

AMENDED IN SENATE AUGUST 20, 2012
AMENDED IN ASSEMBLY JANUARY 4, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 658

Introduced by Assembly Member Charles Calderon

February 16, 2011

An act to amend Sections 30459.15, 50156.18, and 55332.5 of, and to add Section 7205.2 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 658, as amended, Charles Calderon. State Board of Equalization: administration.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides that the place of sale or purchase is the place where the tangible personal property is physically located at the time the act constituting the sale or purchase takes place, with sales tax thereby being imposed on retail sales of tangible personal property physically located in this state at the time of sale.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law and provides the methods of allocating those local sales and use taxes to a city or county.

This bill would clarify that the place of sale or purchase of property for purposes of determining whether sales tax or use tax applies to the transaction is determined in the same manner under the Sales and Use Tax Law and the Bradley-Burns Uniform Local Sales and Use Tax Law, and would state that this provision is declaratory of existing law.

~~Existing law provides for the administration of various taxes, fees, and surcharges by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law, Underground Storage Tank Maintenance Fee Law, and Fee Collection Procedures Law authorize the State Board of Equalization to compromise a final tax, fee, or surcharge liability that was generated from a business that has been discontinued or transferred, as specified. The Fee Collection Procedures Law makes any person who takes certain willful actions in connection with an offer or compromise under that law, including receiving, withholding, destroying, mutilating, or falsifying any book, document, or record, or making any false statement relating to the estate fee, guilty of a felony, punishable as specified that after January 1, 2007, and before January 1, 2013, the Cigarette and Tobacco Products Tax Law, Underground Storage Tank Maintenance Fee Law, and Fee Collection Procedures Law allow the State Board of Equalization to accept an offer in compromise on a final tax liability, as defined, imposed under or in accordance with those laws regardless of whether the liabilities are generated from a business, that has been discontinued or transferred or whether the taxpayer or feepayer has a controlling interest or association with a similar business as the transferred or discontinued business, as prescribed. Under these laws, a taxpayer or feepayer would be guilty of a felony if the taxpayer or feepayer conceals specified property or receives, withholds, destroys, mutilates, or falsifies specified items or makes a false statement related to the offer in compromise, as specified.~~

~~This bill would revise these provisions to make a person who receives, withholds, destroys, mutilates, or falsifies any book, document, or record or makes any false statement relating to the estate or financial condition of the feepayer or other person liable with respect to the fee guilty of a felony, as specified. The bill would also make other nonsubstantive changes extend the repeal date for the above provisions to January 1, 2018. The bill, by extending the repeal date, would expand an existing crime and, thus, impose a state-mandated local program.~~

~~By expanding the scope of existing criminal penalties, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 7205.2 is added to the Revenue and
2 Taxation Code, to read:

3 7205.2. (a) The place of sale or purchase of tangible personal
4 property, for purposes of determining whether sales tax or use tax
5 applies to that transaction, shall be determined by Section 6010.5.

6 (b) The Legislature finds and declares that subdivision (a) does
7 not constitute a change in, but is declaratory of, existing law.

8 SEC. 2. Section 30459.15 of the Revenue and Taxation Code,
9 as amended by Section 574 of Chapter 15 of the Statutes of 2011,
10 is amended to read:

11 30459.15. (a) (1) Beginning on January 1, 2007, the executive
12 director and chief counsel of the board, or their delegates, may
13 compromise any final tax liability where the reduction of tax is
14 seven thousand five hundred dollars (\$7,500) or less.

15 (2) Except as provided in paragraph (3), the board, upon
16 recommendation by its executive director and chief counsel, jointly,
17 may compromise a final tax liability involving a reduction in tax
18 in excess of seven thousand five hundred dollars (\$7,500). ~~Any A~~
19 recommendation for approval of an offer in compromise that is
20 not either approved or disapproved within 45 days of the
21 submission of the recommendation shall be deemed approved.

22 (3) The board, itself, may by resolution delegate to the executive
23 director and the chief counsel, jointly, the authority to compromise
24 a final tax liability in which the reduction of tax is in excess of
25 seven thousand five hundred dollars (\$7,500), but less than ten
26 thousand dollars (\$10,000).

27 (b) For purposes of this section, "a final tax liability" means
28 any final tax liability arising under Part 13 (commencing with
29 Section 30001), or related interest, additions to tax, penalties, or
30 other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by the following:

(1) A business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) A taxpayer that has purchased untaxed cigarettes or tobacco products from out-of-state vendors for ~~their~~ *the taxpayer's* own use or consumption.

(3) Notwithstanding paragraph (1) or (2), a qualified final tax liability may be compromised regardless of whether the business has been discontinued or transferred or whether the taxpayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final tax liability shall also apply to a qualified final tax liability, and ~~no~~ a compromise shall *not* be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a “qualified final tax liability” means either of the following:

(A) That part of a final tax liability, including related interest, additions to tax, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the taxpayer collected cigarette or tobacco products tax reimbursement ~~or cigarette or tobacco products tax reimbursement~~ from the purchaser or other person and which was determined against the taxpayer under Article 2 (commencing with Section 30201), Article 3 (commencing with Section 30221), or Article 5 (commencing with Section 30261) of Chapter 4.

(B) That part of a final tax liability for cigarette or tobacco products tax, including related interest, additions to tax, penalties, or other amounts assessed under this part, determined under Article 2 (commencing with Section 30201), Article 3 (commencing with Section 30221), and Article 5 (commencing with Section 30261) of Chapter 4 against a taxpayer who is a consumer that is not required to hold a license under Article 1 (commencing with Section 30140) of Chapter 3.

(4) A qualified final tax liability may not be compromised with any of the following:

1 (A) A taxpayer who previously received a compromise under
2 paragraph-~~(2)~~ (3) for a liability, or a part thereof, arising from a
3 transaction or transactions that are substantially similar to the
4 transaction or transactions attributable to the liability for which
5 the taxpayer is making the offer.

6 (B) A business that was transferred by a taxpayer who previously
7 received a compromise under paragraph-~~(2)~~ (3) and who has a
8 controlling interest or association with the transferred business,
9 when the liability for which the offer is made is attributable to a
10 transaction or transactions substantially similar to the transaction
11 or transactions for which the taxpayer's liability was previously
12 compromised.

13 (C) A business in which a taxpayer who previously received a
14 compromise under paragraph-~~(2)~~ (3) has a controlling interest or
15 association with a similar type of business for which the taxpayer
16 received the compromise, when the liability of the business making
17 the offer arose from a transaction or transactions substantially
18 similar to the transaction or transactions for which the taxpayer's
19 liability was previously compromised.

20 (d) The board may, in its discretion, enter into a written
21 agreement which permits the taxpayer to pay the compromise in
22 installments for a period not exceeding one year. The agreement
23 may provide that such installments shall be paid by electronic
24 funds transfers or any other means to facilitate the payment of each
25 installment.

26 (e) Except for any recommendation for approval as specified
27 in subdivision (a), the members of the State Board of Equalization
28 shall not participate in any offer in compromise matters pursuant
29 to this section.

30 (f) A taxpayer that has received a compromise under paragraph
31 ~~(2)~~ (3) of subdivision (c) may be required to enter into any
32 collateral agreement that is deemed necessary for the protection
33 of the interests of the state. A collateral agreement may include a
34 provision that allows the board to reestablish the liability, or any
35 portion thereof, if the taxpayer has sufficient annual income during
36 the succeeding five-year period. The board shall establish criteria
37 for determining "sufficient annual income" for purposes of this
38 subdivision.

39 (g) A taxpayer that has received a compromise under paragraph
40 ~~(2)~~ (3) of subdivision (c) shall file and pay by the due date all

1 subsequently required cigarette and tobacco products tax reports
2 or returns for a five-year period from the date the liability is
3 compromised, or until the taxpayer is no longer required to file
4 cigarette and tobacco products tax reports or returns, whichever
5 period is earlier.

6 (h) Offers in compromise shall not be considered under the
7 following conditions:

8 (1) The taxpayer has been convicted of felony tax evasion under
9 this part during the liability period.

10 (2) The taxpayer has filed a statement under paragraph (3) of
11 subdivision (i) and continues to purchase untaxed cigarettes or
12 tobacco products from out-of-state vendors for ~~their~~ *the taxpayer's*
13 own use or consumption.

14 (i) For amounts to be compromised under this section, the
15 following conditions shall exist:

16 (1) The taxpayer shall establish that:

17 (A) The amount offered in payment is the most that can be
18 expected to be paid or collected from the taxpayer's present assets
19 or income.

20 (B) The taxpayer does not have reasonable prospects of
21 acquiring increased income or assets that would enable the taxpayer
22 to satisfy a greater amount of the liability than the amount offered,
23 within a reasonable period of time.

24 (2) The board shall have determined that acceptance of the
25 compromise is in the best interest of the state.

26 (3) For liabilities generated in the manner described in paragraph
27 (2) of subdivision (c), the taxpayer shall file with the board a
28 statement, under penalty of perjury, that he or she will no longer
29 purchase untaxed cigarettes or tobacco products from out-of-state
30 vendors for his or her own use or consumption.

31 (j) A determination by the board that it would not be in the best
32 interest of the state to accept an offer in compromise in satisfaction
33 of a final tax liability shall not be subject to administrative appeal
34 or judicial review.

35 (k) (1) Offers for liabilities with a fraud or evasion penalty shall
36 require a minimum offer of the unpaid tax and fraud or evasion
37 penalty.

38 (2) The minimum offer may be waived if it can be shown that
39 the taxpayer making the offer was not the person responsible for
40 perpetrating the fraud or evasion. This authorization to waive only

1 applies to partnership accounts where the intent to commit fraud
2 or evasion can be clearly attributed to a partner of the taxpayer.

3 (l) When an offer in compromise is either accepted or rejected,
4 or the terms and conditions of a compromise agreement are
5 fulfilled, the board shall notify the taxpayer in writing. In the event
6 an offer is rejected, the amount posted will either be applied to the
7 liability or refunded, at the discretion of the taxpayer.

8 (m) When more than one taxpayer is liable for the debt, such
9 as with spouses or partnerships or other business combinations,
10 including, but not limited to, taxpayers who are liable through dual
11 determination or successor's liability, the acceptance of an offer
12 in compromise from one liable taxpayer shall reduce the amount
13 of the liability of the other taxpayers by the amount of the accepted
14 offer.

15 (n) Whenever a compromise of tax or penalties or total tax and
16 penalties in excess of five hundred dollars (\$500) is approved,
17 there shall be placed on file for at least one year in the office of
18 the executive director of the board a public record with respect to
19 that compromise. The public record shall include all of the
20 following information:

21 (1) The name of the taxpayer.

22 (2) The amount of unpaid tax and related penalties, additions
23 to tax, interest, or other amounts involved.

24 (3) The amount offered.

25 (4) A summary of the reason why the compromise is in the best
26 interest of the state.

27 The public record shall not include any information that relates
28 to any trade secrets, patent, process, style of work, apparatus,
29 business secret, or organizational structure, that if disclosed, would
30 adversely affect the taxpayer or violate the confidentiality
31 provisions of Section 30455. ~~No~~ A list shall *not* be prepared and
32 ~~no releases~~ *releases shall not be* distributed by the board in
33 connection with these statements.

