of the Revenue and Taxation Code is
40 amended to read:

1 32474. (a) A taxpayer may file a claim with the board for
2 reimbursement of bank charges and any other reasonable
3 third-party check charge fees incurred by the taxpayer as the direct
4 result of an erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action by the board.
6 Bank and third-party charges include a financial institution's or
7 third party's customary charge for complying with the levy or
8 notice to withhold instructions and reasonable charges for
9 overdrafts that are a direct consequence of the erroneous levy or
10 notice to withhold, erroneous processing action, or erroneous
11 collection action. The charges are those paid by the taxpayer and
12 not waived for reimbursement by the financial institution or third
13 party. Each claimant applying for reimbursement shall file a claim
14 with the board that shall be in a form as may be prescribed by the
15 board. In order for the board to grant a claim, the board shall
16 determine that both of the following conditions have been satisfied:

17 (1) The erroneous levy or notice to withhold, erroneous
18 processing action, or erroneous collection action was caused by
19 board error.

20 (2) Prior to the erroneous levy or notice to withhold, erroneous
21 processing action, or erroneous collection action, the taxpayer
22 responded to all contacts by the board and provided the board with
23 any requested information or documentation sufficient to establish
24 the taxpayer's position. This provision may be waived by the board
25 for reasonable cause.

26 (b) Claims pursuant to this section shall be filed within 90 days
27 from the date of the erroneous levy or notice to withhold, erroneous
28 processing action, or erroneous collection action. This provision
29 may be waived by the board for reasonable cause *the bank and*
30 *third-party charges were incurred by the taxpayer.* Within 30 days
31 from the date the claim is received, the board shall respond to the
32 claim. If the board denies the claim, the taxpayer shall be notified
33 in writing of the reason or reasons for the denial of the claim.

34 SEC. 5. Section 40214 of the Revenue and Taxation Code is
35 amended to read:

36 40214. (a) A taxpayer may file a claim with the board for
37 reimbursement of bank charges and any other reasonable
38 third-party check charge fees incurred by the taxpayer as the direct
39 result of an erroneous levy or notice to withhold, erroneous
40 processing action, or erroneous collection action by the board.

1 Bank and third-party charges include a financial institution's or
2 third party's customary charge for complying with the levy or
3 notice to withhold instructions and reasonable charges for
4 overdrafts that are a direct consequence of the erroneous levy or
5 notice to withhold, erroneous processing action, or erroneous
6 collection action. The charges are those paid by the taxpayer and
7 not waived for reimbursement by the financial institution or third
8 party. Each claimant applying for reimbursement shall file a claim
9 with the board that shall be in a form as may be prescribed by the
10 board. In order for the board to grant a claim, the board shall
11 determine that both of the following conditions have been satisfied:

12 (1) The erroneous levy or notice to withhold, erroneous
13 processing action, or erroneous collection action was caused by
14 board error.

15 (2) Prior to the erroneous levy or notice to withhold, erroneous
16 processing action, or erroneous collection action, the taxpayer
17 responded to all contacts by the board and provided the board with
18 any requested information or documentation sufficient to establish
19 the taxpayer's position. This provision may be waived by the board
20 for reasonable cause.

21 (b) Claims pursuant to this section shall be filed within 90 days
22 from the date of the erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action. This provision
24 may be waived by the board for reasonable cause *the bank and*
25 *third-party charges were incurred by the taxpayer.* Within 30 days
26 from the date the claim is received, the board shall respond to the
27 claim. If the board denies the claim, the taxpayer shall be notified
28 in writing of the reason or reasons for the denial of the claim.

29 SEC. 6. Section 41174 of the Revenue and Taxation Code is
30 amended to read:

31 41174. (a) A taxpayer may file a claim with the board for
32 reimbursement of bank charges and any other reasonable
33 third-party check charge fees incurred by the taxpayer as the direct
34 result of an erroneous levy or notice to withhold, erroneous
35 processing action, or erroneous collection action by the board.
36 Bank and third-party charges include a financial institution's or
37 third party's customary charge for complying with the levy or
38 notice to withhold instructions and reasonable charges for
39 overdrafts that are a direct consequence of the erroneous levy or
40 notice to withhold, erroneous processing action, or erroneous

1 collection action. The charges are those paid by the taxpayer and
2 not waived for reimbursement by the financial institution or third
3 party. Each claimant applying for reimbursement shall file a claim
4 with the board that shall be in a form as may be prescribed by the
5 board. In order for the board to grant a claim, the board shall
6 determine that both of the following conditions have been satisfied:

7 (1) The erroneous levy or notice to withhold, erroneous
8 processing action, or erroneous collection action was caused by
9 board error.

