

**Amend Sections 32255, 32256.5, 43158.5, 45156.5, 46157.5, 50112.4 and 55046 of the Revenue and Taxation Code to delete obsolete section references.**

**Source: Legislative Division**

Under existing law, Section 32255 of the Revenue and Taxation Code provides the Board with the authority to relieve persons of the *penalty* imposed for a person's failure to make a timely return or payment when the Board finds that the failure was due to reasonable cause. To be relieved of the penalty, the law requires that the person seeking relief file a statement under penalty of perjury setting forth the facts upon which his or her claim for relief is based.

Under existing law, Sections 32256.5, 43158.5, 45156.5, 46157.5 and 50112.4 of the Revenue and Taxation Code provide the Board with the authority to relieve persons of the *interest* imposed for a person's failure to pay tax, when the Board finds that the failure was due to unreasonable error or delay by an employee of the Board acting in his or her official capacity. To be relieved of the penalty, the law requires that the person seeking relief file a statement under penalty of perjury setting forth the facts upon which his or her claim for relief is based.

The Board sponsored legislation in 2000 (AB 2894, Ch. 923) that combined the provisions for failure to pay tax and failure to file a return into one statute. AB 2894 resulted in repeal of Sections 32254, 32292, 43156, 45154, 46155, and 50112.1, and therefore made obsolete the reference to those sections in Sections 32255, 32256.5, 43158.5, 45156.5, 46157.5 and 50112.4.

This proposal would simply correct these obsolete referencing errors in order to avoid confusion for taxpayers. The Board would continue to relieve persons of the penalty or interest imposed for a person's failure to pay tax when the Board finds that the failure was due to unreasonable error or delay by an employee of the Board acting in his or her official capacity.

*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, ~~32292~~, and 32305.

(b) Except as provided in subdivision (c), any 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 he or she bases his or her claim for relief.

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

*Section 32256.5 of the Revenue and Taxation Code is amended to read:*

32256.5. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Sections ~~32252~~~~32254~~ and 32291 where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on tax liabilities that arise during taxable periods commencing on or after January 1, 2000.

*Section 43158.5 of the Revenue and Taxation Code is amended to read:*

43158.5. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section ~~43155~~~~43156~~ and may relieve all or any part of the interest imposed on a person by Section 43201 where the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the taxpayer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on tax liabilities that arise during taxable periods commencing on or after January 1, 2000.

*Section 45156.5 of the Revenue and Taxation Code is amended to read:*

45156.5 (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section ~~45153~~~~45154~~ and may relieve all or any part of the interest imposed on a person by Section 45201 where the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or

in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the fee payer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require. (d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.

*Section 46157.5 of the Revenue and Taxation Code is amended to read:*

46157.5. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Sections ~~4615446155~~ and 46253 where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the fee payer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during fee periods commencing on or after January 1, 2000.

*Section 50112.4 of the Revenue and Taxation Code is amended to read:*

50112.4. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section ~~5011250112.4~~ and may relieve all or any part of the interest imposed on a person by Section 50113 when the deficiency determination is made because no return was filed or payment of the fee was not made timely, where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the fee payer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.

*Section 55046 of the Revenue and Taxation Code is amended to read:*

55046. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by Section ~~55043~~ 55042 and may relieve all or any part of the interest imposed on a person by Section 55061 when the deficiency determination is made because no return was filed or payment of the fee was not made timely, or where the failure to pay fees is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

(b) For purposes of this section, an error or delay shall be deemed to have occurred only if no significant aspect of the error or delay is attributable to an act of, or a failure to act by, the fee payer.

(c) Any person seeking relief under this section shall file with the board a statement under penalty of perjury setting forth the facts on which the claim for relief is based and any other information which the board may require.

(d) The board may grant relief only for interest imposed on fee liabilities that arise during taxable periods commencing on or after January 1, 2000.