34 (o) ~~Any~~ A compromise made under this section may be
35 rescinded, all compromised liabilities may be reestablished, without
36 regard to any statute of limitations that otherwise may be
37 applicable, and no portion of the amount offered in compromise
38 refunded, if either of the following occurs:

39 (1) The board determines that ~~any~~ a person did any of the
40 following acts regarding the making of the offer:

1 (A) Concealed from the board ~~any~~ property belonging to the
2 estate of ~~any~~ a taxpayer or other person liable for the tax.

3 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
4 a book, document, or record, or made ~~any~~ a false statement,
5 relating to the estate or financial condition of the taxpayer or other
6 person liable for the tax.

7 (2) The taxpayer fails to comply with any of the terms and
8 conditions relative to the offer.

9 (p) ~~Any~~ A person who, in connection with ~~any~~ an offer or
10 compromise under this section, or offer of that compromise to
11 enter into that agreement, willfully does either of the following
12 shall be guilty of a felony and, upon conviction, shall be fined not
13 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
14 to subdivision (h) of Section 1170 of the Penal Code, or both,
15 together with the costs of investigation and prosecution:

16 (1) Conceals from ~~any~~ an officer or employee of this state ~~any~~
17 property belonging to the estate of a taxpayer or other person liable
18 in respect of the tax.

19 (2) Receives, withholds, destroys, mutilates, or falsifies ~~any~~ a
20 book, document, or record, or makes ~~any~~ a false statement, relating
21 to the estate or financial condition of the taxpayer or other person
22 liable in respect of the tax.

23 (q) For purposes of this section, “person” means the taxpayer,
24 ~~any~~ a member of the taxpayer’s family, ~~any~~ a corporation, agent,
25 fiduciary, or representative of, or ~~any other~~ another individual or
26 entity acting on behalf of, the taxpayer, or ~~any other~~ another
27 corporation or entity owned or controlled by the taxpayer, directly
28 or indirectly, or that owns or controls the taxpayer, directly or
29 indirectly.

30 (r) This section shall remain in effect only until January 1, ~~2013~~
31 2018, and as of that date is repealed, unless a later enacted statute,
32 that is enacted before January 1, ~~2013~~ 2018, deletes or extends
33 that date.

34 SEC. 3. Section 30459.15 of the Revenue and Taxation Code,
35 as amended by Section 575 of Chapter 15 of the Statutes of 2011,
36 is amended to read:

37 30459.15. (a) (1) The executive director and chief counsel of
38 the board, or their delegates, may compromise any final tax liability
39 where the reduction of tax is seven thousand five hundred dollars
40 (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). ~~Any A~~ recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 13 (commencing with Section 30001), or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) Offers in compromise shall be considered only for liabilities that were generated by the following:

(1) A business that has been discontinued or transferred, where the taxpayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.

(2) A taxpayer that has purchased untaxed cigarettes or tobacco products from out-of-state vendors for ~~their~~ the taxpayer’s own use or consumption.

(d) Offers in compromise shall not be considered under the following conditions:

(1) The taxpayer has been convicted of felony tax evasion under this part during the liability period.

(2) The taxpayer has filed a statement under paragraph (3) of subdivision (e) and continues to purchase untaxed cigarettes or tobacco products from out-of-state vendors for ~~their~~ the taxpayer’s own use or consumption.

(e) For amounts to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that:

(A) The amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income.

1 (B) The taxpayer does not have reasonable prospects of
2 acquiring increased income or assets that would enable the taxpayer
3 to satisfy a greater amount of the liability than the amount offered,
4 within a reasonable period of time.

5 (2) The board shall have determined that acceptance of the
6 compromise is in the best interest of the state.

7 (3) For liabilities generated in the manner described in paragraph
8 (2) of subdivision (c), the taxpayer shall file with the board a
9 statement, under penalty of perjury, that he or she will no longer
10 purchase untaxed cigarettes or tobacco products from out-of-state
11 vendors for his or her own use or consumption.

12 (f) A determination by the board that it would not be in the best
13 interest of the state to accept an offer in compromise in satisfaction
14 of a final tax liability shall not be subject to administrative appeal
15 or judicial review.

16 (g) (1) Offers for liabilities with a fraud or evasion penalty shall
17 require a minimum offer of the unpaid tax and fraud or evasion
18 penalty.

19 (2) The minimum offer may be waived if it can be shown that
20 the taxpayer making the offer was not the person responsible for
21 perpetrating the fraud or evasion. This authorization to waive only
22 applies to partnership accounts where the intent to commit fraud
23 or evasion can be clearly attributed to a partner of the taxpayer.

24 (h) When an offer in compromise is either accepted or rejected,
25 or the terms and conditions of a compromise agreement are
26 fulfilled, the board shall notify the taxpayer in writing. In the event
27 an offer is rejected, the amount posted will either be applied to the
28 liability or refunded, at the discretion of the taxpayer.

29 (i) When more than one taxpayer is liable for the debt, such as
30 with spouses or partnerships or other business combinations,
31 including, but not limited to, taxpayers who are liable through dual
32 determination or successor's liability, the acceptance of an offer
33 in compromise from one liable taxpayer shall reduce the amount
34 of the liability of the other taxpayers by the amount of the accepted
35 offer.

36 (j) Whenever a compromise of tax or penalties or total tax and
37 penalties in excess of five hundred dollars (\$500) is approved,
38 there shall be placed on file for at least one year in the office of
39 the executive director of the board a public record with respect to

1 that compromise. The public record shall include all of the
2 following information:

- 3 (1) The name of the taxpayer.
- 4 (2) The amount of unpaid tax and related penalties, additions
5 to tax, interest, or other amounts involved.
- 6 (3) The amount offered.
- 7 (4) A summary of the reason why the compromise is in the best
8 interest of the state.

9 The public record shall not include any information that relates
10 to any trade secrets, patent, process, style of work, apparatus,
11 business secret, or organizational structure, that if disclosed, would
12 adversely affect the taxpayer or violate the confidentiality
13 provisions of Section 30455. ~~No~~ A list shall *not* be prepared and
14 ~~no~~ releases *shall not be* distributed by the board in connection with
15 these statements.

16 (k) ~~Any~~ A compromise made under this section may be
17 rescinded, all compromised liabilities may be reestablished, without
18 regard to any statute of limitations that otherwise may be
19 applicable, and no portion of the amount offered in compromise
20 refunded, if either of the following occurs:

21 (1) The board determines that ~~any~~ a person did any of the
22 following acts regarding the making of the offer:

23 (A) Concealed from the board ~~any~~ property belonging to the
24 estate of ~~any~~ a taxpayer or other person liable for the tax.

25 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
26 a book, document, or record, or made ~~any~~ a false statement,
27 relating to the estate or financial condition of the taxpayer or other
28 person liable for the tax.

29 (2) The taxpayer fails to comply with any of the terms and
30 conditions relative to the offer.

31 (l) ~~Any~~ A person who, in connection with ~~any~~ an offer or
32 compromise under this section, or offer of that compromise to
33 enter into that agreement, willfully does either of the following
34 shall be guilty of a felony and, upon conviction, shall be fined not
35 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
36 to subdivision (h) of Section 1170 of the Penal Code, or both,
37 together with the costs of investigation and prosecution:

38 (1) Conceals from ~~any~~ an officer or employee of this state ~~any~~
39 property belonging to the estate of a taxpayer or other person liable
40 in respect of the tax.

(2) Receives, withholds, destroys, mutilates, or falsifies ~~any a~~ book, document, or record, or makes ~~any a~~ false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(m) For purposes of this section, “person” means the taxpayer, ~~any a~~ member of the taxpayer’s family, ~~any a~~ corporation, agent, fiduciary, or representative of, or ~~any other another~~ individual or entity acting on behalf of, the taxpayer, or ~~any other another~~ corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.

(n) This section shall become operative on January 1, ~~2013~~ 2018.

SEC. 4. Section 50156.18 of the Revenue and Taxation Code, as amended by Section 590 of Chapter 15 of the Statutes of 2011, is amended to read:

50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars (\$7,500). ~~Any~~ A recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.

(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final fee liability” means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.

(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the

1 transferred business or has a controlling interest or association
2 with a similar type of business as the transferred or discontinued
3 business.

4 (2) Notwithstanding paragraph (1), a qualified final fee liability
5 may be compromised regardless of whether the business has been
6 discontinued or transferred or whether the feepayer has a
7 controlling interest or association with a similar type of business
8 as the transferred or discontinued business. All other provisions
9 of this section that apply to a final fee liability shall also apply to
10 a qualified final fee liability, and ~~no~~ a compromise shall *not* be
11 made under this subdivision unless all other requirements of this
12 section are met. For purposes of this subdivision, a “qualified final
13 fee liability” means that part of a final fee liability, including
14 related interest, additions to *the* fee, penalties, or other amounts
15 assessed under this part, arising from a transaction or transactions
16 in which the board finds no evidence that the owner of the
17 underground storage tank collected underground storage tank
18 maintenance fee reimbursement from the operator of the
19 underground storage tank or other person and which was
20 determined against the feepayer under Article 2 (commencing with
21 Section 50113) or Article 3 (commencing with Section 50114) of
22 Chapter 3.

23 (3) A qualified final fee liability may not be compromised with
24 any of the following:

25 (A) A feepayer who previously received a compromise under
26 paragraph (2) for a liability, or a part thereof, arising from a
27 transaction or transactions that are substantially similar to the
28 transaction or transactions attributable to the liability for which
29 the feepayer is making the offer.

30 (B) A business that was transferred by a feepayer who previously
31 received a compromise under paragraph (2) and who has a
32 controlling interest or association with the transferred business,
33 when the liability for which the offer is made is attributable to a
34 transaction or transactions substantially similar to the transaction
35 or transactions for which the feepayer’s liability was previously
36 compromised.

37 (C) A business in which a feepayer who previously received a
38 compromise under paragraph (2) has a controlling interest or
39 association with a similar type of business for which the feepayer
40 received the compromise, when the liability of the business making

1 the offer arose from a transaction or transactions substantially
2 similar to the transaction or transactions for which the feepayer's
3 liability was previously compromised.

4 (d) The board may, in its discretion, enter into a written
5 agreement which permits the feepayer to pay the compromise in
6 installments for a period not exceeding one year. The agreement
7 may provide that such installments shall be paid by electronic
8 funds transfers or any other means to facilitate the payment of each
9 installment.

10 (e) Except for any recommendation for approval as specified
11 in subdivision (a), the members of the State Board of Equalization
12 shall not participate in any offer in compromise matters pursuant
13 to this section.

14 (f) A feepayer that has received a compromise under paragraph
15 (2) of subdivision (c) may be required to enter into any collateral
16 agreement that is deemed necessary for the protection of the
17 interests of the state. A collateral agreement may include a
18 provision that allows the board to reestablish the liability, or any
19 portion thereof, if the feepayer has sufficient annual income during
20 the succeeding five-year period. The board shall establish criteria
21 for determining "sufficient annual income" for purposes of this
22 subdivision.

23 (g) A feepayer that has received a compromise under paragraph
24 (2) of subdivision (c) shall file and pay by the due date all
25 subsequently required underground storage tank maintenance fee
26 returns for a five-year period from the date the liability is
27 compromised, or until the feepayer is no longer required to file
28 underground storage tank maintenance fee returns, whichever
29 period is earlier.