10 (2) Prior to the erroneous levy or notice to withhold, erroneous
11 processing action, or erroneous collection action, the taxpayer
12 responded to all contacts by the board and provided the board with
13 any requested information or documentation sufficient to establish
14 the taxpayer's position. This provision may be waived by the board
15 for reasonable cause.

16 (b) Claims pursuant to this section shall be filed within 90 days
17 from the date of the erroneous levy or notice to withhold, erroneous
18 processing action, or erroneous collection action. This provision
19 may be waived by the board for reasonable cause *the bank and*
20 *third-party charges were incurred by the taxpayer.* Within 30 days
21 from the date the claim is received, the board shall respond to the
22 claim. If the board denies the claim, the taxpayer shall be notified
23 in writing of the reason or reasons for the denial of the claim.

24 SEC. 7. Section 43525 of the Revenue and Taxation Code is
25 amended to read:

26 43525. (a) A taxpayer may file a claim with the board for
27 reimbursement of bank charges and any other reasonable
28 third-party check charge fees incurred by the taxpayer as the direct
29 result of an erroneous levy or notice to withhold, erroneous
30 processing action, or erroneous collection action by the board.
31 Bank and third-party charges include a financial institution's or
32 third party's customary charge for complying with the levy or
33 notice to withhold instructions and reasonable charges for
34 overdrafts that are a direct consequence of the erroneous levy or
35 notice to withhold, erroneous processing action, or erroneous
36 collection action. The charges are those paid by the taxpayer and
37 not waived for reimbursement by the financial institution or third
38 party. Each claimant applying for reimbursement shall file a claim
39 with the board that shall be in a form as may be prescribed by the

1 board. In order for the board to grant a claim, the board shall
2 determine that both of the following conditions have been satisfied:

3 (1) The erroneous levy or notice to withhold, erroneous
4 processing action, or erroneous collection action was caused by
5 board error.

6 (2) Prior to the erroneous levy or notice to withhold, erroneous
7 processing action, or erroneous collection action, the taxpayer
8 responded to all contacts by the board and provided the board with
9 any requested information or documentation sufficient to establish
10 the taxpayer's position. This provision may be waived by the board
11 for reasonable cause.

12 (b) Claims pursuant to this section shall be filed within 90 days
13 from the date of the erroneous levy or notice to withhold, erroneous
14 processing action, or erroneous collection action. ~~This provision
15 may be waived by the board for reasonable cause~~ *the bank and
16 third-party charges were incurred by the taxpayer.* Within 30 days
17 from the date the claim is received, the board shall respond to the
18 claim. If the board denies the claim, the taxpayer shall be notified
19 in writing of the reason or reasons for the denial of the claim.

20 SEC. 8. Section 45870 of the Revenue and Taxation Code is
21 amended to read:

22 45870. (a) A feepayer may file a claim with the board for
23 reimbursement of bank charges and any other reasonable
24 third-party check charge fees incurred by the ~~taxpayer~~ *feepayer* as
25 the direct result of an erroneous levy or notice to withhold,
26 erroneous processing action, or erroneous collection action by the
27 board. Bank and third-party charges include a financial institution's
28 or third party's customary charge for complying with the levy or
29 notice to withhold instructions and reasonable charges for
30 overdrafts that are a direct consequence of the erroneous levy or
31 notice to withhold, erroneous processing action, or erroneous
32 collection action. The charges are those paid by the feepayer and
33 not waived for reimbursement by the financial institution or third
34 party. Each claimant applying for reimbursement shall file a claim
35 with the board that shall be in a form as may be prescribed by the
36 board. In order for the board to grant a claim, the board shall
37 determine that both of the following conditions have been satisfied:

38 (1) The erroneous levy or notice to withhold, erroneous
39 processing action, or erroneous collection action was caused by
40 board error.

