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SB-440 State Board of Equalization: returns and payment: extension: state of emergency. (2021-2022)

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Senate Bill No. 440

CHAPTER 299

An act to amend Sections 32255 and 32256 of, and to add Section 32253.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 13, 2022. Filed with Secretary of State September 13, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 440, Dodd. State Board of Equalization: returns and payment: extension: state of emergency.

Existing law authorizes the State Board of Equalization to extend, for good cause, the time, not to exceed one month, for a taxpayer to submit any report or pay any tax required to be paid under provisions of the Alcoholic Beverage Tax Law. In the case of a disaster, as defined, existing law authorizes the board to extend the time for making any report or return or paying any tax required under the Alcoholic Beverage Tax Law by up to 3 months. That law also authorizes the board to relieve a person of a penalty imposed, or interest accrued, for failure to make a timely return or payment in specified circumstances, including reasonable cause and circumstances beyond the person's control.

This bill would authorize the board to extend the time, not to exceed 3 months, for a taxpayer to make any report or return or pay any tax required under provisions of the Alcoholic Beverage Tax Law for any person in an area identified in a state of emergency proclamation issued by the Governor. The bill would additionally authorize the board to grant relief of penalties or interest accrued by a person in an area identified in a state of emergency proclamation made by the Governor for the period the state of emergency proclamation is effective, as specified. The bill, however, would authorize the board to make the extension or grant the relief only during the first 12 months following the issuance of the state of emergency proclamation or the duration of the state of emergency, whichever is less.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 32253.5 is added to the Revenue and Taxation Code, to read:

32253.5. (a) Subject to subdivision (c), if the Governor issues a state of emergency proclamation, the board may extend the time, for a period not to exceed three months, for making any report or return or paying any tax required under this part for any person in an area identified in the state of emergency proclamation.

(b) If the board makes an extension pursuant to subdivision (a), any person in an area identified in a state of emergency proclamation shall not be required to file a request for the extension.

(c) The board may make the extension in subdivision (a) only during the first 12 months following the issuance of the state of emergency proclamation or the duration of the state of emergency, whichever is less.

SEC. 2. Section 32255 of the Revenue and Taxation Code is amended to read:

32255. (a) If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 32252, 32260, 32291, and 32305.

(b) Except as provided in subdivisions (c) and (d), a person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(c) (1) Subject to paragraph (2), the board may grant relief of the penalty for any person in an area identified in a state of emergency proclamation made by the Governor for the period the state of emergency proclamation is effective, regardless of whether the person has filed a statement with the board pursuant to subdivision (b).

(2) The board may grant the relief in paragraph (1) only during the first 12 months following the issuance of the state of emergency proclamation or during the duration of the state of emergency, whichever is less.

(d) The board shall establish criteria that provide for efficient resolution of requests for relief pursuant to this section.

SEC. 3. Section 32256 of the Revenue and Taxation Code is amended to read:

32256. (a) If the board finds that a person's failure to make a timely report or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 32252, 32253, 32260, and 32291.

(b) Except as provided in subdivision (c), a person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which the person bases the claim for relief.

(c) (1) Subject to paragraph (2), the board may grant relief of the interest for any person in an area identified in a state of emergency proclamation made by the Governor for the period the state of emergency proclamation is effective, regardless of whether the person has filed a statement with the board pursuant to subdivision (b).

(2) The board may grant the relief in paragraph (1) only during the first 12 months following the issuance of the state of emergency proclamation or during the duration of the state of emergency, whichever is less.