

AMENDED IN ASSEMBLY JUNE 15, 2013

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 fee-payer 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 of the board action.

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 the bank and third-party charges were incurred by
3 the taxpayer. Within 30 days from the date the claim is received,
4 the board shall respond to the claim. If the board denies the claim,
5 the taxpayer shall be notified in writing of the reason or reasons
6 for the denial of the claim.

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

9 9274. (a) A taxpayer may file a claim with the board for
10 reimbursement of bank charges and any other reasonable
11 third-party check charge fees incurred by the taxpayer as the direct
12 result of an erroneous levy or notice to withhold, erroneous
13 processing action, or erroneous collection action by the board.
14 Bank and third-party charges include a financial institution's or
15 third party's customary charge for complying with the levy or
16 notice to withhold instructions and reasonable charges for
17 overdrafts that are a direct consequence of the erroneous levy or
18 notice to withhold, erroneous processing action, or erroneous
19 collection action. The charges are those paid by the taxpayer and
20 not waived ~~for reimbursement~~ or *reimbursed* by the financial
21 institution or third party. Each claimant applying for reimbursement
22 shall file a claim with the board that shall be in a form as may be
23 prescribed by the board. In order for the board to grant a claim,
24 the board shall determine that both of the following conditions
25 have been satisfied:

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

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 the bank and third-party charges were incurred by
38 the taxpayer. Within 30 days from the date the claim is received,
39 the board shall respond to the claim. If the board denies the claim,

1 the taxpayer shall be notified in writing of the reason or reasons
2 for the denial of the claim.

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

5 30459.4. (a) A taxpayer may file a claim with the board for
6 reimbursement of bank charges and any other reasonable
7 third-party check charge fees incurred by the taxpayer as the direct
8 result of an erroneous levy or notice to withhold, erroneous
9 processing action, or erroneous collection action by the board.
10 Bank and third-party charges include a financial institution's or
11 third party's customary charge for complying with the levy or
12 notice to withhold instructions and reasonable charges for
13 overdrafts that are a direct consequence of the erroneous levy or
14 notice to withhold, erroneous processing action, or erroneous
15 collection action. The charges are those paid by the taxpayer and
16 not waived ~~for reimbursement~~ or *reimbursed* by the financial
17 institution or third party. Each claimant applying for reimbursement
18 shall file a claim with the board that shall be in a form as may be
19 prescribed by the board. In order for the board to grant a claim,
20 the board shall determine that both of the following conditions
21 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 the bank and third-party charges were incurred by
33 the taxpayer. Within 30 days from the date the claim is received,
34 the board shall respond to the claim. If the board denies the claim,
35 the taxpayer shall be notified in writing of the reason or reasons
36 for the denial of the claim.

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

39 32474. (a) A taxpayer may file a claim with the board for
40 reimbursement of bank charges and any other reasonable

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

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

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

25 (b) Claims pursuant to this section shall be filed within 90 days
26 from the date the bank and third-party charges were incurred by
27 the taxpayer. Within 30 days from the date the claim is received,
28 the board shall respond to the claim. If the board denies the claim,
29 the taxpayer shall be notified in writing of the reason or reasons
30 for the denial of the claim.

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

33 40214. (a) A taxpayer may file a claim with the board for
34 reimbursement of bank charges and any other reasonable
35 third-party check charge fees incurred by the taxpayer as the direct
36 result of an erroneous levy or notice to withhold, erroneous
37 processing action, or erroneous collection action by the board.
38 Bank and third-party charges include a financial institution's or
39 third party's customary charge for complying with the levy or
40 notice to withhold instructions and reasonable charges for

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

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

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

19 (b) Claims pursuant to this section shall be filed within 90 days
20 from the date the bank and third-party charges were incurred by
21 the taxpayer. Within 30 days from the date the claim is received,
22 the board shall respond to the claim. If the board denies the claim,
23 the taxpayer shall be notified in writing of the reason or reasons
24 for the denial of the claim.

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

27 41174. (a) A taxpayer may file a claim with the board for
28 reimbursement of bank charges and any other reasonable
29 third-party check charge fees incurred by the taxpayer as the direct
30 result of an erroneous levy or notice to withhold, erroneous
31 processing action, or erroneous collection action by the board.
32 Bank and third-party charges include a financial institution's or
33 third party's customary charge for complying with the levy or
34 notice to withhold instructions and reasonable charges for
35 overdrafts that are a direct consequence of the erroneous levy or
36 notice to withhold, erroneous processing action, or erroneous
37 collection action. The charges are those paid by the taxpayer and
38 not waived ~~for reimbursement~~ or *reimbursed* by the financial
39 institution or third party. Each claimant applying for reimbursement
40 shall file a claim with the board that shall be in a form as may be

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

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

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

13 (b) Claims pursuant to this section shall be filed within 90 days
14 from the date the bank and third-party charges were incurred by
15 the taxpayer. Within 30 days from the date the claim is received,
16 the board shall respond to the claim. If the board denies the claim,
17 the taxpayer shall be notified in writing of the reason or reasons
18 for the denial of the claim.

