



## **Bill Analysis**

Author: Committee on Budget and Fiscal Review      Bill Number: SB 92

**Subject:** Office of Tax Appeals: Establish Alternative to Appear Before a Tax Appeals Panel

### **Summary**

This bill would, under the Government Code, require the Office of Tax Appeals (OTA) to establish a process for appellants to select an alternative to appearing before a tax appeals panel.

This bill would also modify provisions of the Revenue and Taxation Code relating to sales and use tax.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

### **Reason for the Bill**

The reason for the change related to the OTA is to establish a process for an appellant meeting specified criteria to opt to appear before one Administrative Law Judge (ALJ), rather than a tax appeal panel.

### **Effective/Operative Date**

This bill, providing for appropriations related to the Budget Bill and identified as a bill related to the budget in the Budget Bill, would be effective and operative immediately upon enactment. The provisions relating to the OTA would be operative until January 1, 2030.

### **State Law**

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 California Department of Tax and Fee Administration (CDTFA) and the Franchise Tax Board. Tax disputes involving personal income, corporate franchise and income, sales and use, excise and other taxes and fees are decided by a tax appeals panel; a three-member panel of ALJs, each of whom is an expert in tax law. The OTA is independent of the state's tax agencies.

**This Bill**

Under the provisions of this bill, the OTA would be required to establish a process for an appellant to opt to appear before one ALJ rather than a tax appeals panel if one of the following criteria applies:

- The appeal arises from a tax imposed pursuant to the Personal Income Tax Law and the disputed amount, including penalties and fees, is less than five thousand dollars.
- The appeal arises from a tax or fee administered by the CDTFA and both of the following are satisfied:
  - The appellant's gross receipts are less than twenty million dollars, and
  - The total amount in dispute, including penalties and fees, is less than fifty thousand dollars.

Decisions reached under this process would be specifically excluded from having precedential effect.

The ability to opt to appear before one ALJ would remain in effect until January 1, 2030, and be repealed as of that date.

**Legislative History**

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.

**Other States' Information**

Since this bill would modify the OTA's appeal process, a review of other states' income tax laws would not be relevant.

**Fiscal Impact**

This bill would not significantly impact the department's costs.

**Economic Impact**

Revenue Estimate

This bill would not impact the state's income tax revenue.

**Appointments**

None.

**Votes**

Location	Date	Yes Votes	No Votes
Assembly Floor	June 17, 2019	76	0
Senate Floor	June 17, 2019	40	0

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