30 (h) For amounts to be compromised under this section, the
31 following conditions shall exist:

32 (1) The feepayer shall establish that:

33 (A) The amount offered in payment is the most that can be
34 expected to be paid or collected from the feepayer's present assets
35 or income.

36 (B) The feepayer does not have reasonable prospects of
37 acquiring increased income or assets that would enable the feepayer
38 to satisfy a greater amount of the liability than the amount offered,
39 within a reasonable period of time.

1 (2) The board shall have determined that acceptance of the
2 compromise is in the best interest of the state.

3 (i) A determination by the board that it would not be in the best
4 interest of the state to accept an offer in compromise in satisfaction
5 of a final fee liability shall not be subject to administrative appeal
6 or judicial review.

7 (j) When an offer in compromise is either accepted or rejected,
8 or the terms and conditions of a compromise agreement are
9 fulfilled, the board shall notify the feepayer in writing. In the event
10 an offer is rejected, the amount posted will either be applied to the
11 liability or refunded, at the discretion of the feepayer.

12 (k) When more than one feepayer is liable for the debt, such as
13 with spouses or partnerships or other business combinations, the
14 acceptance of an offer in compromise from one liable feepayer
15 shall not relieve the other feepayers from paying the entire liability.
16 However, the amount of the liability shall be reduced by the amount
17 of the accepted offer.

18 (l) Whenever a compromise of the fee or penalties or total fees
19 and penalties in excess of five hundred dollars (\$500) is approved,
20 there shall be placed on file for at least one year in the office of
21 the executive director of the board a public record with respect to
22 that compromise. The public record shall include all of the
23 following information:

24 (1) The name of the feepayer.

25 (2) The amount of unpaid fees and related penalties, additions
26 to fees, interest, or other amounts involved.

27 (3) The amount offered.

28 (4) A summary of the reason why the compromise is in the best
29 interest of the state.

30 The public record shall not include any information that relates
31 to any trade secrets, patent, process, style of work, apparatus,
32 business secret, or organizational structure, that if disclosed, would
33 adversely affect the feepayer or violate the confidentiality
34 provisions of Chapter 8 of Article 2 (commencing with Section
35 50156) 50159). ~~No~~ A list shall *not* be prepared and ~~no~~ releases
36 shall *not be* distributed by the board in connection with these
37 statements.

38 (m) ~~Any~~ A compromise made under this section may be
39 rescinded, all compromised liabilities may be reestablished (without
40 regard to any statute of limitations that otherwise may be

1 applicable), and no portion of the amount offered in compromise
2 refunded, if either of the following occurs:

3 (1) The board determines that ~~any~~ a person did any of the
4 following acts regarding the making of the offer:

5 (A) Concealed from the board ~~any~~ property belonging to the
6 estate of ~~any~~ a feepayer or other person liable for the fee.

7 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
8 a book, document, or record, or made ~~any~~ a false statement,
9 relating to the estate or financial condition of the feepayer or other
10 person liable for the fee.

11 (2) The feepayer fails to comply with any of the terms and
12 conditions relative to the offer.

13 (n) ~~Any~~ A person who, in connection with ~~any~~ an offer or
14 compromise under this section, or offer of that compromise to
15 enter into that agreement, willfully does either of the following
16 shall be guilty of a felony and, upon conviction, shall be fined not
17 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
18 to subdivision (h) of Section 1170 of the Penal Code, or both,
19 together with the costs of investigation and prosecution:

20 (1) Conceals from ~~any~~ an officer or employee of this state ~~any~~
21 property belonging to the estate of a feepayer or other person liable
22 in respect of the fee.

23 (2) Receives, withholds, destroys, mutilates, or falsifies ~~any~~ a
24 book, document, or record, or makes ~~any~~ a false statement, relating
25 to the estate or financial condition of the feepayer or other person
26 liable in respect of the fee.

27 (o) For purposes of this section, “person” means the feepayer,
28 ~~any~~ a member of the feepayer’s family, ~~any~~ a corporation, agent,
29 fiduciary, or representative of, or ~~any other~~ another individual or
30 entity acting on behalf of, the feepayer, or ~~any other~~ another
31 corporation or entity owned or controlled by the feepayer, directly
32 or indirectly, or that owns or controls the feepayer, directly or
33 indirectly.

34 (p) This section shall remain in effect only until January 1, ~~2013~~
35 2018, and as of that date is repealed, unless a later enacted statute,
36 that is enacted before January 1, ~~2013~~ 2018, deletes or extends
37 that date.

38 *SEC. 5. Section 50156.18 of the Revenue and Taxation Code,*
39 *as amended by Section 591 of Chapter 15 of the Statutes of 2011,*
40 *is amended to read:*

1 50156.18. (a) (1) The executive director and chief counsel of
2 the board, or their delegates, may compromise any final fee liability
3 in which the reduction of the fee is seven thousand five hundred
4 dollars (\$7,500) or less.

5 (2) Except as provided in paragraph (3), the board, upon
6 recommendation by its executive director and chief counsel, jointly,
7 may compromise a final fee liability involving a reduction in the
8 fee in excess of seven thousand five hundred dollars (\$7,500). ~~Any~~
9 A recommendation for approval of an offer in compromise that is
10 not either approved or disapproved within 45 days of the
11 submission of the recommendation shall be deemed approved.

12 (3) The board, itself, may by resolution delegate to the executive
13 director and the chief counsel, jointly, the authority to compromise
14 a final fee liability in which the reduction of the fee is in excess
15 of seven thousand five hundred dollars (\$7,500), but less than ten
16 thousand dollars (\$10,000).

17 (b) For purposes of this section, “a final fee liability” means
18 any final fee liability arising under Part 26 (commencing with
19 Section 50101), or related interest, additions to the fee, penalties,
20 or other amounts assessed under this part.

21 (c) Offers in compromise shall be considered only for liabilities
22 that were generated from a business that has been discontinued or
23 transferred, where the feepayer making the offer no longer has a
24 controlling interest or association with the transferred business or
25 has a controlling interest or association with a similar type of
26 business as the transferred or discontinued business.

27 (d) For amounts to be compromised under this section, the
28 following conditions shall exist:

29 (1) The feepayer shall establish that:

30 (A) The amount offered in payment is the most that can be
31 expected to be paid or collected from the feepayer’s present assets
32 or income.

33 (B) The feepayer does not have reasonable prospects of
34 acquiring increased income or assets that would enable the feepayer
35 to satisfy a greater amount of the liability than the amount offered,
36 within a reasonable period of time.

37 (2) The board shall have determined that acceptance of the
38 compromise is in the best interest of the state.

39 (e) A determination by the board that it would not be in the best
40 interest of the state to accept an offer in compromise in satisfaction

1 of a final fee liability shall not be subject to administrative appeal
2 or judicial review.

3 (f) When an offer in compromise is either accepted or rejected,
4 or the terms and conditions of a compromise agreement are
5 fulfilled, the board shall notify the feepayer in writing. In the event
6 an offer is rejected, the amount posted will either be applied to the
7 liability or refunded, at the discretion of the feepayer.

8 (g) When more than one feepayer is liable for the debt, such as
9 with spouses or partnerships or other business combinations, the
10 acceptance of an offer in compromise from one liable feepayer
11 shall not relieve the other feepayers from paying the entire liability.
12 However, the amount of the liability shall be reduced by the amount
13 of the accepted offer.

14 (h) Whenever a compromise of the fee or penalties or total fees
15 and penalties in excess of five hundred dollars (\$500) is approved,
16 there shall be placed on file for a least one year in the office of the
17 executive director of the board a public record with respect to that
18 compromise. The public record shall include all of the following
19 information:

20 (1) The name of the feepayer.

21 (2) The amount of unpaid fees and related penalties, additions
22 to fees, interest, or other amounts involved.

23 (3) The amount offered.

24 (4) A summary of the reason why the compromise is in the best
25 interest of the state.

26 The public record shall not include any information that relates
27 to any trade secrets, patent, process, style of work, apparatus,
28 business secret, or organizational structure, that if disclosed, would
29 adversely affect the feepayer or violate the confidentiality
30 provisions of Chapter 8 of Article 2 (commencing with Section
31 50156) 50159). No A list shall *not* be prepared and no releases
32 shall *not be* distributed by the board in connection with these
33 statements.

34 (i) ~~Any~~ A compromise made under this section may be
35 rescinded, all compromised liabilities may be reestablished (without
36 regard to any statute of limitations that otherwise may be
37 applicable), and no portion of the amount offered in compromise
38 refunded, if either of the following occurs:

39 (1) The board determines that ~~any~~ a person did any of the
40 following acts regarding the making of the offer:

1 (A) Concealed from the board ~~any~~ property belonging to the
2 estate of ~~any~~ a feepayer or other person liable for the fee.

3 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
4 a book, document, or record, or made ~~any~~ a false statement,
5 relating to the estate or financial condition of the feepayer or other
6 person liable for the fee.

7 (2) The feepayer fails to comply with any of the terms and
8 conditions relative to the offer.

9 (j) ~~Any~~—A person who, in connection with ~~any~~ an offer or
10 compromise under this section, or offer of that compromise to
11 enter into that agreement, willfully does either of the following
12 shall be guilty of a felony and, upon conviction, shall be fined not
13 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
14 to subdivision (h) of Section 1170 of the Penal Code, or both,
15 together with the costs of investigation and prosecution:

16 (1) Conceals from ~~any~~ an officer or employee of this state ~~any~~
17 property belonging to the estate of a feepayer or other person liable
18 in respect of the fee.

19 (2) Receives, withholds, destroys, mutilates, or falsifies ~~any~~ a
20 book, document, or record, or makes ~~any~~ a false statement, relating
21 to the estate or financial condition of the feepayer or other person
22 liable in respect of the fee.

23 (k) For purposes of this section, “person” means the feepayer,
24 ~~any~~ a member of the feepayer’s family, ~~any~~ a corporation, agent,
25 fiduciary, or representative of, or ~~any other~~ another individual or
26 entity acting on behalf of, the feepayer, or ~~any other~~ another
27 corporation or entity owned or controlled by the feepayer, directly
28 or indirectly, or that owns or controls the feepayer, directly or
29 indirectly.

30 (l) This section shall become operative on January 1, ~~2013~~ 2018.

31 *SEC. 6. Section 55332.5 of the Revenue and Taxation Code,*
32 *as amended by Section 592 of Chapter 15 of the Statutes of 2011,*
33 *is amended to read:*

34 55332.5. (a) (1) Beginning on January 1, 2007, the executive
35 director and chief counsel of the board, or their delegates, may
36 compromise any final fee liability where the reduction of fees is
37 seven thousand five hundred dollars (\$7,500) or less.

38 (2) Except as provided in paragraph (3), the board, upon
39 recommendation by its executive director and chief counsel, jointly,
40 may compromise a final fee liability involving a reduction in fees

1 in excess of seven thousand five hundred dollars (\$7,500). ~~Any A~~
2 recommendation for approval of an offer in compromise that is
3 not either approved or disapproved within 45 days of the
4 submission of the recommendation shall be deemed approved.

