

Amend Section 6479.3 of the Sales and Use Tax Law to eliminate the requirement that persons voluntarily electing to remit amounts due by electronic funds transfers must do so for a minimum of one year. Similar amendments would be made to the Special Taxes laws.

Source: Honorable Bill Leonard

Existing Law:

Under existing law, Section 6479.3 of the Revenue and Taxation Code provides the statutory authority to require taxpayers with monthly tax liabilities averaging \$20,000 or more to remit their tax payments via an electronic funds transfer (EFT). Under the law, other taxpayers may voluntarily elect to remit their tax liabilities via the EFT method, but the law requires that these taxpayers continue this method of payment for a minimum of one year.

This Proposal:

This proposal would delete the provision that requires those taxpayers who voluntarily remit their funds by the EFT method to continue that method for a minimum of one year.

In 1991, when the EFT provisions were added into the law, the process to transmit and accept payments via EFT was a relatively new concept. The one-year minimum requirement was incorporated into the provisions, because it was believed at the time that acceptance of payments in different forms from the same taxpayer could complicate matters. However, now with the frequency and familiarity with the EFT payment methodology, the one-year minimum requirement is no longer necessary. And, most taxpayers that voluntarily choose to remit their payments via EFT likely prefer that method, so there is no apparent reason to require volunteers to commit to the EFT program for a year or more at the outset. In fact, such a requirement could actually discourage taxpayers from volunteering for the EFT program.

Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars (\$20,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board. ~~The election shall be operative for a minimum of one year.~~

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f) Except as provided in Sections 6473 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars (\$20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Similar amendments would be incorporated into the EFT provisions contained in the various Special Taxes and Fees laws.