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Revenue and Taxation

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Revenue and Taxation

Revenue and Taxation; net operating loss deduction for tax years 1991 and 1992--taxpayers in enterprise zones and program areas

Revenue and Taxation §§ 17276.3, 24416.3 (amended).
AB 1951 (Nolan); 1992 STAT. Ch. 52
(Effective May 8, 1992)

Under prior law, qualified taxpayers¹, engaged in the conduct of a qualified business² within a program area³ or enterprise zone⁴, were prohibited from carrying forward net operating losses⁵ into taxable years⁶ 1991 or 1992.⁷ Chapter 52 allows qualified taxpayers

1. See CAL. REV. & TAX. CODE §§ 17276.2, 24416.2 (West Supp. 1992) (defining qualified taxpayer).

2. See CAL. GOV'T CODE § 7082(h) (West Supp. 1992) (defining qualified business).

3. See *id.* § 7082(h)(3)(i) (West Supp. 1992) (defining program area).

4. See *id.* § 7073.5 (West Supp. 1992) (outlining the eligibility requirements for designation as an enterprise zone); see also 42 U.S.C. §§ 11501-11505 (1988) (outlining the federal Enterprise Zone Program). See generally David Williams, II, *The Enterprise Zone Concept at the Federal Level: Are Proposed Tax Incentives the Needed Ingredient?*, 9 VA. TAX. REV. 711 (1990) (exploring enterprise zones from both an historical and conceptual perspective, their use on both state and federal levels, and providing a comparative analysis of the effectiveness of enterprise zones in conjunction with tax incentives).

5. See CAL. REV. & TAX. CODE §§ 17276.1, 24416.2(a)(2)(A) (West 1992 & Supp. 1992) (defining net operating losses); see also *id.* §§ 17276-17276.2, 24416-24416.2 (West Supp. 1992) (making specific modifications to net operating losses); 26 U.S.C. § 172 (1988) (defining net operating loss).

6. See CAL. REV. & TAX. CODE § 17010 (West 1983) (defining taxable year).

7. 1991 Cal. stat. ch. 474, sec. 10, at 2067 (enacting CAL. REV. & TAX. CODE §§ 17276.3, 24416.3). Chapter 52 retains the prohibition against deductions of net operating losses for tax years beginning in 1991 and 1992 for all taxpayers except qualified taxpayers. CAL. REV. & TAX. CODE §§ 17276.3, 24416.3 (amended by Chapter 52).

to deduct net operating losses from taxable years beginning in the 1991 and 1992 calendar years.⁸

BAB

Revenue and Taxation; property taxation--assessment

Revenue and Taxation Code § 610 (amended).
SB 1340 (Green); 1992 STAT. Ch. 395

Under existing law, any person¹ claiming property² described on the roll³ and desiring to be assessed for it may have his or her name inserted with that of the assessee.⁴ Chapter 395 requires that, in order

8. *Id.* §§ 17276.3, 24416.3 (amended by Chapter 52); *see* 1992 Cal. Legis. Serv. Ch. 52, sec. 3, at 164 (West) (amending CAL. REV. & TAX. CODE §§ 17276.3, 24416.3) (declaring that the "act serves a public purpose because the net operating loss deduction is a major incentive for business to create and maintain jobs in enterprise zones and program areas which are places of great economic distress"). *But see* Ralph Frammolino, *Enterprise Zones Fall Short of Promises*, L.A. TIMES, June 14, 1992, at Part A, 3 (explaining that the current data on the effectiveness of enterprise zone incentives in California is far from conclusive).

1. *See* CAL. REV. & TAX. CODE § 6005 (West 1987) (defining person).

2. *See id.* § 104 (West Supp. 1992) (defining real property); *see also id.* § 441 (West Supp. 1992) (requiring inclusion of taxable personal property having an aggregate cost of \$30,000 or more in a registry maintained in the records of the county assessor).

3. *See id.* § 109 (West Supp. 1992) (defining roll as the entire assessment roll; defining secured roll as that part of the roll containing assessed property and property on which is a lien sufficient to secure payment of taxes; defining local roll as those parts of the secured and unsecured rolls containing property assessed in the county in which they appear); *id.* § 602 (West Supp. 1992) (defining contents of local roll).