5 (3) The board, itself, may by resolution delegate to the executive
6 director and the chief counsel, jointly, the authority to compromise
7 a final fee liability in which the reduction of fees is in excess of
8 seven thousand five hundred dollars (\$7,500), but less than ten
9 thousand dollars (\$10,000).

10 (b) For purposes of this section, “a final fee liability” means
11 any final fee liability arising under Part 30 (commencing with
12 Section 55001), or related interest, additions to fees, penalties, or
13 other amounts assessed under this part.

14 (c) (1) Offers in compromise shall be considered only for
15 liabilities that were generated from a business that has been
16 discontinued or transferred, where the feepayer making the offer
17 no longer has a controlling interest or association with the
18 transferred business or has a controlling interest or association
19 with a similar type of business as the transferred or discontinued
20 business.

21 (2) Notwithstanding paragraph (1), a qualified final fee liability
22 may be compromised regardless of whether the business has been
23 discontinued or transferred or whether the feepayer has a
24 controlling interest or association with a similar type of business
25 as the transferred or discontinued business. All other provisions
26 of this section that apply to a final fee liability shall also apply to
27 a qualified final fee liability, and ~~no~~ a compromise shall *not* be
28 made under this subdivision unless all other requirements of this
29 section are met. For purposes of this subdivision, a “qualified final
30 fee liability” means that part of a final fee liability, including
31 related interest, additions to ~~fee~~ *fees*, penalties, or other amounts
32 assessed under this part, arising from a transaction or transactions
33 in which the board finds no evidence that the feepayer collected
34 the fee from the purchaser or other person and which was
35 determined against the feepayer under Article 2 (commencing with
36 Section 55061) or Article 3 (commencing with Section 55081) of
37 Chapter 3.

38 (3) A qualified final fee liability may not be compromised with
39 any of the following:

1 (A) A feepayer who previously received a compromise under
2 paragraph (2) for a liability, or a part thereof, arising from a
3 transaction or transactions that are substantially similar to the
4 transaction or transactions attributable to the liability for which
5 the feepayer is making the offer.

6 (B) A business that was transferred by a feepayer who previously
7 received a compromise under paragraph (2) and who has a
8 controlling interest or association with the transferred business,
9 when the liability for which the offer is made is attributable to a
10 transaction or transactions substantially similar to the transaction
11 or transactions for which the feepayer's liability was previously
12 compromised.

13 (C) A business in which a feepayer who previously received a
14 compromise under paragraph (2) has a controlling interest or
15 association with a similar type of business for which the feepayer
16 received the compromise, when the liability of the business making
17 the offer arose from a transaction or transactions substantially
18 similar to the transaction or transactions for which the feepayer's
19 liability was previously compromised.

20 (d) The board may, in its discretion, enter into a written
21 agreement which permits the feepayer to pay the compromise in
22 installments for a period not exceeding one year. The agreement
23 may provide that such installments shall be paid by electronic
24 funds transfers or any other means to facilitate the payment of each
25 installment.

26 (e) Except for any recommendation for approval as specified
27 in subdivision (a), the members of the State Board of Equalization
28 shall not participate in any offer in compromise matters pursuant
29 to this section.

30 (f) A feepayer that has received a compromise under paragraph
31 (2) of subdivision (c) may be required to enter into any collateral
32 agreement that is deemed necessary for the protection of the
33 interests of the state. A collateral agreement may include a
34 provision that allows the board to reestablish the liability, or any
35 portion thereof, if the feepayer has sufficient annual income during
36 the succeeding five-year period. The board shall establish criteria
37 for determining "sufficient annual income" for purposes of this
38 subdivision.

39 (g) A feepayer that has received a compromise under paragraph
40 (2) of subdivision (c) shall file and pay by the due date all

1 subsequently required returns for a five-year period from the date
2 the liability is compromised, or until the feepayer is no longer
3 required to file returns, whichever period is earlier.

4 (h) Offers in compromise shall not be considered where the
5 feepayer has been convicted of felony tax evasion under this part
6 during the liability period.

7 (i) For amounts to be compromised under this section, the
8 following conditions shall exist:

9 (1) The feepayer shall establish that:

10 (A) The amount offered in payment is the most that can be
11 expected to be paid or collected from the feepayer's present assets
12 or income.

13 (B) The feepayer does not have reasonable prospects of
14 acquiring increased income or assets that would enable the feepayer
15 to satisfy a greater amount of the liability than the amount offered,
16 within a reasonable period of time.

17 (2) The board shall have determined that acceptance of the
18 compromise is in the best interest of the state.

19 (j) A determination by the board that it would not be in the best
20 interest of the state to accept an offer in compromise in satisfaction
21 of a final fee liability shall not be subject to administrative appeal
22 or judicial review.

23 (k) (1) Offers for liabilities with a fraud or evasion penalty shall
24 require a minimum offer of the unpaid fee and fraud or evasion
25 penalty.

26 (2) The minimum offer may be waived if it can be shown that
27 the feepayer making the offer was not the person responsible for
28 perpetrating the fraud or evasion. This authorization to waive only
29 applies to partnership accounts where the intent to commit fraud
30 or evasion can be clearly attributed to a partner of the feepayer.

31 (l) When an offer in compromise is either accepted or rejected,
32 or the terms and conditions of a compromise agreement are
33 fulfilled, the board shall notify the feepayer in writing. In the event
34 an offer is rejected, the amount posted will either be applied to the
35 liability or refunded, at the discretion of the feepayer.

36 (m) When more than one feepayer is liable for the debt, such
37 as with spouses or partnerships or other business combinations,
38 including, but not limited to, feepayers who are liable through dual
39 determination or successor's liability, the acceptance of an offer
40 in compromise from one liable feepayer shall reduce the amount

1 of the liability of the other feepayers by the amount of the accepted
2 offer.

3 (n) Whenever a compromise of fees or penalties or total fees
4 and penalties in excess of five hundred dollars (\$500) is approved,
5 there shall be placed on file for at least one year in the office of
6 the executive director of the board a public record with respect to
7 that compromise. The public record shall include all of the
8 following information:

9 (1) The name of the feepayer.

10 (2) The amount of unpaid fees and related penalties, additions
11 to fees, interest, or other amounts involved.

12 (3) The amount offered.

13 (4) A summary of the reason why the compromise is in the best
14 interest of the state.

15 The public record shall not include any information that relates
16 to any trade secrets, patent, process, style of work, apparatus,
17 business secret, or organizational structure, that if disclosed, would
18 adversely affect the feepayer or violate the confidentiality
19 provisions of Section 55381. ~~No~~ A list shall *not* be prepared and
20 ~~no~~ releases shall *not be* distributed by the board in connection with
21 these statements.

22 (o) ~~Any~~ A compromise made under this section may be
23 rescinded, all compromised liabilities may be reestablished, without
24 regard to any statute of limitations that otherwise may be
25 applicable, and no portion of the amount offered in compromise
26 refunded, if either of the following occurs:

27 (1) The board determines that ~~any~~ a person did any of the
28 following acts regarding the making of the offer:

29 (A) Concealed from the board ~~any~~ property belonging to the
30 estate of ~~any~~ a feepayer or other person liable for the fee.

31 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
32 a book, document, or record, or made ~~any~~ a false statement,
33 relating to the estate or financial condition of the feepayer or other
34 person liable for the fee.

35 (2) The feepayer fails to comply with any of the terms and
36 conditions relative to the offer.

37 (p) ~~Any~~ A person who, in connection with ~~any~~ an offer or
38 compromise under this section, or offer of that compromise to
39 enter into that agreement, willfully does either of the following
40 shall be guilty of a felony and, upon conviction, shall be fined not

1 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
2 to subdivision (h) of Section 1170 of the Penal Code, or both,
3 together with the costs of investigation and prosecution:

4 (1) Conceals from ~~any~~ *an* officer or employee of this state ~~any~~
5 property belonging to the estate of a feepayer or other person liable
6 in respect of the fee.

7 (2) Receives, withholds, destroys, mutilates, or falsifies ~~any a~~
8 book, document, or record, or makes ~~any a~~ false statement, relating
9 to the estate *or financial condition of the feepayer or other person*
10 *liable in respect of the fee*.

11 (q) For purposes of this section, “person” means the feepayer,
12 ~~any a~~ member of the feepayer’s family, ~~any a~~ corporation, agent,
13 fiduciary, or representative of, or ~~any other~~ *another* individual or
14 entity acting on behalf of, the feepayer, or ~~any other~~ *another*
15 corporation or entity owned or controlled by the feepayer, directly
16 or indirectly, or that owns or controls the feepayer, directly or
17 indirectly.

18 (r) This section shall remain in effect only until January 1, ~~2013~~
19 *2018*, and as of that date is repealed, unless a later enacted statute,
20 that is enacted before January 1, ~~2013~~ *2018*, deletes or extends
21 that date.

22 *SEC. 7. Section 55332.5 of the Revenue and Taxation Code,*
23 *as amended by Section 593 of Chapter 15 of the Statutes of 2011,*
24 *is amended to read:*

25 55332.5. (a) (1) The executive director and chief counsel of
26 the board, or their delegates, may compromise any final fee liability
27 where the reduction of fees is seven thousand five hundred dollars
28 (\$7,500) or less.

29 (2) Except as provided in paragraph (3), the board, upon
30 recommendation by its executive director and chief counsel, jointly,
31 may compromise a final fee liability involving a reduction in fees
32 in excess of seven thousand five hundred dollars (\$7,500). ~~Any A~~
33 recommendation for approval of an offer in compromise that is
34 not either approved or disapproved within 45 days of the
35 submission of the recommendation shall be deemed approved.

36 (3) The board, itself, may by resolution delegate to the executive
37 director and the chief counsel, jointly, the authority to compromise
38 a final fee liability in which the reduction of fees is in excess of
39 seven thousand five hundred dollars (\$7,500), but less than ten
40 thousand dollars (\$10,000).

1 (b) For purposes of this section, “a final fee liability” means
2 any final fee liability arising under Part 30 (commencing with
3 Section 55001), or related interest, additions to fees, penalties, or
4 other amounts assessed under this part.

5 (c) Offers in compromise shall be considered only for liabilities
6 that were generated from a business that has been discontinued or
7 transferred, where the feepayer making the offer no longer has a
8 controlling interest or association with the transferred business or
9 has a controlling interest or association with a similar type of
10 business as the transferred or discontinued business.

11 (d) Offers in compromise shall not be considered where the
12 feepayer has been convicted of felony tax evasion under this part
13 during the liability period.

14 (e) For amounts to be compromised under this section, the
15 following conditions shall exist:

16 (1) The feepayer shall establish that:

17 (A) The amount offered in payment is the most that can be
18 expected to be paid or collected from the feepayer’s present assets
19 or income.

20 (B) The feepayer does not have reasonable prospects of
21 acquiring increased income or assets that would enable the feepayer
22 to satisfy a greater amount of the liability than the amount offered,
23 within a reasonable period of time.

24 (2) The board shall have determined that acceptance of the
25 compromise is in the best interest of the state.

26 (f) A determination by the board that it would not be in the best
27 interest of the state to accept an offer in compromise in satisfaction
28 of a final fee liability shall not be subject to administrative appeal
29 or judicial review.

30 (g) (1) Offers for liabilities with a fraud or evasion penalty shall
31 require a minimum offer of the unpaid fee and fraud or evasion
32 penalty.

