



Bill Analysis

Author: Brough

Sponsor:

Bill Number: AB 2886

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Introduced: February 21,
2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Tax administration request to appeal form

SUMMARY

This bill would require certain notices issued by the Franchise Tax Board (FTB) and the California Department of Tax and Fee Administration (CDTFA) to include a request to appeal form.

This analysis only discusses the provisions that impact the department's programs and operations.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to ensure taxpayers are provided a form to appeal a CDTFA or FTB action to the Office of Tax Appeals (OTA).

ANALYSIS

Under the Administration of Franchise and Income Tax Law, this bill would require the FTB, beginning January 1, 2021, to include with each mailed Notice of Action, a copy of the OTA's Request to Appeal form, or any subsequent form, required by the OTA to appeal an action by the FTB.

Effective/Operative Date

Assuming enactment by September 30, 2020, this bill would become effective and operative on January 1, 2021, and would apply to a Notice of Action mailed on or after that date.

Federal/State Law

Federal Law

Because this bill would only modify a noticing requirement related to an appeal of an FTB Notice of Action, a review of federal income tax law would not be relevant.

State Law

Current state law requires the FTB to include on a Notice of Action, the last day to file an appeal.

Current state law lacks provisions requiring the department's mailed Notices of Action to include the OTA's Request to Appeal form.

Implementation Considerations

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The FTB may notify a taxpayer of the denial of a claim for refund either by a Notice of Action or a claim for refund denial letter. For consistent application of this bill to FTB actions, the author may wish to amend subdivision (b) of Revenue & Taxation Code (R&TC) section 19323 to also refer to a mailing of a claim for refund denial letter.

Technical Considerations

For consistent use of terminology the phrase "Request to Appeal" should be replaced with "Request for Appeal" throughout the bill.

For consistent use of terminology the phrase "a notice of action by" on lines 1 and 14 of page 3, should be replaced with the phrase "the action of".

For clarity, on line 17 of page 3, "to this subdivision" should be replaced with "to subdivision (a)".

For clarity, it is suggested that the phrase "or any subsequent form, required" on line 26 of page 2 and line 13, of page 3, be replaced with the phrase "or equivalent successor form, allowed".

Policy Concerns

None noted.

LEGISLATIVE HISTORY

SB 92 (Committee on Budget and Fiscal Review, Chapter 34, Statutes of 2019) among other things, required the OTA to establish a process for an appellant to opt to appear before one administrative law judge rather than a three member tax appeals panel.

AB 102 (Committee on Budget, Chapter 16, Statutes of 2017) enacted the Taxpayer Transparency and Fairness Act of 2017, that among other things, created the OTA and effective January 1, 2018, requires the OTA to conduct hearings on appeals from actions of the FTB.

AB 131 (Assembly Committee on Budget, Chapter 252, Statutes of 2017) made clarifying and conforming changes with regard to the transfer of duties from the State Board of Equalization to the OTA.

PROGRAM BACKGROUND

The OTA is an independent and impartial appeals body created by the Taxpayer Transparency and Fairness Act of 2017. The office was established to hear appeals from California taxpayers regarding various taxes and fees administered by the CDTFA and the FTB. Tax disputes involving personal income, corporate franchise and income, sales and use, excise, and other taxes and fees are decided by one or more administrative law judges.

An appellant may but is not required to use the OTA's Request for Appeal, OTA Form L-01, to file their appeal.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced February 21, 2020, would not impact the calculation of state income or franchise tax.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

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