4. *Id.* § 611 (West Supp. 1992); *see* Janke v. McMahon, 21 Cal. App. 781, 787, 133 P. 21, 24 (1913) (holding that failure to have land assessed suggests an absence of a claim of ownership); CAL. CIV. PROC. CODE § 325 (West 1982) (defining obligations of person claiming land by adverse possession, including the paying of assessed and levied taxes); *see* CAL. REV. & TAX. CODE §§ 441-443, 445 (West Supp. 1992) (delineating procedures for assessments of personal property and information required from the taxpayer); *id.* § 442 (West Supp. 1992) (requiring that every person claiming property furnish particular information to the assessor prior to inclusion on the roll); *id.* § 441 (West Supp. 1992) (requiring that every person advancing such a claim submit a statement declared to be true under penalty of perjury); 33 Cal. Op. Att'y. Gen. 118, 118-119 (1959) (stating that a person does not have an absolute right to have his name included on the property roll absent proof to the satisfaction of the assessor of an interest in the property in question). Attorney General Mosk provided: "Where the claimant has failed to comply with the requirements of [California Revenue and Tax Code sections 441-445], the assessor could properly disregard the request." *Id.* at

to be listed on the roll, a person claiming property provide the county assessor with supporting documentation concerning ownership⁵ or a security interest⁶ in the property, or a declaration of possession of the property⁷ and intention to be assessed for the property in order to perfect the claim.⁸

SEA

Revenue and Taxation; property taxation

Probate Code § 8800 (amended); Revenue and Taxation Code §§ 63.1, 69.5, 214, 214.2, 218, 532.2 (amended).
SB 1639 (Greene); 1992 STAT. Ch. 1180

120. *see also* CAL. CONST. art. XIII, § 1 (providing the basis for taxation of property); *id.* art. XIII, § 9 (providing for the assessment of taxes); *Nordlinger v. Hahn*, 112 S.Ct. 2326, 2335 (1992) (upholding the constitutionality of article XIII). *See generally* CAL. GOV'T CODE § 29100 (West Supp. 1992) (providing for the adoption of tax rates on the secured roll); CAL. REV. & TAX. CODE § 443 (West Supp. 1992) (requiring the county where the property is taxable to be included in the statement by the taxpayer); CAL. GOV'T CODE § 29120 (West Supp. 1992) (limiting the power of counties to incur obligations); CAL. REV. & TAX. CODE § 23 (West 1987) (defining an assessee).

5. *See* CAL. REV. & TAX. CODE § 610(b)(1) (amended by Chapter 395) (describing as evidence of a claim of ownership a deed, judgment, or other instrument that creates or legally verifies that person's ownership interest in the property).

6. *See id.* § 610(b)(2) (amended by Chapter 395) (describing as evidence of a claim of security interest a certified copy of a document creating that interest).

7. *See id.* § 107 (West Supp. 1992) (defining possessory interests); *id.* § 104(a) (West Supp. 1992) (including as taxable real property interest possessory interests as well as complete ownership).

8. *Id.* § 610(b) (amended by Chapter 395); *see id.* § 610(b)(3) (amended by Chapter 395) (requiring a declaration by the person in possession desiring inclusion on the rolls for the purpose of perfecting a claim in adverse possession); CAL. CIV. PROC. CODE § 325 (West Supp. 1992) (describing that which constitutes adverse possession under claim of unwritten title). The declarations concerning property interests must be made under penalty of perjury. CAL. REV. & TAX. CODE § 610(b)(3) (amended by Chapter 395); *see* CAL. PENAL CODE § 118 (West Supp. 1992) (defining perjury).