33 (2) The minimum offer may be waived if it can be shown that
34 the feepayer making the offer was not the person responsible for
35 perpetrating the fraud or evasion. This authorization to waive only
36 applies to partnership accounts where the intent to commit fraud
37 or evasion can be clearly attributed to a partner of the feepayer.

38 (h) When an offer in compromise is either accepted or rejected,
39 or the terms and conditions of a compromise agreement are
40 fulfilled, the board shall notify the feepayer in writing. In the event

1 an offer is rejected, the amount posted will either be applied to the
2 liability or refunded, at the discretion of the feepayer.

3 (i) When more than one feepayer is liable for the debt, such as
4 with spouses or partnerships or other business combinations,
5 including, but not limited to, feepayers who are liable through dual
6 determination or successor's liability, the acceptance of an offer
7 in compromise from one liable feepayer shall reduce the amount
8 of the liability of the other feepayers by the amount of the accepted
9 offer.

10 (j) Whenever a compromise of fees or penalties or total fees
11 and penalties in excess of five hundred dollars (\$500) is approved,
12 there shall be placed on file for at least one year in the office of
13 the executive director of the board a public record with respect to
14 that compromise. The public record shall include all of the
15 following information:

16 (1) The name of the feepayer.

17 (2) The amount of unpaid fees and related penalties, additions
18 to fees, interest, or other amounts involved.

19 (3) The amount offered.

20 (4) A summary of the reason why the compromise is in the best
21 interest of the state.

22 The public record shall not include any information that relates
23 to any trade secrets, patent, process, style of work, apparatus,
24 business secret, or organizational structure, that if disclosed, would
25 adversely affect the feepayer or violate the confidentiality
26 provisions of Section 55381. ~~No~~ A list shall *not* be prepared and
27 ~~no~~ releases *shall not be* distributed by the board in connection with
28 these statements.

29 (k) ~~Any~~ A compromise made under this section may be
30 rescinded, all compromised liabilities may be reestablished, without
31 regard to any statute of limitations that otherwise may be
32 applicable, and no portion of the amount offered in compromise
33 refunded, if either of the following occurs:

34 (1) The board determines that ~~any~~ a person did any of the
35 following acts regarding the making of the offer:

36 (A) Concealed from the board ~~any~~ property belonging to the
37 estate of ~~any~~ a feepayer or other person liable for the fee.

38 (B) Received, withheld, destroyed, mutilated, or falsified ~~any~~
39 a book, document, or record, or made ~~any~~ a false statement,

1 relating to the estate or financial condition of the feepayer or other
2 person liable for the fee.

3 (2) The feepayer fails to comply with any of the terms and
4 conditions relative to the offer.

5 (l) ~~Any~~ A person who, in connection with ~~any~~ an offer or
6 compromise under this section, or offer of that compromise to
7 enter into that agreement, willfully does either of the following
8 shall be guilty of a felony and, upon conviction, shall be fined not
9 more than fifty thousand dollars (\$50,000) or imprisoned pursuant
10 to subdivision (h) of Section 1170 of the Penal Code, or both,
11 together with the costs of investigation and prosecution:

12 (1) Conceals from ~~any~~ an officer or employee of this state ~~any~~
13 property belonging to the estate of a feepayer or other person liable
14 in respect of the fee.

15 (2) Receives, withholds, destroys, mutilates, or falsifies ~~any~~ a
16 book, document, or record, or makes ~~any~~ a false statement, relating
17 to the estate fee.

18 (m) For purposes of this section, “person” means the feepayer,
19 ~~any~~ a member of the feepayer’s family, ~~any~~ a corporation, agent,
20 fiduciary, or representative of, or ~~any other~~ another individual or
21 entity acting on behalf of, the feepayer, or ~~any other~~ another
22 corporation or entity owned or controlled by the feepayer, directly
23 or indirectly, or that owns or controls the feepayer, directly or
24 indirectly.

25 (n) This section shall become operative on January 1, ~~2013~~
26 2018.

27 *SEC. 8. No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *the only costs that may be incurred by a local agency or school*
30 *district will be incurred because this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 ~~SECTION 1. Section 30459.15 of the Revenue and Taxation~~
37 ~~Code, as amended by Section 574 of Chapter 15 of the Statutes of~~
38 ~~2011, is amended to read:~~

39 ~~30459.15. (a) (1) Beginning on January 1, 2007, the executive~~
40 ~~director and chief counsel of the board, or their delegates, may~~

1 ~~compromise any final tax liability where the reduction of tax is~~
2 ~~seven thousand five hundred dollars (\$7,500) or less.~~

3 ~~(2) Except as provided in paragraph (3), the board, upon~~
4 ~~recommendation by its executive director and chief counsel, jointly,~~
5 ~~may compromise a final tax liability involving a reduction in tax~~
6 ~~in excess of seven thousand five hundred dollars (\$7,500). Any~~
7 ~~recommendation for approval of an offer in compromise that is~~
8 ~~not either approved or disapproved within 45 days of the~~
9 ~~submission of the recommendation shall be deemed approved.~~

10 ~~(3) The board, itself, may by resolution delegate to the executive~~
11 ~~director and the chief counsel, jointly, the authority to compromise~~
12 ~~a final tax liability in which the reduction of tax is in excess of~~
13 ~~seven thousand five hundred dollars (\$7,500), but less than ten~~
14 ~~thousand dollars (\$10,000).~~

15 ~~(b) For purposes of this section, “a final tax liability” means~~
16 ~~any final tax liability arising under Part 13 (commencing with~~
17 ~~Section 30001), or related interest, additions to tax, penalties, or~~
18 ~~other amounts assessed under this part.~~

19 ~~(c) Offers in compromise shall be considered only for liabilities~~
20 ~~that were generated by the following:~~

21 ~~(1) A business that has been discontinued or transferred, where~~
22 ~~the taxpayer making the offer no longer has a controlling interest~~
23 ~~or association with the transferred business or has a controlling~~
24 ~~interest or association with a similar type of business as the~~
25 ~~transferred or discontinued business.~~

26 ~~(2) A taxpayer that has purchased untaxed cigarettes or tobacco~~
27 ~~products from out-of-state vendors for their own use or~~
28 ~~consumption.~~

29 ~~(3) Notwithstanding paragraph (1) or (2), a qualified final tax~~
30 ~~liability may be compromised regardless of whether the business~~
31 ~~has been discontinued or transferred or whether the taxpayer has~~
32 ~~a controlling interest or association with a similar type of business~~
33 ~~as the transferred or discontinued business. All other provisions~~
34 ~~of this section that apply to a final tax liability shall also apply to~~
35 ~~a qualified final tax liability, and no compromise shall be made~~
36 ~~under this subdivision unless all other requirements of this section~~
37 ~~are met. For purposes of this subdivision, a “qualified final tax~~
38 ~~liability” means either of the following:~~

39 ~~(A) That part of a final tax liability, including related interest,~~
40 ~~additions to tax, penalties, or other amounts assessed under this~~

1 part, arising from a transaction or transactions in which the board
2 finds no evidence that the taxpayer collected cigarette or tobacco
3 products tax reimbursement from the purchaser or other person
4 and which was determined against the taxpayer under Article 2
5 (commencing with Section 30201), Article 3 (commencing with
6 Section 30221), or Article 5 (commencing with Section 30261) of
7 Chapter 4.

8 (B) That part of a final tax liability for cigarette or tobacco
9 products tax, including related interest, additions to tax, penalties,
10 or other amounts assessed under this part, determined under Article
11 2 (commencing with Section 30201), Article 3 (commencing with
12 Section 30221), and Article 5 (commencing with Section 30261)
13 of Chapter 4 against a taxpayer who is a consumer that is not
14 required to hold a license under Article 1 (commencing with
15 Section 30140) of Chapter 3.

16 (4) A qualified final tax liability may not be compromised with
17 any of the following:

18 (A) A taxpayer who previously received a compromise under
19 paragraph (3) for a liability, or a part thereof, arising from a
20 transaction or transactions that are substantially similar to the
21 transaction or transactions attributable to the liability for which
22 the taxpayer is making the offer.

23 (B) A business that was transferred by a taxpayer who previously
24 received a compromise under paragraph (3) and who has a
25 controlling interest or association with the transferred business,
26 when the liability for which the offer is made is attributable to a
27 transaction or transactions substantially similar to the transaction
28 or transactions for which the taxpayer's liability was previously
29 compromised.

30 (C) A business in which a taxpayer who previously received a
31 compromise under paragraph (3) has a controlling interest or
32 association with a similar type of business for which the taxpayer
33 received the compromise, when the liability of the business making
34 the offer arose from a transaction or transactions substantially
35 similar to the transaction or transactions for which the taxpayer's
36 liability was previously compromised.

37 (d) The board may, in its discretion, enter into a written
38 agreement which permits the taxpayer to pay the compromise in
39 installments for a period not exceeding one year. The agreement
40 may provide that such installments shall be paid by electronic

1 funds transfers or any other means to facilitate the payment of each
2 installment.

3 (e) ~~Except for any recommendation for approval as specified~~
4 ~~in subdivision (a), the members of the State Board of Equalization~~
5 ~~shall not participate in any offer in compromise matters pursuant~~
6 ~~to this section.~~

7 (f) ~~A taxpayer that has received a compromise under paragraph~~
8 ~~(3) of subdivision (c) may be required to enter into any collateral~~
9 ~~agreement that is deemed necessary for the protection of the~~
10 ~~interests of the state. A collateral agreement may include a~~
11 ~~provision that allows the board to reestablish the liability, or any~~
12 ~~portion thereof, if the taxpayer has sufficient annual income during~~
13 ~~the succeeding five-year period. The board shall establish criteria~~
14 ~~for determining “sufficient annual income” for purposes of this~~
15 ~~subdivision.~~

16 (g) ~~A taxpayer that has received a compromise under paragraph~~
17 ~~(3) of subdivision (c) shall file and pay by the due date all~~
18 ~~subsequently required cigarette and tobacco products tax reports~~
19 ~~or returns for a five-year period from the date the liability is~~
20 ~~compromised, or until the taxpayer is no longer required to file~~
21 ~~cigarette and tobacco products tax reports or returns, whichever~~
22 ~~period is earlier.~~

23 (h) ~~Offers in compromise shall not be considered under the~~
24 ~~following conditions:~~

25 (1) ~~The taxpayer has been convicted of felony tax evasion under~~
26 ~~this part during the liability period.~~

27 (2) ~~The taxpayer has filed a statement under paragraph (3) of~~
28 ~~subdivision (i) and continues to purchase untaxed cigarettes or~~
29 ~~tobacco products from out-of-state vendors for their own use or~~
30 ~~consumption.~~

31 (i) ~~For amounts to be compromised under this section, the~~
32 ~~following conditions shall exist:~~

33 (1) ~~The taxpayer shall establish that:~~

34 (A) ~~The amount offered in payment is the most that can be~~
35 ~~expected to be paid or collected from the taxpayer’s present assets~~
36 ~~or income.~~

37 (B) ~~The taxpayer does not have reasonable prospects of~~
38 ~~acquiring increased income or assets that would enable the taxpayer~~
39 ~~to satisfy a greater amount of the liability than the amount offered,~~
40 ~~within a reasonable period of time.~~

