

AMENDED IN ASSEMBLY MARCH 29, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1856

Introduced by Assembly Member Dababneh

February 10, 2016

An act to add ~~Section 6902.6~~ *Sections 6902.6, 9152.3, 30362.2, 32402.3, 40112.3, 41101.3, 43452.3, 45652.3, 46502.3, 50140.3, 55222.3, and 60522.3* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1856, as amended, Dababneh. ~~Sales and use~~ *Excise taxes: claim for refund: timing: timely filed claims.*

~~Existing sales and use tax laws establish~~ *law establishes* procedures by which a person may claim a refund for an overpayment of the taxes imposed by ~~those laws: sales and use tax laws, the Use Fuel Tax Law, the Cigarette and Tobacco Products Tax Law, the Alcoholic Beverage Tax Law, the Energy Resources Surcharge Law, the Emergency Telephone Users Surcharge Act, the Hazardous Substances Tax Law, the Integrated Waste Management Fee Law, the Oil Spill Response, Prevention, and Administration Fees Law, the Underground Storage Tank Maintenance Fee Law, and the Diesel Fuel Tax Law, and for taxes and fees imposed in accordance with the Fee Collection Procedures Law.~~ Existing law generally requires that a claim be filed within 3 years after specified periods in which the overpayment was made.

~~This bill would~~ *would, with respect to each of the above-described laws, provide that a claim that is otherwise valid, but valid that is made*

~~in a the case in which full payment of the amount of tax determined determined, as defined, has not been made, is a claim only for the purpose of tolling the limitations period for filing a claim for refund and, for all other purposes, would deem the claim filed on the date on which the full payment of the tax is made. The bill would prohibit a credit or refund for any payment for which the limitation period has expired prior to filing the claim or any payment made more than seven years prior to the date that full payment of the tax is made. paid in full is deemed a timely filed claim for refund with respect to all subsequent payments applied to that determination.~~ The bill would specify that its provisions apply only to claims for refund on or after its effective date.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6902.6 is added to the Revenue and
 2 Taxation Code, to read:
 3 6902.6. (a) A claim for refund that is otherwise valid under
 4 Section 6904, but is made in a case in which full payment of the
 5 amount of tax determined has not been made, shall be a claim only
 6 for the purpose of tolling the limitations periods set forth in Section
 7 6902. For all other purposes, including the application of Sections
 8 6906, 6932, 6933, and 6934, the claim shall be deemed to be filed
 9 on the date that full payment of the tax is made. However, a credit
 10 or refund shall not be made or allowed for any payment for which
 11 the applicable limitation period, as set forth in Section 6902, has
 12 expired prior to the filing of the claim or any payment made more
 13 than seven years prior to the date that full payment of the tax is
 14 made. Sections 6902 and 6904 that is made in the case in which
 15 the amount of tax determined has not been paid in full shall be
 16 deemed to be a timely filed claim for refund with respect to all
 17 subsequent payments applied to that determination.
 18 (b) For purposes of this section, “amount of tax determined”
 19 means an amount of tax, interest, or penalty, with respect to a
 20 single determination made under Article 2 (commencing with
 21 Section 6481), Article 3 (commencing with Section 6511), or Article
 22 4 (commencing with Section 6536) of Chapter 5.
 23 (b)

1 (c) This section shall apply only to claims for refunds made on
2 or after the effective date of the act adding this section.

3 *SEC. 2. Section 9152.3 is added to the Revenue and Taxation*
4 *Code, to read:*

5 9152.3. (a) A claim for refund that is otherwise valid under
6 Sections 9152 and 9153 that is made in the case in which the
7 amount of tax determined has not been paid in full shall be deemed
8 to be a timely filed claim for refund with respect to all subsequent
9 payments applied to that determination.

10 (b) For purposes of this section, “amount of tax determined”
11 means an amount of tax, interest, or penalty, with respect to a
12 single determination made under Article 2 (commencing with
13 Section 8776), Article 3 (commencing with Section 8801), or Article
14 4 (commencing with Section 8826) of Chapter 4.

15 (c) This section shall apply to all claims for refund on or after
16 the effective date of the act adding this section.

17 *SEC. 3. Section 30362.2 is added to the Revenue and Taxation*
18 *Code, to read:*

19 30362.2. (a) A claim for refund that is otherwise valid under
20 Sections 30362 and 30363 that is made in the case in which the
21 amount of tax determined has not been paid in full shall be deemed
22 to be a timely filed claim for refund with respect to all subsequent
23 payments applied to that determination.

24 (b) For purposes of this section, “amount of tax determined”
25 means an amount of tax, interest, or penalty, with respect to a
26 single determination made under Article 2 (commencing with
27 Section 30201), Article 3 (commencing with Section 30221), or
28 Article 4 (commencing with Section 30241) of Chapter 4.

29 (c) This section shall apply to all claims for refund on or after
30 the effective date of the act adding this section.

31 *SEC. 4. Section 32402.3 is added to the Revenue and Taxation*
32 *Code, to read:*

33 32402.3. (a) A claim for refund that is otherwise valid under
34 Section 32402 that is made in the case in which the amount of tax
35 determined has not been paid in full shall be deemed to be a timely
36 filed claim for refund with respect to all subsequent payments
37 applied to that determination.

38 (b) For purposes of this section, “amount of tax determined”
39 means an amount of tax, interest, or penalty, with respect to a
40 single determination made under Article 2 (commencing with

1 Section 32271), Article 3 (commencing with Section 32291), or
2 Article 4 (commencing with Section 32301) of Chapter 6.

3 (c) This section shall apply to all claims for refund on or after
4 the effective date of the act adding this section.