1 (2) Prior to the erroneous levy or notice to withhold, erroneous
2 processing action, or erroneous collection action, the feepayer
3 responded to all contacts by the board and provided the board with
4 any requested information or documentation sufficient to establish
5 the feepayer’s position. This provision may be waived by the board
6 for reasonable cause.

7 (b) Claims pursuant to this section shall be filed within 90 days
8 from the date of the erroneous levy or notice to withhold, erroneous
9 processing action, or erroneous collection action. This provision
10 may be waived by the board for reasonable cause *the bank and*
11 *third-party charges were incurred by the feepayer*. Within 30 days
12 from the date the claim is received, the board shall respond to the
13 claim. If the board denies the claim, the feepayer shall be notified
14 in writing of the reason or reasons for the denial of the claim.

15 SEC. 9. Section 46625 of the Revenue and Taxation Code is
16 amended to read:

17 46625. (a) A feepayer may file a claim with the board for
18 reimbursement of bank charges and any other reasonable
19 third-party check charge fees that are incurred by the feepayer as
20 the direct result of an erroneous levy or notice to withhold,
21 erroneous processing action, or erroneous collection action by the
22 board. Bank and third-party charges include a financial institution’s
23 or third party’s customary charge for complying with either a levy
24 or instructions in a notice to withhold, and reasonable charges for
25 overdrafts that are a direct consequence of the erroneous levy or
26 notice to withhold, erroneous processing action, or erroneous
27 collection action. Bank charges include only those charges that
28 are paid by the feepayer and not waived for reimbursement by the
29 financial institution or third party. Each claimant applying for
30 reimbursement pursuant to this section shall file a claim with the
31 board that shall be in the form as may be prescribed by the board.
32 The board shall not grant a claim unless it determines that both of
33 the following conditions have been satisfied:

34 (1) The erroneous levy or notice to withhold, erroneous
35 processing action, or erroneous collection action resulted from
36 board error.

37 (2) Prior to the erroneous levy or notice to withhold, erroneous
38 processing action, or erroneous collection action, the feepayer
39 responded to all contacts by the board and provided the board with
40 any requested information or documentation that was sufficient to

1 establish the feepayer's position. The requirement of this paragraph
2 may be waived by the board for reasonable cause.

3 (b) Claims pursuant to this section shall be filed within 90 days
4 from the date of the erroneous levy or notice to withhold, erroneous
5 processing action, or erroneous collection action. This provision
6 ~~may be waived by the board for reasonable cause~~ *the bank and*
7 *third-party charges were incurred by the feepayer.* The board shall
8 respond to a claim filed pursuant to this section within 30 days of
9 receipt. If the board denies a claim, the ~~taxpayer~~ *feepayer* shall be
10 notified in writing of the reason or reasons for denial.

11 SEC. 10. Section 50156.14 of the Revenue and Taxation Code
12 is amended to read:

13 50156.14. (a) A feepayer may file a claim with the board for
14 reimbursement of bank charges and any other reasonable
15 third-party check charge fees incurred by the ~~taxpayer~~ *feepayer* as
16 the direct result of an erroneous levy or notice to withhold,
17 erroneous processing action, or erroneous collection action by the
18 board. Bank and third-party charges include a financial institution's
19 or third party's customary charge for complying with the levy or
20 notice to withhold instructions and reasonable charges for
21 overdrafts that are a direct consequence of the erroneous levy or
22 notice to withhold, erroneous processing action, or erroneous
23 collection action. The charges are those paid to the feepayer and
24 not waived for reimbursement by the financial institution or third
25 party. Each claimant applying for reimbursement shall file a claim
26 with the board that shall be in a form as may be prescribed by the
27 board. In order for the board to grant a claim, the board shall
28 determine that both of the following conditions have been satisfied:

29 (1) The erroneous levy or notice to withhold, erroneous
30 processing action, or erroneous collection action was caused by
31 board error.

32 (2) Prior to the erroneous levy or notice to withhold, erroneous
33 processing action, or erroneous collection action, the feepayer
34 responded to all contacts by the board and provided the board with
35 any requested information or documentation sufficient to establish
36 the feepayer's position. This provision may be waived by the board
37 for reasonable cause.