1 ~~(2) The board shall have determined that acceptance of the~~
2 ~~compromise is in the best interest of the state.~~

3 ~~(3) For liabilities generated in the manner described in paragraph~~
4 ~~(2) of subdivision (c), the taxpayer shall file with the board a~~
5 ~~statement, under penalty of perjury, that he or she will no longer~~
6 ~~purchase untaxed cigarettes or tobacco products from out-of-state~~
7 ~~vendors for his or her own use or consumption.~~

8 ~~(j) A determination by the board that it would not be in the best~~
9 ~~interest of the state to accept an offer in compromise in satisfaction~~
10 ~~of a final tax liability shall not be subject to administrative appeal~~
11 ~~or judicial review.~~

12 ~~(k) (1) Offers for liabilities with a fraud or evasion penalty shall~~
13 ~~require a minimum offer of the unpaid tax and fraud or evasion~~
14 ~~penalty.~~

15 ~~(2) The minimum offer may be waived if it can be shown that~~
16 ~~the taxpayer making the offer was not the person responsible for~~
17 ~~perpetrating the fraud or evasion. This authorization to waive only~~
18 ~~applies to partnership accounts where the intent to commit fraud~~
19 ~~or evasion can be clearly attributed to a partner of the taxpayer.~~

20 ~~(l) When an offer in compromise is either accepted or rejected,~~
21 ~~or the terms and conditions of a compromise agreement are~~
22 ~~fulfilled, the board shall notify the taxpayer in writing. In the event~~
23 ~~an offer is rejected, the amount posted will either be applied to the~~
24 ~~liability or refunded, at the discretion of the taxpayer.~~

25 ~~(m) When more than one taxpayer is liable for the debt, such~~
26 ~~as with spouses or partnerships or other business combinations,~~
27 ~~including, but not limited to, taxpayers who are liable through dual~~
28 ~~determination or successor's liability, the acceptance of an offer~~
29 ~~in compromise from one liable taxpayer shall reduce the amount~~
30 ~~of the liability of the other taxpayers by the amount of the accepted~~
31 ~~offer.~~

32 ~~(n) Whenever a compromise of tax or penalties or total tax and~~
33 ~~penalties in excess of five hundred dollars (\$500) is approved,~~
34 ~~there shall be placed on file for at least one year in the office of~~
35 ~~the executive director of the board a public record with respect to~~
36 ~~that compromise. The public record shall include all of the~~
37 ~~following information:~~

38 ~~(1) The name of the taxpayer.~~

39 ~~(2) The amount of unpaid tax and related penalties, additions~~
40 ~~to tax, interest, or other amounts involved.~~

1 ~~(3) The amount offered.~~

2 ~~(4) A summary of the reason why the compromise is in the best~~
3 ~~interest of the state.~~

4 ~~The public record shall not include any information that relates~~
5 ~~to any trade secrets, patent, process, style of work, apparatus,~~
6 ~~business secret, or organizational structure, that if disclosed, would~~
7 ~~adversely affect the taxpayer or violate the confidentiality~~
8 ~~provisions of Section 30455. No list shall be prepared and no~~
9 ~~releases distributed by the board in connection with these~~
10 ~~statements.~~

11 ~~(o) Any compromise made under this section may be rescinded,~~
12 ~~all compromised liabilities may be reestablished, without regard~~
13 ~~to any statute of limitations that otherwise may be applicable, and~~
14 ~~no portion of the amount offered in compromise refunded, if either~~
15 ~~of the following occurs:~~

16 ~~(1) The board determines that any person did any of the~~
17 ~~following acts regarding the making of the offer:~~

18 ~~(A) Concealed from the board any property belonging to the~~
19 ~~estate of any taxpayer or other person liable for the tax.~~

20 ~~(B) Received, withheld, destroyed, mutilated, or falsified any~~
21 ~~book, document, or record or made any false statement, relating~~
22 ~~to the estate or financial condition of the taxpayer or other person~~
23 ~~liable for the tax.~~

24 ~~(2) The taxpayer fails to comply with any of the terms and~~
25 ~~conditions relative to the offer.~~

26 ~~(p) Any person who, in connection with any offer or compromise~~
27 ~~under this section, or offer of that compromise to enter into that~~
28 ~~agreement, willfully does either of the following shall be guilty of~~
29 ~~a felony and, upon conviction, shall be fined not more than fifty~~
30 ~~thousand dollars (\$50,000) or imprisoned pursuant to subdivision~~
31 ~~(h) of Section 1170 of the Penal Code, or both, together with the~~
32 ~~costs of investigation and prosecution:~~

33 ~~(1) Conceals from any officer or employee of this state any~~
34 ~~property belonging to the estate of a taxpayer or other person liable~~
35 ~~in respect of the tax.~~

36 ~~(2) Receives, withholds, destroys, mutilates, or falsifies any~~
37 ~~book, document, or record, or makes any false statement, relating~~
38 ~~to the estate or financial condition of the taxpayer or other person~~
39 ~~liable in respect of the tax.~~

~~(q) For purposes of this section, “person” means the taxpayer, any member of the taxpayer’s family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or controlled by the taxpayer, directly or indirectly, or that owns or controls the taxpayer, directly or indirectly.~~

~~(r) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

~~SEC. 2. Section 50156.18 of the Revenue and Taxation Code, as amended by Section 590 of Chapter 15 of the Statutes of 2011, is amended to read:~~

~~50156.18. (a) (1) Beginning January 1, 2003, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability in which the reduction of the fee is seven thousand five hundred dollars (\$7,500) or less.~~

~~(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in the fee in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.~~

~~(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of the fee is in excess of seven thousand five hundred dollars (\$7,500), but less than ten thousand dollars (\$10,000).~~

~~(b) For purposes of this section, “a final fee liability” means any final fee liability arising under Part 26 (commencing with Section 50101), or related interest, additions to the fee, penalties, or other amounts assessed under this part.~~

~~(c) (1) Offers in compromise shall be considered only for liabilities that were generated from a business that has been discontinued or transferred, where the feepayer making the offer no longer has a controlling interest or association with the transferred business or has a controlling interest or association with a similar type of business as the transferred or discontinued business.~~

~~(2) Notwithstanding paragraph (1), a qualified final fee liability may be compromised regardless of whether the business has been discontinued or transferred or whether the feepayer has a controlling interest or association with a similar type of business as the transferred or discontinued business. All other provisions of this section that apply to a final fee liability shall also apply to a qualified final fee liability, and no compromise shall be made under this subdivision unless all other requirements of this section are met. For purposes of this subdivision, a “qualified final fee liability” means that part of a final fee liability, including related interest, additions to fee, penalties, or other amounts assessed under this part, arising from a transaction or transactions in which the board finds no evidence that the owner of the underground storage tank collected underground storage tank maintenance fee reimbursement from the operator of the underground storage tank or other person and which was determined against the feepayer under Article 2 (commencing with Section 50113) or Article 3 (commencing with Section 50114) of Chapter 3.~~

~~(3) A qualified final fee liability may not be compromised with any of the following:~~

~~(A) A feepayer who previously received a compromise under paragraph (2) for a liability, or a part thereof, arising from a transaction or transactions that are substantially similar to the transaction or transactions attributable to the liability for which the feepayer is making the offer.~~

~~(B) A business that was transferred by a feepayer who previously received a compromise under paragraph (2) and who has a controlling interest or association with the transferred business, when the liability for which the offer is made is attributable to a transaction or transactions substantially similar to the transaction or transactions for which the feepayer’s liability was previously compromised.~~

~~(C) A business in which a feepayer who previously received a compromise under paragraph (2) has a controlling interest or association with a similar type of business for which the feepayer received the compromise, when the liability of the business making the offer arose from a transaction or transactions substantially similar to the transaction or transactions for which the feepayer’s liability was previously compromised.~~

1 ~~(d) The board may, in its discretion, enter into a written~~
2 ~~agreement which permits the feepayer to pay the compromise in~~
3 ~~installments for a period not exceeding one year. The agreement~~
4 ~~may provide that such installments shall be paid by electronic~~
5 ~~funds transfers or any other means to facilitate the payment of each~~
6 ~~installment.~~

7 ~~(e) Except for any recommendation for approval as specified~~
8 ~~in subdivision (a), the members of the State Board of Equalization~~
9 ~~shall not participate in any offer in compromise matters pursuant~~
10 ~~to this section.~~

11 ~~(f) A feepayer that has received a compromise under paragraph~~
12 ~~(2) of subdivision (c) may be required to enter into any collateral~~
13 ~~agreement that is deemed necessary for the protection of the~~
14 ~~interests of the state. A collateral agreement may include a~~
15 ~~provision that allows the board to reestablish the liability, or any~~
16 ~~portion thereof, if the feepayer has sufficient annual income during~~
17 ~~the succeeding five-year period. The board shall establish criteria~~
18 ~~for determining "sufficient annual income" for purposes of this~~
19 ~~subdivision.~~

20 ~~(g) A feepayer that has received a compromise under paragraph~~
21 ~~(2) of subdivision (c) shall file and pay by the due date all~~
22 ~~subsequently required underground storage tank maintenance fee~~
23 ~~returns for a five-year period from the date the liability is~~
24 ~~compromised, or until the feepayer is no longer required to file~~
25 ~~underground storage tank maintenance fee returns, whichever~~
26 ~~period is earlier.~~

27 ~~(h) For amounts to be compromised under this section, the~~
28 ~~following conditions shall exist:~~

29 ~~(1) The feepayer shall establish that:~~

30 ~~(A) The amount offered in payment is the most that can be~~
31 ~~expected to be paid or collected from the feepayer's present assets~~
32 ~~or income.~~

33 ~~(B) The feepayer does not have reasonable prospects of~~
34 ~~acquiring increased income or assets that would enable the feepayer~~
35 ~~to satisfy a greater amount of the liability than the amount offered,~~
36 ~~within a reasonable period of time.~~

37 ~~(2) The board shall have determined that acceptance of the~~
38 ~~compromise is in the best interest of the state.~~

39 ~~(i) A determination by the board that it would not be in the best~~
40 ~~interest of the state to accept an offer in compromise in satisfaction~~

1 of a final fee liability shall not be subject to administrative appeal
2 or judicial review.