Under existing law, a personal representative¹ administering the probate² of a decedent's estate must file an inventory and appraisal of the estate property.³ Under Chapter 1180, the personal representative who administers the estate is required to certify in writing that a change in ownership statement⁴ has been filed with the county assessor⁵ or that a change in ownership statement is not required.⁶

1. See CAL. PROB. CODE § 58 (West 1991) (defining personal representative as including an executor, administrator, administrator with the will annexed, special administrator, successor personal representative, or a person who performs the same functions under applicable state laws); BLACK'S LAW DICTIONARY 570 (6th ed. 1991) (defining an executor as a person appointed to carry out the directions and requests in a will, and to dispose of property according to provisions of the will); CAL. PROB. CODE § 8420 (West 1991) (authorizing a person named executor in a will to act as personal representative); *id.* § 8460 (West 1991) (empowering the court to appoint an administrator as personal representative if the decedent dies intestate); *id.* § 9600 (West 1991) (delineating the duties and obligations of a personal representative of an estate including managing and controlling the estate).

2. See BLACK'S LAW DICTIONARY 1202 (6th ed. 1991) (noting the definition of probate, by current usage, to be expanded to include the process of administration of a decedent's estate). The process includes collecting the decedent's assets, satisfying particular obligations, and distributing property to heirs. *Id.*

3. CAL. PROB. CODE § 8800 (amended by Chapter 1180). Additionally, the personal representative is required to file, in accordance with the provisions of section 480 of the California Revenue & Taxation Code, a statement of ownership for all real property owned by the decedent subject to property taxes or a statement that the decedent owned no real property subject to local property taxation. *Id.* § 8800(d) (amended by Chapter 1180).

4. See CAL. REV. & TAX. CODE § 480 (West 1987) (requiring a change in ownership statement to be filed with the recorder or assessor in each county where real property is located). The personal representative for a decedent is also required to file a similar statement in each county where the decedent owned property. *Id.* The statement must include descriptions of the property, parties to, and terms of the transaction, but is limited to questions relevant to assessment of the property. *Id.*; see *id.* § 480.4 (West Supp. 1992) (prescribing the form of the change in ownership statement).

5. See *id.* § 441 (West Supp. 1992) (delineating procedures for assessments of personal property and information required from the taxpayer); *id.* § 442 (West Supp. 1992) (requiring that every person claiming property furnish specified information to the assessor prior to inclusion on the roll); *id.* § 443 (West 1987) (requiring the county where the property is taxable to be included in the statement by the taxpayer); *id.* § 23 (West 1987) (defining an assessee); see also CAL. CONST. art. XIII, § 1 (providing the basis for taxation of property); *id.* art. XIII, § 9 (providing for the assessment of taxes); *Nordlinger v. Hahn*, 112 S. Ct. 2326, 2336 (1992) (upholding the constitutionality of article XIII).

6. CAL. PROB. CODE § 8800 (amended by Chapter 1180).

Under prior law, an assessor⁷ was permitted to assess any property⁸ which was granted a welfare exemption⁹ from assessment of taxes¹⁰ while under construction¹¹ if it was determined upon completion of construction that the property was not being used exclusively for purposes included in the welfare exemption.¹² Property no longer meeting exemption requirements is considered escaped property.¹³ Chapter 1180 requires the assessor to assess escaped property.¹⁴ Chapter 1180 limits the assessment to that portion of the property that is being used for purposes outside of the scope of the welfare exemption.¹⁵

SEA

7. See CAL. REV. & TAX. CODE § 128 (West 1987) (defining assessor as the assessing officer of a county).

8. See *id.* § 104 (West 1987) (defining real property as including land, mines, minerals, quarries in land, standing timber, and improvements to which a person may claim a right or privilege of possession or ownership).

9. See CAL. CONST. art. XIII, § 3 (declaring as exempt from property taxation, amongst others, public property, libraries, museums, schools, church property, and cemeteries); CAL. REV. & TAX. CODE § 214 (West 1987) (exempting from taxation property used for religious, hospital, scientific, charitable, or educational purposes).

10. See generally CAL. CONST. art. XIII, § 1 (providing the basis for taxation of property); *id.* art. XIII, § 9 (providing for the assessment of taxes).

11. See CAL. REV. & TAX. CODE § 214.2 (amended by Chapter 1180) (defining facilities in the course of construction as including onsite physical activity connected with construction or rehabilitation of new or existing buildings); *id.* § 214.1 (West 1987) (including as tax exempt facilities those in the course of construction which are used exclusively for religious, hospital or charitable purposes); *J. Paul Getty Museum v. Los Angeles County*, 148 Cal. App. 3d 600, 605, 195 Cal. Rptr. 916, 919 (1983) (holding that a museum categorized as a charitable activity was entitled to an exemption from property taxation during the time that it was in the course of construction); see also 51 Cal. Op. Att’y Gen. 88, 91 (1968) (excluding from categorization as “under construction” preparatory and planning materials and activities where no physical evidence of any construction exists on the property).