38 (b) Claims pursuant to this section shall be filed within 90 days
39 from the date of the erroneous levy or notice to withhold, erroneous
40 processing action, or erroneous collection action. This provision

1 ~~may be waived by the board for reasonable cause~~ *the bank and*
2 *third-party charges were incurred by the feepayer.* Within 30 days
3 from the date the claim is received, the board shall respond to the
4 claim. If the board denies the claim, the feepayer shall be notified
5 in writing of the reason or reasons for the denial of the claim.

6 SEC. 11. Section 55335 of the Revenue and Taxation Code is
7 amended to read:

8 55335. (a) A taxpayer may file a claim with the board for
9 reimbursement of bank charges and any other reasonable
10 third-party check charge fees incurred by the taxpayer as the direct
11 result of an erroneous levy or notice to withhold, erroneous
12 processing action, or erroneous collection action by the board.
13 Bank and third-party charges include a financial institution's or
14 third party's customary charge for complying with the levy or
15 notice to withhold instructions and reasonable charges for
16 overdrafts that are a direct consequence of the erroneous levy or
17 notice to withhold, erroneous processing action, or erroneous
18 collection action. The charges are those paid by the taxpayer and
19 not waived for reimbursement by the financial institution or third
20 party. Each claimant applying for reimbursement shall file a claim
21 with the board that shall be in a form as may be prescribed by the
22 board. In order for the board to grant a claim, the board shall
23 determine that both of the following conditions have been satisfied:

24 (1) The erroneous levy or notice to withhold, erroneous
25 processing action, or erroneous collection action was caused by
26 board error.

27 (2) Prior to the erroneous levy or notice to withhold, erroneous
28 processing action, or erroneous collection action, the taxpayer
29 responded to all contacts by the board and provided the board with
30 any requested information or documentation sufficient to establish
31 the taxpayer's position. This provision may be waived by the board
32 for reasonable cause.

33 (b) Claims pursuant to this section shall be filed within 90 days
34 ~~from the date of the erroneous levy or notice to withhold, erroneous~~
35 ~~processing action, or erroneous collection action.~~ ~~This provision~~
36 ~~may be waived by the board for reasonable cause~~ *the bank and*
37 *third-party charges were incurred by the taxpayer.* Within 30 days
38 from the date the claim is received, the board shall respond to the
39 claim. If the board denies the claim, the taxpayer shall be notified
40 in writing of the reason or reasons for the denial of the claim.

1 SEC. 12. Section 60633.1 of the Revenue and Taxation Code
2 is amended to read:

3 60633.1. (a) A taxpayer may file a claim with the board for
4 reimbursement of bank charges and any other reasonable
5 third-party check charge fees incurred by the taxpayer as the direct
6 result of an erroneous levy or notice to withhold, erroneous
7 processing action, or erroneous collection action by the board.
8 Bank and third-party charges include a financial institution's or
9 third party's customary charge for complying with the levy or
10 notice to withhold instructions and reasonable charges for
11 overdrafts that are a direct consequence of the erroneous levy or
12 notice to withhold, erroneous processing action, or erroneous
13 collection action. The charges are those paid by the taxpayer and
14 not waived for reimbursement by the financial institution or third
15 party. Each claimant applying for reimbursement shall file a claim
16 with the board that shall be in a form as may be prescribed by the
17 board. In order for the board to grant a claim, the board shall
18 determine that both of the following conditions have been satisfied:

19 (1) The erroneous levy or notice to withhold, erroneous
20 processing action, or erroneous collection action was caused by
21 board error.

22 (2) Prior to the erroneous levy or notice to withhold, erroneous
23 processing action, or erroneous collection action, the taxpayer
24 responded to all contacts by the board and provided the board with
25 any requested information or documentation sufficient to establish
26 the taxpayer's position. This provision may be waived by the board
27 for reasonable cause.

28 (b) Claims pursuant to this section shall be filed within 90 days
29 from the date of the erroneous levy or notice to withhold, erroneous
30 processing action, or erroneous collection action. ~~This provision
31 may be waived by the board for reasonable cause~~ *the bank and
32 third-party charges were incurred by the taxpayer.* Within 30 days
33 from the date the claim is received, the board shall respond to the
34 claim. If the board denies the claim, the taxpayer shall be notified
35 in writing of the reason or reasons for the denial of the claim.