3 ~~(j) When an offer in compromise is either accepted or rejected,~~
4 ~~or the terms and conditions of a compromise agreement are~~
5 ~~fulfilled, the board shall notify the feepayer in writing. In the event~~
6 ~~an offer is rejected, the amount posted will either be applied to the~~
7 ~~liability or refunded, at the discretion of the feepayer.~~

8 ~~(k) When more than one feepayer is liable for the debt, such as~~
9 ~~with spouses or partnerships or other business combinations, the~~
10 ~~acceptance of an offer in compromise from one liable feepayer~~
11 ~~shall not relieve the other feepayers from paying the entire liability.~~
12 ~~However, the amount of the liability shall be reduced by the amount~~
13 ~~of the accepted offer.~~

14 ~~(l) Whenever a compromise of the fee or penalties or total fees~~
15 ~~and penalties in excess of five hundred dollars (\$500) is approved,~~
16 ~~there shall be placed on file for at least one year in the office of~~
17 ~~the executive director of the board a public record with respect to~~
18 ~~that compromise. The public record shall include all of the~~
19 ~~following information:~~

20 ~~(1) The name of the feepayer.~~

21 ~~(2) The amount of unpaid fees and related penalties, additions~~
22 ~~to fees, interest, or other amounts involved.~~

23 ~~(3) The amount offered.~~

24 ~~(4) A summary of the reason why the compromise is in the best~~
25 ~~interest of the state.~~

26 ~~The public record shall not include any information that relates~~
27 ~~to any trade secrets, patent, process, style of work, apparatus,~~
28 ~~business secret, or organizational structure, that if disclosed, would~~
29 ~~adversely affect the feepayer or violate the confidentiality~~
30 ~~provisions of Chapter 8 (commencing with Section 50159). No~~
31 ~~list shall be prepared and no releases distributed by the board in~~
32 ~~connection with these statements.~~

33 ~~(m) Any compromise made under this section may be rescinded,~~
34 ~~all compromised liabilities may be reestablished (without regard~~
35 ~~to any statute of limitations that otherwise may be applicable), and~~
36 ~~no portion of the amount offered in compromise refunded, if either~~
37 ~~of the following occurs:~~

38 ~~(1) The board determines that any person did any of the~~
39 ~~following acts regarding the making of the offer:~~

1 ~~(A) Concealed from the board any property belonging to the~~
2 ~~estate of any feepayer or other person liable for the fee.~~

3 ~~(B) Received, withheld, destroyed, mutilated, or falsified any~~
4 ~~book, document, or record or made any false statement, relating~~
5 ~~to the estate or financial condition of the feepayer or other person~~
6 ~~liable for the fee.~~

7 ~~(2) The feepayer fails to comply with any of the terms and~~
8 ~~conditions relative to the offer.~~

9 ~~(n) Any person who, in connection with any offer or compromise~~
10 ~~under this section, or offer of that compromise to enter into that~~
11 ~~agreement, willfully does either of the following shall be guilty of~~
12 ~~a felony and, upon conviction, shall be fined not more than fifty~~
13 ~~thousand dollars (\$50,000) or imprisoned pursuant to subdivision~~
14 ~~(h) of Section 1170 of the Penal Code, or both, together with the~~
15 ~~costs of investigation and prosecution:~~

16 ~~(1) Conceals from any officer or employee of this state any~~
17 ~~property belonging to the estate of a feepayer or other person liable~~
18 ~~in respect of the fee.~~

19 ~~(2) Receives, withholds, destroys, mutilates, or falsifies any~~
20 ~~book, document, or record, or makes any false statement, relating~~
21 ~~to the estate or financial condition of the feepayer or other person~~
22 ~~liable in respect of the fee.~~

23 ~~(o) For purposes of this section, "person" means the feepayer,~~
24 ~~any member of the feepayer's family, any corporation, agent,~~
25 ~~fiduciary, or representative of, or any other individual or entity~~
26 ~~acting on behalf of, the feepayer, or any other corporation or entity~~
27 ~~owned or controlled by the feepayer, directly or indirectly, or that~~
28 ~~owns or controls the feepayer, directly or indirectly.~~

29 ~~(p) This section shall remain in effect only until January 1, 2013,~~
30 ~~and as of that date is repealed, unless a later enacted statute, that~~
31 ~~is enacted before January 1, 2013, deletes or extends that date.~~

32 ~~SEC. 3. Section 50156.18 of the Revenue and Taxation Code,~~
33 ~~as amended by Section 591 of Chapter 15 of the Statutes of 2011,~~
34 ~~is amended to read:~~

35 ~~50156.18. (a) (1) The executive director and chief counsel of~~
36 ~~the board, or their delegates, may compromise any final fee liability~~
37 ~~in which the reduction of the fee is seven thousand five hundred~~
38 ~~dollars (\$7,500) or less.~~

39 ~~(2) Except as provided in paragraph (3), the board, upon~~
40 ~~recommendation by its executive director and chief counsel, jointly,~~

1 may compromise a final fee liability involving a reduction in the
2 fee in excess of seven thousand five hundred dollars (\$7,500). Any
3 recommendation for approval of an offer in compromise that is
4 not either approved or disapproved within 45 days of the
5 submission of the recommendation shall be deemed approved.

6 (3) The board, itself, may by resolution delegate to the executive
7 director and the chief counsel, jointly, the authority to compromise
8 a final fee liability in which the reduction of the fee is in excess
9 of seven thousand five hundred dollars (\$7,500), but less than ten
10 thousand dollars (\$10,000).

11 (b) For purposes of this section, “a final fee liability” means
12 any final fee liability arising under Part 26 (commencing with
13 Section 50101), or related interest, additions to the fee, penalties,
14 or other amounts assessed under this part.

15 (c) Offers in compromise shall be considered only for liabilities
16 that were generated from a business that has been discontinued or
17 transferred, where the feepayer making the offer no longer has a
18 controlling interest or association with the transferred business or
19 has a controlling interest or association with a similar type of
20 business as the transferred or discontinued business.

21 (d) For amounts to be compromised under this section, the
22 following conditions shall exist:

23 (1) The feepayer shall establish that:

24 (A) The amount offered in payment is the most that can be
25 expected to be paid or collected from the feepayer’s present assets
26 or income.

27 (B) The feepayer does not have reasonable prospects of
28 acquiring increased income or assets that would enable the feepayer
29 to satisfy a greater amount of the liability than the amount offered,
30 within a reasonable period of time.

31 (2) The board shall have determined that acceptance of the
32 compromise is in the best interest of the state.

33 (e) A determination by the board that it would not be in the best
34 interest of the state to accept an offer in compromise in satisfaction
35 of a final fee liability shall not be subject to administrative appeal
36 or judicial review.

37 (f) When an offer in compromise is either accepted or rejected,
38 or the terms and conditions of a compromise agreement are
39 fulfilled, the board shall notify the feepayer in writing. In the event

1 an offer is rejected, the amount posted will either be applied to the
2 liability or refunded, at the discretion of the feepayer.

3 ~~(g) When more than one feepayer is liable for the debt, such as~~
4 ~~with spouses or partnerships or other business combinations, the~~
5 ~~acceptance of an offer in compromise from one liable feepayer~~
6 ~~shall not relieve the other feepayers from paying the entire liability.~~
7 ~~However, the amount of the liability shall be reduced by the amount~~
8 ~~of the accepted offer.~~

9 ~~(h) Whenever a compromise of the fee or penalties or total fees~~
10 ~~and penalties in excess of five hundred dollars (\$500) is approved,~~
11 ~~there shall be placed on file for a least one year in the office of the~~
12 ~~executive director of the board a public record with respect to that~~
13 ~~compromise. The public record shall include all of the following~~
14 ~~information:~~

15 ~~(1) The name of the feepayer.~~

16 ~~(2) The amount of unpaid fees and related penalties, additions~~
17 ~~to fees, interest, or other amounts involved.~~

18 ~~(3) The amount offered.~~

19 ~~(4) A summary of the reason why the compromise is in the best~~
20 ~~interest of the state.~~

21 ~~The public record shall not include any information that relates~~
22 ~~to any trade secrets, patent, process, style of work, apparatus,~~
23 ~~business secret, or organizational structure, that if disclosed, would~~
24 ~~adversely affect the feepayer or violate the confidentiality~~
25 ~~provisions of Chapter 8 (commencing with Section 50159). No~~
26 ~~list shall be prepared and no releases distributed by the board in~~
27 ~~connection with these statements.~~

28 ~~(i) Any compromise made under this section may be rescinded,~~
29 ~~all compromised liabilities may be reestablished (without regard~~
30 ~~to any statute of limitations that otherwise may be applicable), and~~
31 ~~no portion of the amount offered in compromise refunded, if either~~
32 ~~of the following occurs:~~

33 ~~(1) The board determines that any person did any of the~~
34 ~~following acts regarding the making of the offer:~~

35 ~~(A) Concealed from the board any property belonging to the~~
36 ~~estate of any feepayer or other person liable for the fee.~~

37 ~~(B) Received, withheld, destroyed, mutilated, or falsified any~~
38 ~~book, document, or record or made any false statement, relating~~
39 ~~to the estate or financial condition of the feepayer or other person~~
40 ~~liable for the fee.~~

~~(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.~~

~~(j) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:~~

~~(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.~~

~~(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the feepayer or other person liable in respect of the fee.~~

~~(k) For purposes of this section, "person" means the feepayer, any member of the feepayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the feepayer, or any other corporation or entity owned or controlled by the feepayer, directly or indirectly, or that owns or controls the feepayer, directly or indirectly.~~

~~(l) This section shall become operative on January 1, 2013.~~

~~SEC. 4. Section 55332.5 of the Revenue and Taxation Code, as amended by Section 592 of Chapter 15 of Statutes of 2011, is amended to read:~~

~~55332.5. (a) (1) Beginning on January 1, 2007, the executive director and chief counsel of the board, or their delegates, may compromise any final fee liability where the reduction of fees is seven thousand five hundred dollars (\$7,500) or less.~~

~~(2) Except as provided in paragraph (3), the board, upon recommendation by its executive director and chief counsel, jointly, may compromise a final fee liability involving a reduction in fees in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved within 45 days of the submission of the recommendation shall be deemed approved.~~

~~(3) The board, itself, may by resolution delegate to the executive director and the chief counsel, jointly, the authority to compromise a final fee liability in which the reduction of fees is in excess of~~

1 seven thousand five hundred dollars (\$7,500), but less than ten
2 thousand dollars (\$10,000).

3 (b) For purposes of this section, “a final fee liability” means
4 any final fee liability arising under Part 30 (commencing with
5 Section 55001), or related interest, additions to fees, penalties, or
6 other amounts assessed under this part.

7 (c) (1) Offers in compromise shall be considered only for
8 liabilities that were generated from a business that has been
9 discontinued or transferred, where the feepayer making the offer
10 no longer has a controlling interest or association with the
11 transferred business or has a controlling interest or association
12 with a similar type of business as the transferred or discontinued
13 business.

14 (2) Notwithstanding paragraph (1), a qualified final fee liability
15 may be compromised regardless of whether the business has been
16 discontinued or transferred or whether the feepayer has a
17 controlling interest or association with a similar type of business
18 as the transferred or discontinued business. All other provisions
19 of this section that apply to a final fee liability shall also apply to
20 a qualified final fee liability, and no compromise shall be made
21 under this subdivision unless all other requirements of this section
22 are met. For purposes of this subdivision, a “qualified final fee
23 liability” means that part of a final fee liability, including related
24 interest, additions to fee, penalties, or other amounts assessed under
25 this part, arising from a transaction or transactions in which the
26 board finds no evidence that the feepayer collected the fee from
27 the purchaser or other person and which was determined against
28 the feepayer under Article 2 (commencing with Section 55061) or
29 Article 3 (commencing with Section 55081) of Chapter 3.

30 (3) A qualified final fee liability may not be compromised with
31 any of the following:

32 (A) A feepayer who previously received a compromise under
33 paragraph (2) for a liability, or a part thereof, arising from a
34 transaction or transactions that are substantially similar to the
35 transaction or transactions attributable to the liability for which
36 the feepayer is making the offer.