12. 1991 Cal. Stat. ch. 897, sec. 2, at 3506 (enacting CAL. REV. & TAX. CODE § 532.2).

13. CAL. REV. & TAX. CODE § 532.2 (amended by Chapter 1180) (defining as escaped property that which was previously granted but is no longer eligible, in whole or part, for exclusion from property tax assessment); see *id.* §§ 531-534 (West 1987 & Supp. 1992) (enumerating procedures involving assessment of escaped property).

14. *Id.* § 532.2 (amended by Chapter 1180).

15. *Id.* Property is deemed to be escaped if construction is abandoned or if, upon completion of construction, the property is not used exclusively for charitable purposes. *Id.*

Revenue and Taxation; reporting period for changes to reported gross income; minimum tax on banks and corporations

Revenue and Taxation Code §§ 18451, 18586.2, 18586.3, 19053.6, 23153, 25432, 25673, 25674, 26073.4 (amended). SB 571 (Hill); 1992 STAT. Ch. 335

Prior law required a taxpayer to report changes or corrections of the taxpayer's gross income or deductions that were reported to the United States Treasury Department within ninety (90) days to the Franchise Tax Board (Board).¹ Also, under prior law, if a taxpayer filed an amended return with federal authorities the taxpayer was required to file an amended return with the Board within ninety (90) days.² Chapter 335 lengthens to six (6) months the period for reporting to the Board a change in gross income or deductions,³ and the period for filing an amended return.⁴

1. 1967 Cal. Stat. ch. 1479, sec. 7, at 3461 (amending CAL. REV. & TAX. CODE § 18451) (amended by Chapter 335); 1967 Cal. Stat. ch. 1709, sec. 4, at 4270 (amending CAL. REV. & TAX. CODE § 25432) (amended by Chapter 335). *See generally* 26 C.F.R. § 601.103 (1991) (summarizing the general federal tax procedure); 26 C.F.R. § 601.105 (1991) (describing the federal examination of correct tax liability); Kenneth L. Harris, *On Requiring the Correction of Error Under the Federal Tax Law*, 42 TAX LAW. 515, 515 (1989) (describing the voluntary aspects of the federal tax procedure); Sean M. Moran, *The Presumption of Correctness: Should the Commissioner Be Required To Carry the Initial Burden of Production*, 55 FORDHAM L. REV. 1037, 1092 (1987) (describing the procedure that the Internal Revenue Service uses to discover errors in reported taxpayer income or deductions). When a change or correction is reported, the taxpayer must concede the accuracy of the change, or correction or state wherein it is erroneous. CAL. REV. & TAX. CODE § 18451(a) (amended by Chapter 335).

2. 1967 Cal. Stat. ch. 1479, sec. 7, at 3461 (amending CAL. REV. & TAX. CODE § 18451) (amended by Chapter 335); 1967 Cal. Stat. ch. 1709, sec. 4, at 4270 (amending CAL. REV. & TAX. CODE § 25432) (amended by Chapter 335).

3. CAL. REV. & TAX. CODE § 18541(a) (amended by Chapter 335); *id.* § 25432(a) (amended by Chapter 335); *see id.* § 18451(c) (amended by Chapter 335); *id.* § 25432(c) (amended by Chapter 335) (authorizing the Board to prescribe the form and manner for the report of changes or corrections to returns). Chapter 335 also applies to a change or correction to gross income or deductions that is the result of the renegotiation of a contract or subcontract with the United States. *Id.* § 18451(a) (amended by Chapter 335); *id.* § 25432(a) (amended by Chapter 335). Changes or corrections need not be reported unless they affect the amount of tax payable under division 2, part 10 of the Revenue and Taxation Code. *Id.* § 18451(a) (amended by Chapter 335).