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

21 43525. (a) A taxpayer may file a claim with the board for
22 reimbursement of bank charges and any other reasonable
23 third-party check charge fees incurred by the taxpayer as the direct
24 result of an erroneous levy or notice to withhold, erroneous
25 processing action, or erroneous collection action by the board.
26 Bank and third-party charges include a financial institution's or
27 third party's customary charge for complying with the levy or
28 notice to withhold instructions and reasonable charges for
29 overdrafts that are a direct consequence of the erroneous levy or
30 notice to withhold, erroneous processing action, or erroneous
31 collection action. The charges are those paid by the taxpayer and
32 not waived ~~for reimbursement~~ or *reimbursed* by the financial
33 institution or third party. Each claimant applying for reimbursement
34 shall file a claim with the board that shall be in a form as may be
35 prescribed by the board. In order for the board to grant a claim,
36 the board shall determine that both of the following conditions
37 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 taxpayer
3 responded to all contacts by the board and provided the board with
4 any requested information or documentation sufficient to establish
5 the taxpayer'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 the bank and third-party charges were incurred by
9 the taxpayer. Within 30 days from the date the claim is received,
10 the board shall respond to the claim. If the board denies the claim,
11 the taxpayer shall be notified in writing of the reason or reasons
12 for the denial of the claim.

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

15 45870. (a) A feepayer may file a claim with the board for
16 reimbursement of bank charges and any other reasonable
17 third-party check charge fees incurred by the feepayer as the direct
18 result of an erroneous levy or notice to withhold, erroneous
19 processing action, or erroneous collection action by the board.
20 Bank and third-party charges include a financial institution's or
21 third party's customary charge for complying with the levy or
22 notice to withhold instructions and reasonable charges for
23 overdrafts that are a direct consequence of the erroneous levy or
24 notice to withhold, erroneous processing action, or erroneous
25 collection action. The charges are those paid by the feepayer and
26 not waived ~~for reimbursement~~ or *reimbursed* by the financial
27 institution or third party. Each claimant applying for reimbursement
28 shall file a claim with the board that shall be in a form as may be
29 prescribed by the board. In order for the board to grant a claim,
30 the board shall determine that both of the following conditions
31 have been satisfied:

32 (1) The erroneous levy or notice to withhold, erroneous
33 processing action, or erroneous collection action was caused by
34 board error.

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

1 (b) Claims pursuant to this section shall be filed within 90 days
2 from the date the bank and third-party charges were incurred by
3 the feepayer. Within 30 days from the date the claim is received,
4 the board shall respond to the claim. If the board denies the claim,
5 the feepayer shall be notified in writing of the reason or reasons
6 for the denial of the claim.

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

9 46625. (a) A feepayer may file a claim with the board for
10 reimbursement of bank charges and any other reasonable
11 third-party check charge fees that are incurred by the feepayer as
12 the direct result of an erroneous levy or notice to withhold,
13 erroneous processing action, or erroneous collection action by the
14 board. Bank and third-party charges include a financial institution's
15 or third party's customary charge for complying with either a levy
16 or instructions in a notice to withhold, and reasonable charges for
17 overdrafts that are a direct consequence of the erroneous levy or
18 notice to withhold, erroneous processing action, or erroneous
19 collection action. Bank charges include only those charges that
20 are paid by the feepayer and not waived for reimbursement or
21 reimbursed by the financial institution or third party. Each claimant
22 applying for reimbursement pursuant to this section shall file a
23 claim with the board that shall be in the form as may be prescribed
24 by the board. The board shall not grant a claim unless it determines
25 that both of the following conditions have been satisfied:

26 (1) The erroneous levy or notice to withhold, erroneous
27 processing action, or erroneous collection action ~~resulted from~~
28 *was caused by* board error.

29 (2) Prior to the erroneous levy or notice to withhold, erroneous
30 processing action, or erroneous collection action, the feepayer
31 responded to all contacts by the board and provided the board with
32 any requested information or documentation that was sufficient to
33 establish the feepayer's position. ~~The requirement of this paragraph~~
34 *This provision* may be waived by the board for reasonable cause.

35 (b) Claims pursuant to this section shall be filed within 90 days
36 from the date the bank and third-party charges were incurred by
37 the feepayer. The board shall respond to a claim filed pursuant to
38 this section within 30 days of receipt. If the board denies a claim,
39 the feepayer shall be notified in writing of the reason or reasons
40 for denial.

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

3 50156.14. (a) A feepayer 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 feepayer 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 ~~to~~ by the feepayer
14 and not waived for reimbursement or reimbursed by the financial
15 institution or third party. Each claimant applying for reimbursement
16 shall file a claim with the board that shall be in a form as may be
17 prescribed by the board. In order for the board to grant a claim,
18 the board shall determine that both of the following conditions
19 have been satisfied:

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

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

29 (b) Claims pursuant to this section shall be filed within 90 days
30 from the date the bank and third-party charges were incurred by
31 the feepayer. Within 30 days from the date the claim is received,
32 the board shall respond to the claim. If the board denies the claim,
33 the feepayer shall be notified in writing of the reason or reasons
34 for the denial of the claim.

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

37 55335. (a) A taxpayer may file a claim with the board for
38 reimbursement of bank charges and any other reasonable
39 third-party check charge fees incurred by the taxpayer as the direct
40 result of an erroneous levy or notice to withhold, erroneous

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

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

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

23 (b) Claims pursuant to this section shall be filed within 90 days
24 from the date the bank and third-party charges were incurred by
25 the taxpayer. Within 30 days from the date the claim is received,
26 the board shall respond to the claim. If the board denies the claim,
27 the taxpayer shall be notified in writing of the reason or reasons
28 for the denial of the claim.

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

31 60633.1. (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~~ *or reimbursed* by the financial
3 institution or third party. Each claimant applying for reimbursement
4 shall file a claim with the board that shall be in a form as may be
5 prescribed by the board. In order for the board to grant a claim,
6 the board shall determine that both of the following conditions
7 have been satisfied:

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

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

17 (b) Claims pursuant to this section shall be filed within 90 days
18 from the date the bank and third-party charges were incurred by
19 the taxpayer. Within 30 days from the date the claim is received,
20 the board shall respond to the claim. If the board denies the claim,
21 the taxpayer shall be notified in writing of the reason or reasons
22 for the denial of the claim.