37 (B) A business that was transferred by a feepayer who previously
38 received a compromise under paragraph (2) and who has a
39 controlling interest or association with the transferred business,
40 when the liability for which the offer is made is attributable to a

1 transaction or transactions substantially similar to the transaction
2 or transactions for which the feepayer's liability was previously
3 compromised:

4 (C) A business in which a feepayer who previously received a
5 compromise under paragraph (2) has a controlling interest or
6 association with a similar type of business for which the feepayer
7 received the compromise, when the liability of the business making
8 the offer arose from a transaction or transactions substantially
9 similar to the transaction or transactions for which the feepayer's
10 liability was previously compromised.

11 (d) The board may, in its discretion, enter into a written
12 agreement which permits the feepayer to pay the compromise in
13 installments for a period not exceeding one year. The agreement
14 may provide that such installments shall be paid by electronic
15 funds transfers or any other means to facilitate the payment of each
16 installment.

17 (e) Except for any recommendation for approval as specified
18 in subdivision (a), the members of the State Board of Equalization
19 shall not participate in any offer in compromise matters pursuant
20 to this section.

21 (f) A feepayer that has received a compromise under paragraph
22 (2) of subdivision (c) may be required to enter into any collateral
23 agreement that is deemed necessary for the protection of the
24 interests of the state. A collateral agreement may include a
25 provision that allows the board to reestablish the liability, or any
26 portion thereof, if the feepayer has sufficient annual income during
27 the succeeding five-year period. The board shall establish criteria
28 for determining "sufficient annual income" for purposes of this
29 subdivision.

30 (g) A feepayer that has received a compromise under paragraph
31 (2) of subdivision (c) shall file and pay by the due date all
32 subsequently required returns for a five-year period from the date
33 the liability is compromised, or until the feepayer is no longer
34 required to file returns, whichever period is earlier.

35 (h) Offers in compromise shall not be considered where the
36 feepayer has been convicted of felony tax evasion under this part
37 during the liability period.

38 (i) For amounts to be compromised under this section, the
39 following conditions shall exist:

40 (1) The feepayer shall establish that:

1 ~~(A) The amount offered in payment is the most that can be~~
2 ~~expected to be paid or collected from the feepayer's present assets~~
3 ~~or income.~~

4 ~~(B) The feepayer does not have reasonable prospects of~~
5 ~~acquiring increased income or assets that would enable the feepayer~~
6 ~~to satisfy a greater amount of the liability than the amount offered,~~
7 ~~within a reasonable period of time.~~

8 ~~(2) The board shall have determined that acceptance of the~~
9 ~~compromise is in the best interest of the state.~~

10 ~~(j) A determination by the board that it would not be in the best~~
11 ~~interest of the state to accept an offer in compromise in satisfaction~~
12 ~~of a final fee liability shall not be subject to administrative appeal~~
13 ~~or judicial review.~~

14 ~~(k) (1) Offers for liabilities with a fraud or evasion penalty shall~~
15 ~~require a minimum offer of the unpaid fee and fraud or evasion~~
16 ~~penalty.~~

17 ~~(2) The minimum offer may be waived if it can be shown that~~
18 ~~the feepayer making the offer was not the person responsible for~~
19 ~~perpetrating the fraud or evasion. This authorization to waive only~~
20 ~~applies to partnership accounts where the intent to commit fraud~~
21 ~~or evasion can be clearly attributed to a partner of the feepayer.~~

22 ~~(l) When an offer in compromise is either accepted or rejected,~~
23 ~~or the terms and conditions of a compromise agreement are~~
24 ~~fulfilled, the board shall notify the feepayer in writing. In the event~~
25 ~~an offer is rejected, the amount posted will either be applied to the~~
26 ~~liability or refunded, at the discretion of the feepayer.~~

27 ~~(m) When more than one feepayer is liable for the debt, such~~
28 ~~as with spouses or partnerships or other business combinations,~~
29 ~~including, but not limited to, feepayers who are liable through dual~~
30 ~~determination or successor's liability, the acceptance of an offer~~
31 ~~in compromise from one liable feepayer shall reduce the amount~~
32 ~~of the liability of the other feepayers by the amount of the accepted~~
33 ~~offer.~~

34 ~~(n) Whenever a compromise of fees or penalties or total fees~~
35 ~~and penalties in excess of five hundred dollars (\$500) is approved,~~
36 ~~there shall be placed on file for at least one year in the office of~~
37 ~~the executive director of the board a public record with respect to~~
38 ~~that compromise. The public record shall include all of the~~
39 ~~following information:~~

40 ~~(1) The name of the feepayer.~~

~~(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.~~

~~(3) The amount offered.~~

~~(4) A summary of the reason why the compromise is in the best interest of the state.~~

~~The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 55381. No list shall be prepared and no releases distributed by the board in connection with these statements.~~

~~(o) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:~~

~~(1) The board determines that any person did any of the following acts regarding the making of the offer:~~

~~(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.~~

~~(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.~~

~~(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.~~

~~(p) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision (h) of Section 1170 of the Penal Code, or both, together with the costs of investigation and prosecution:~~

~~(1) Conceals from any officer or employee of this state any property belonging to the estate of a feepayer or other person liable in respect of the fee.~~

~~(2) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating~~

1 to the estate or financial condition of the feepayer or other person
2 liable with respect to the fee.

3 ~~(q) For purposes of this section, “person” means the feepayer,~~
4 ~~any member of the feepayer’s family, any corporation, agent,~~
5 ~~fiduciary, or representative of, or any other individual or entity~~
6 ~~acting on behalf of, the feepayer, or any other corporation or entity~~
7 ~~owned or controlled by the feepayer, directly or indirectly, or that~~
8 ~~owns or controls the feepayer, directly or indirectly.~~

9 ~~(r) This section shall remain in effect only until January 1, 2013,~~
10 ~~and as of that date is repealed, unless a later enacted statute, that~~
11 ~~is enacted before January 1, 2013, deletes or extends that date.~~

12 ~~SEC. 5. Section 55332.5 of the Revenue and Taxation Code,~~
13 ~~as amended by Section 593 of Chapter 15 of the Statutes of 2011,~~
14 ~~is amended to read:~~

15 ~~55332.5. (a) (1) The executive director and chief counsel of~~
16 ~~the board, or their delegates, may compromise any final fee liability~~
17 ~~where the reduction of fees is seven thousand five hundred dollars~~
18 ~~(\$7,500) or less.~~

19 ~~(2) Except as provided in paragraph (3), the board, upon~~
20 ~~recommendation by its executive director and chief counsel, jointly,~~
21 ~~may compromise a final fee liability involving a reduction in fees~~
22 ~~in excess of seven thousand five hundred dollars (\$7,500). Any~~
23 ~~recommendation for approval of an offer in compromise that is~~
24 ~~not either approved or disapproved within 45 days of the~~
25 ~~submission of the recommendation shall be deemed approved.~~

26 ~~(3) The board, itself, may by resolution delegate to the executive~~
27 ~~director and the chief counsel, jointly, the authority to compromise~~
28 ~~a final fee liability in which the reduction of fees is in excess of~~
29 ~~seven thousand five hundred dollars (\$7,500), but less than ten~~
30 ~~thousand dollars (\$10,000).~~

31 ~~(b) For purposes of this section, “a final fee liability” means~~
32 ~~any final fee liability arising under Part 30 (commencing with~~
33 ~~Section 55001), or related interest, additions to fees, penalties, or~~
34 ~~other amounts assessed under this part.~~

35 ~~(c) Offers in compromise shall be considered only for liabilities~~
36 ~~that were generated from a business that has been discontinued or~~
37 ~~transferred, where the feepayer making the offer no longer has a~~
38 ~~controlling interest or association with the transferred business or~~
39 ~~has a controlling interest or association with a similar type of~~
40 ~~business as the transferred or discontinued business.~~

~~(d) Offers in compromise shall not be considered where the feepayer has been convicted of felony tax evasion under this part during the liability period.~~

~~(e) For amounts to be compromised under this section, the following conditions shall exist:~~

~~(1) The feepayer shall establish that:~~

~~(A) The amount offered in payment is the most that can be expected to be paid or collected from the feepayer's present assets or income.~~

~~(B) The feepayer does not have reasonable prospects of acquiring increased income or assets that would enable the feepayer to satisfy a greater amount of the liability than the amount offered, within a reasonable period of time.~~

~~(2) The board shall have determined that acceptance of the compromise is in the best interest of the state.~~

~~(f) A determination by the board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final fee liability shall not be subject to administrative appeal or judicial review.~~

~~(g) (1) Offers for liabilities with a fraud or evasion penalty shall require a minimum offer of the unpaid fee and fraud or evasion penalty.~~

~~(2) The minimum offer may be waived if it can be shown that the feepayer making the offer was not the person responsible for perpetrating the fraud or evasion. This authorization to waive only applies to partnership accounts where the intent to commit fraud or evasion can be clearly attributed to a partner of the feepayer.~~

~~(h) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the board shall notify the feepayer in writing. In the event an offer is rejected, the amount posted will either be applied to the liability or refunded, at the discretion of the feepayer.~~

~~(i) When more than one feepayer is liable for the debt, such as with spouses or partnerships or other business combinations, including, but not limited to, feepayers who are liable through dual determination or successor's liability, the acceptance of an offer in compromise from one liable feepayer shall reduce the amount of the liability of the other feepayers by the amount of the accepted offer.~~

~~(j) Whenever a compromise of fees or penalties or total fees and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive director of the board a public record with respect to that compromise. The public record shall include all of the following information:~~

~~(1) The name of the feepayer.~~

~~(2) The amount of unpaid fees and related penalties, additions to fees, interest, or other amounts involved.~~

~~(3) The amount offered.~~

~~(4) A summary of the reason why the compromise is in the best interest of the state.~~

~~The public record shall not include any information that relates to any trade secrets, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the feepayer or violate the confidentiality provisions of Section 55381. No list shall be prepared and no releases distributed by the board in connection with these statements.~~

~~(k) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished, without regard to any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise refunded, if either of the following occurs:~~

~~(1) The board determines that any person did any of the following acts regarding the making of the offer:~~

~~(A) Concealed from the board any property belonging to the estate of any feepayer or other person liable for the fee.~~

~~(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the feepayer or other person liable for the fee.~~

~~(2) The feepayer fails to comply with any of the terms and conditions relative to the offer.~~

~~(l) Any person who, in connection with any offer or compromise under this section, or offer of that compromise to enter into that agreement, willfully does either of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned pursuant to subdivision~~

1 (h) of Section 1170 of the Penal Code, or both, together with the
2 costs of investigation and prosecution:

3 (1) ~~Conceals from any officer or employee of this state any~~
4 ~~property belonging to the estate of a feepayer or other person liable~~
5 ~~in respect of the fee.~~

6 (2) ~~Receives, withholds, destroys, mutilates, or falsifies any~~
7 ~~book, document, or record, or makes any false statement, relating~~
8 ~~to the estate or financial condition of the feepayer or other person~~
9 ~~liable with respect to the fee.~~

10 (m) For purposes of this section, “person” means the feepayer,
11 any member of the feepayer’s family, any corporation, agent,
12 fiduciary, or representative of, or any other individual or entity
13 acting on behalf of, the feepayer, or any other corporation or entity
14 owned or controlled by the feepayer, directly or indirectly, or that
15 owns or controls the feepayer, directly or indirectly.

16 (n) This section shall become operative on January 1, 2013.

17 SEC. 6. — No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.