AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL No. 1036

Introduced by Senator Cedillo
(Coauthor: Assembly Member Huffman)

February 12, 2010

An act to amend Section 19551.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1036, as amended, Cedillo. Tax administration: disclosure information: Franchise Tax Board and cities.

Existing law authorizes a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to exchange tax information, as provided, but limits the use of that information to employees of the taxing authority of a city.

This bill would expand that limitation by authorizing any agent designated by resolution of the city to examine all of the tax information, provided that the resolution certifies that the designated agent satisfies specified conditions.

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

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

SECTION 1. Section 19551.1 of the Revenue and Taxation Code is amended to read:

19551.1. (a) (1) The Franchise Tax Board may permit the tax officials of any city to enter into a reciprocal agreement with the

Franchise Tax Board to obtain tax information from the Franchise Tax Board, as specified in subdivision (b).

(2) For purposes of this section, “reciprocal agreement” means a formal agreement to exchange information for tax administration purposes between tax officials of a city and the Franchise Tax Board.

(b) The information furnished to tax officials of a city under this section shall be limited as follows:

(1) The tax officials of a city are authorized to receive information only with respect to taxpayers with an address as reflected on the Franchise Tax Board’s records within the jurisdictional boundaries of the city who report income from a trade or business to the Franchise Tax Board.

(2) The tax information that may be provided by the Franchise Tax Board to a city is limited to a taxpayer’s name, address, social security or taxpayer identification number, and business activity code.

(3) (A) Tax information provided to the taxing authority of a city may not be furnished to, or used by, any person other than an employee of that taxing authority or agent designated by resolution of the city, to examine all of the tax information.

(B) The resolution shall certify that an agent designated by the resolution, meets all of the following conditions:

(i) Has an existing contract with the city to examine those tax records.

(ii) Is required by that contract to disclose information contained in, or derived from, those tax records only to an employee of the city or agent who is authorized by the resolution to examine the information.

(iii) Is prohibited by that contract from performing consulting services for private industry during the term of that contract.

(iv) Is prohibited by that contract from retaining the information contained in, or derived from, those tax records, after that contract has expired.

(v) Has executed a confidentiality statement, as provided by the Franchise Tax Board. Each executed confidentiality statement shall be retained by the city and made available to the Franchise Tax Board during its disclosure review of the city or as otherwise requested by the Franchise Tax Board. *The confidentiality* *statement shall be executed by each agent authorized under this paragraph.*

(4) The information provided to the tax officials of the city by the Franchise Tax Board under this section is subject to Section 19542, and may not be used for any purpose other than the city's tax enforcement, or as otherwise authorized by state or federal law.

(5) Section 19542.1 applies to this section.

(c) The Franchise Tax Board may not provide any information pursuant to this section until all of the following have occurred:

(1) An agreement has been executed between a city and the Franchise Tax Board, that provides that an amount equal to all first year costs necessary to furnish the city information pursuant to this section shall be received by the Franchise Tax Board before the Franchise Tax Board incurs any costs associated with the activity permitted by this section. For purposes of this section, first year costs include costs associated with, but not limited to, the purchasing of equipment, the development of processes, and labor.

(2) An agreement has been executed between a city and the Franchise Tax Board, that provides that the annual costs incurred by the Franchise Tax Board, as a result of the activity permitted by this section, shall be reimbursed by the city to the Franchise Tax Board.

(3) Pursuant to the agreement described in paragraph (1), the Franchise Tax Board has received an amount equal to the first year costs.

(d) Any information, other than the type of tax information specified in subdivision (b), may be requested by the tax officials of a city from the Franchise Tax Board by affidavit. At the time a tax official makes the request, he or she shall provide the person whose information is the subject of the request, with a copy of the affidavit and, upon request, make the information obtained available to that person.

(e) This section does not invalidate any other law. This section does not preclude any city or county from obtaining information about individual taxpayers, including those taxpayers not subject to this section, by any other means permitted by state or federal law.

(f) Nothing in this section shall be construed to affect any obligations, rights, or remedies regarding personal information provided under state or federal law.

(g) Notwithstanding subdivision (c), the Franchise Tax Board shall waive a city's reimbursement of the Franchise Tax Board's cost if a city enters into a reciprocal agreement as defined in paragraph (2) of subdivision (a). The reciprocal agreement shall specify that each party shall bear its own costs to furnish the data involved in the exchange authorized by this section and Section 19551.5, and a city shall be precluded from obtaining reimbursement as specified under Section 5 of the act adding this subdivision.

(h) This section shall remain in effect through and including December 31, 2013, and shall be repealed on January 1, 2014.

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