

AMENDED IN ASSEMBLY APRIL 6, 2016
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 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. Excise taxes: claim for refund: timely filed claims.

Existing law establishes procedures by which a person may claim a refund for an overpayment of the ~~taxes~~ *taxes, fees, and surcharges* imposed by ~~sales and use tax laws~~, *the Sales and Use Tax Law*, 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~~ *of taxes, fees, and surcharges* 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, with respect to each of the above-described laws, provide that a claim that is otherwise valid that is made in the case in which the amount of tax determined, as defined, has not been 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 Sections 6902 and 6904 that is made in the case in which the
5 amount of tax determined has not been paid in full shall be deemed
6 to be a timely filed claim for refund with respect to all subsequent
7 payments applied to that determination.

8 (b) For purposes of this section, “amount of tax determined”
9 means an amount of tax, interest, or penalty, with respect to a
10 single determination made under Article 2 (commencing with
11 Section 6481), Article 3 (commencing with Section 6511), or
12 Article 4 (commencing with Section 6536) of Chapter 5.

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

15 SEC. 2. Section 9152.3 is added to the Revenue and Taxation
16 Code, to read:

17 9152.3. (a) A claim for refund that is otherwise valid under
18 Sections 9152 and 9153 that is made in the case in which the
19 amount of tax determined has not been paid in full shall be deemed
20 to be a timely filed claim for refund with respect to all subsequent
21 payments applied to that determination.

22 (b) For purposes of this section, “amount of tax determined”
23 means an amount of tax, interest, or penalty, with respect to a
24 single determination made under Article 2 (commencing with
25 Section 8776), Article 3 (commencing with Section 8801), or
26 Article 4 (commencing with Section 8826) of Chapter 4.

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

1 SEC. 3. Section 30362.2 is added to the Revenue and Taxation
2 Code, to read:

3 30362.2. (a) A claim for refund that is otherwise valid under
4 Sections 30362 and 30363 that is made in the case in which the
5 amount of tax determined has not been paid in full shall be deemed
6 to be a timely filed claim for refund with respect to all subsequent
7 payments applied to that determination.

8 (b) For purposes of this section, “amount of tax determined”
9 means an amount of tax, interest, or penalty, with respect to a
10 single determination made under Article 2 (commencing with
11 Section 30201), Article 3 (commencing with Section 30221), or
12 Article 4 (commencing with Section 30241) of Chapter 4.

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

15 SEC. 4. Section 32402.3 is added to the Revenue and Taxation
16 Code, to read:

17 32402.3. (a) A claim for refund that is otherwise valid under
18 Section 32402 that is made in the case in which the amount of tax
19 determined has not been paid in full shall be deemed to be a timely
20 filed claim for refund with respect to all subsequent payments
21 applied to that determination.

22 (b) For purposes of this section, “amount of tax determined”
23 means an amount of tax, interest, or penalty, with respect to a
24 single determination made under Article 2 (commencing with
25 Section 32271), Article 3 (commencing with Section 32291), or
26 Article ~~4~~ 5 (commencing with Section ~~32301~~ 32311) of Chapter
27 6.

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

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

32 40112.3. (a) A claim for refund that is otherwise valid under
33 Sections 40112 and 40113 that is made in the case in which the
34 amount of ~~tax surcharge~~ determined has not been paid in full shall
35 be deemed to be a timely filed claim for refund with respect to all
36 subsequent payments applied to that determination.

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

1 3 (commencing with Section 40071) or Article 4 (commencing
2 with Section 40081) of Chapter 4.

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

7 41101.3. (a) A claim for refund that is otherwise valid under
8 Sections 41101 and 41102 that is made in the case in which the
9 amount of ~~tax~~ *surcharge* determined has not been paid in full shall
10 be deemed to be a timely filed claim for refund with respect to all
11 subsequent payments applied to that determination.

12 (b) For purposes of this section, “amount of ~~tax~~ *surcharge*
13 determined” means an amount of ~~tax~~, *surcharge*, interest, or
14 penalty, with respect to a single determination made under Article
15 3 (commencing with Section 41070) or Article 4 (commencing
16 with Section 41080) of 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. 7. Section 43452.3 is added to the Revenue and Taxation
20 Code, to read:

21 43452.3. (a) A claim for refund that is otherwise valid under
22 Section 43452 that is made in the case in which the amount of tax
23 determined has not been paid in full shall be deemed to be a timely
24 filed claim for refund with respect to all subsequent payments
25 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 2 (commencing with
29 Section 43201) or Article 5 (commencing with Section 43350) of
30 Chapter 3.

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

35 45652.3. (a) A claim for refund that is otherwise valid under
36 Section 45652 that is made in the case in which the amount of ~~tax~~
37 *fee* determined has not been paid in full shall be deemed to be a
38 timely filed claim for refund with respect to all subsequent
39 payments applied to that determination.

1 (b) For purposes of this section, “amount of ~~tax~~ *fee* determined”
2 means an amount of ~~tax~~, *fee*, interest, or penalty, with respect to
3 a single determination made under Article 2 (commencing with
4 Section 45201) or Article 4 (commencing with Section 45351) 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. 9. Section 46502.3 is added to the Revenue and Taxation
9 Code, to read:

10 46502.3. (a) A claim for refund that is otherwise valid under
11 Sections 46502 and 46503 that is made in the case in which the
12 amount of ~~tax~~ *fee* determined has not been paid in full shall be
13 deemed to be a timely filed claim for refund with respect to all
14 subsequent payments applied to that determination.

15 (b) For purposes of this section, “amount of ~~tax~~ *fee* determined”
16 means an amount of ~~tax~~, *fee*, interest, or penalty, with respect to
17 a single determination made under Article 2 (commencing with
18 Section 46201), Article 3 (commencing with Section 46251), or
19 Article 4 (commencing with Section 46301) of 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. 10. Section 50140.3 is added to the Revenue and Taxation
23 Code, to read:

24 50140.3. (a) A claim for refund that is otherwise valid under
25 Section 50140 that is made in the case in which the amount of ~~tax~~
26 *fee* determined has not been paid in full shall be deemed to be a
27 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~~ *fee* determined”
30 means an amount of ~~tax~~, *fee*, interest, or penalty, with respect to
31 a single determination made under Article 2 (commencing with
32 Section 50113) or Article 4 (commencing with Section 50120.1)
33 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. 11. Section 55222.3 is added to the Revenue and Taxation
37 Code, to read:

38 55222.3. (a) A claim for refund that is otherwise valid under
39 Section 55222 that is made in the case in which the amount of ~~tax~~
40 *fee* determined has not been paid in full shall be deemed to be a

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

3 (b) For purposes of this section, “amount of ~~tax~~ *fee* determined”
4 means an amount of ~~tax~~, *fee*, interest, or penalty, with respect to
5 a single determination made under Article 2 (commencing with
6 Section 55061) or Article 4 (commencing with Section 55101) of
7 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. 12. Section 60522.3 is added to the Revenue and Taxation
11 Code, to read:

12 60522.3. (a) A claim for refund that is otherwise valid under
13 Sections 60522 and 60523 that is made in the case in which the
14 amount of tax determined has not been paid in full shall be deemed
15 to be a timely filed claim for refund with respect to all subsequent
16 payments 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 60301), Article 3 (commencing with Section 60310), or
21 Article 4 (commencing with Section 60330) of Chapter 6.

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