5 SEC. 5. Section 40112.3 is added to the Revenue and Taxation
6 Code, to read:

7 40112.3. (a) A claim for refund that is otherwise valid under
8 Sections 40112 and 40113 that is made in the case in which the
9 amount of tax determined has not been paid in full shall be deemed
10 to be a timely filed claim for refund with respect to all subsequent
11 payments applied to that determination.

12 (b) For purposes of this section, “amount of tax determined”
13 means an amount of tax, interest, or penalty, with respect to a
14 single determination made under Article 3 (commencing with
15 Section 40071) or Article 4 (commencing with Section 40081) of
16 Chapter 4.

17 (c) This section shall apply to all claims for refund on or after
18 the effective date of the act adding this section.

19 SEC. 6. Section 41101.3 is added to the Revenue and Taxation
20 Code, to read:

21 41101.3. (a) A claim for refund that is otherwise valid under
22 Sections 41101 and 41102 that is made in the case in which the
23 amount of tax determined has not been paid in full shall be deemed
24 to be a timely filed claim for refund with respect to all subsequent
25 payments applied to that determination.

26 (b) For purposes of this section, “amount of tax determined”
27 means an amount of tax, interest, or penalty, with respect to a
28 single determination made under Article 3 (commencing with
29 Section 41070) or Article 4 (commencing with Section 41080) of
30 Chapter 4.

31 (c) This section shall apply to all claims for refund on or after
32 the effective date of the act adding this section.

33 SEC. 7. Section 43452.3 is added to the Revenue and Taxation
34 Code, to read:

35 43452.3. (a) A claim for refund that is otherwise valid under
36 Section 43452 that is made in the case in which the amount of tax
37 determined has not been paid in full shall be deemed to be a timely
38 filed claim for refund with respect to all subsequent payments
39 applied to that determination.

1 (b) For purposes of this section, “amount of tax determined”
2 means an amount of tax, interest, or penalty, with respect to a
3 single determination made under Article 2 (commencing with
4 Section 43201) or Article 5 (commencing with Section 43350) of
5 Chapter 3.

6 (c) This section shall apply to all claims for refund on or after
7 the effective date of the act adding this section.

8 SEC. 8. Section 45652.3 is added to the Revenue and Taxation
9 Code, to read:

10 45652.3. (a) A claim for refund that is otherwise valid under
11 Section 45652 that is made in the case in which the amount of tax
12 determined has not been paid in full shall be deemed to be a timely
13 filed claim for refund with respect to all subsequent payments
14 applied to that determination.

15 (b) For purposes of this section, “amount of tax determined”
16 means an amount of tax, interest, or penalty, with respect to a
17 single determination made under Article 2 (commencing with
18 Section 45201) or Article 4 (commencing with Section 45351) of
19 Chapter 3.

20 (c) This section shall apply to all claims for refund on or after
21 the effective date of the act adding this section.

22 SEC. 9. Section 46502.3 is added to the Revenue and Taxation
23 Code, to read:

24 46502.3. (a) A claim for refund that is otherwise valid under
25 Sections 46502 and 46503 that is made in the case in which the
26 amount of tax determined has not been paid in full shall be deemed
27 to be a timely filed claim for refund with respect to all subsequent
28 payments applied to that determination.

29 (b) For purposes of this section, “amount of tax determined”
30 means an amount of tax, interest, or penalty, with respect to a
31 single determination made under Article 2 (commencing with
32 Section 46201), Article 3 (commencing with Section 46251), or
33 Article 4 (commencing with Section 46301) of Chapter 3.

34 (c) This section shall apply to all claims for refund on or after
35 the effective date of the act adding this section.

36 SEC. 10. Section 50140.3 is added to the Revenue and Taxation
37 Code, to read:

38 50140.3. (a) A claim for refund that is otherwise valid under
39 Section 50140 that is made in the case in which the amount of tax
40 determined has not been paid in full shall be deemed to be a timely

1 filed claim for refund with respect to all subsequent payments
2 applied to that determination.

3 (b) For purposes of this section, “amount of tax determined”
4 means an amount of tax, interest, or penalty, with respect to a
5 single determination made under Article 2 (commencing with
6 Section 50113) or Article 4 (commencing with Section 50120.1)
7 of Chapter 3.

8 (c) This section shall apply to all claims for refund on or after
9 the effective date of the act adding this section.

10 SEC. 11. Section 55222.3 is added to the Revenue and Taxation
11 Code, to read:

12 55222.3. (a) A claim for refund that is otherwise valid under
13 Section 55222 that is made in the case in which the amount of tax
14 determined has not been paid in full shall be deemed to be a timely
15 filed claim for refund with respect to all subsequent payments
16 applied to that determination.

17 (b) For purposes of this section, “amount of tax determined”
18 means an amount of tax, interest, or penalty, with respect to a
19 single determination made under Article 2 (commencing with
20 Section 55061) or Article 4 (commencing with Section 55101) of
21 Chapter 3.

22 (c) This section shall apply to all claims for refund on or after
23 the effective date of the act adding this section.

24 SEC. 12. Section 60522.3 is added to the Revenue and Taxation
25 Code, to read:

26 60522.3. (a) A claim for refund that is otherwise valid under
27 Sections 60522 and 60523 that is made in the case in which the
28 amount of tax determined has not been paid in full shall be deemed
29 to be a timely filed claim for refund with respect to all subsequent
30 payments applied to that determination.

31 (b) For purposes of this section, “amount of tax determined”
32 means an amount of tax, interest, or penalty, with respect to a
33 single determination made under Article 2 (commencing with
34 Section 60301), Article 3 (commencing with Section 60310), or
35 Article 4 (commencing with Section 60330) of Chapter 6.

36 (c) This section shall apply to all claims for refund on or after
37 the effective date of the act adding this section.

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