4. *Id.* § 18451(b) (amended by Chapter 335); *id.* § 25432(b) (amended by Chapter 335); *see id.* § 18451(c) (amended by Chapter 335); *id.* § 25432(c) (enacted by Chapter 335) (authorizing the Board to prescribe the form and manner for filing of amended returns). Changes or corrections need not be reported unless they affect the amount of tax payable under division 2, parts 10 and 11 of the Revenue and Taxation Code. *Id.* § 18451(b) (amended by Chapter 335); *id.* § 25432(b) (amended by

Prior law provided that if a taxpayer failed to report a gross income or deduction change, or failed to file an amended return, a notice of proposed deficiency was required to be mailed to the taxpayer by the Board within four (4) years.⁵ Chapter 335 allows the Board to mail the notice of proposed deficiency at any time after a taxpayer fails to report a change to gross income or deductions, or to file an amended return.⁶ The Board may only mail a notice of proposed deficiency within four years if a report of change or amended return is made after the period required for such a report.⁷

Prior law stated that if a taxpayer reported a change or correction or filed an amended return within the required period, a notice of proposed deficiency or claim for refund could be filed within six (6) months.⁸ Chapter 335 extends the period for filing a notice of proposed deficiency or claim for refund to two (2) years.⁹

Existing law requires all banks and corporations subject to tax to pay annually a minimum franchise tax fee of \$800.¹⁰ Chapter 335

Chapter 335).

5. 1982 Cal. Stat. ch. 454, sec. 158, at 1828 (amending CAL. REV. & TAX. CODE § 18586.2) (amended by Chapter 335); 1959 Cal. Stat. ch. 273, sec. 6, at 2177 (amending CAL. REV. & TAX. CODE § 25673) (amended by Chapter 335).

6. CAL. REV. & TAX. CODE § 18586.2(a) (amended by Chapter 335); *id.* § 25673(a) (amended by Chapter 335).

7. *Id.* § 18586.2(b) (amended by Chapter 335); *id.* § 25673(b) (amended by Chapter 335).

8. 1959 Cal. Stat. ch. 414, sec. 8, at 2351 (amending CAL. REV. & TAX. CODE § 18586.3) (amended by Chapter 335); 1969 Cal. Stat. ch. 980, sec. 17, at 1943 (enacting CAL. REV. & TAX. CODE § 19053.6) (amended by Chapter 335); 1988 Cal. Stat. ch. 160, sec. 175, at 597 (amending CAL. REV. & TAX. CODE § 26073.4) (amended by Chapter 335).

9. CAL. REV. & TAX. CODE § 18586.3(a) (amended by Chapter 335); *id.* § 25674(a)-(b) (amended by Chapter 335); *id.* § 26073.4 (amended by Chapter 335); *see id.* § 18586.3(b) (amended by Chapter 335) (applying a two (2) year filing period for a refund or credit claim to personal income taxpayers).

10. *Id.* § 23153(d)(1) (West 1992). Corporations or banks are subject to the minimum franchise tax if they are incorporated in California, qualified to transact intrastate business in California, or doing business in California. *Id.* § 23153(b)(1)-(3) (West 1992). Credit unions are not subject to the fee. *Id.* § 23153(c) (West 1992). Additionally, inactive gold and quicksilver mining corporations pay a minimum fee of twenty-five dollars (\$25). *Id.* § 23153(d)(2)(A)-(B) (West 1992).

mandates that the minimum franchise tax fee cannot increase by more than ten percent (10%) during any calendar year.¹¹

PGT

Revenue and Taxation; sales and use taxes--fuel

Revenue and Taxation Code §§ 6480.21, 8616, 8740, 8752
(amended).

SB 1351 (Davis); 1992 STAT. Ch. 889

Existing law requires fuel producers¹ or importers² to collect prepayments of retail sales taxes from individuals to whom the fuel is first sold in California, and remit the taxes to the State Board of Equalization.³ Chapter 889 requires producers and importers of fuel to refund these prepayments where the fuel is exempt from taxation because it is sold to an air common carrier⁴ for immediate consumption or shipment⁵ in the conduct of its business as an air common carrier on a flight whose first destination is foreign.⁶

11. *Id.* § 23153(f) (amended by Chapter 335).

1. *See* CAL. REV. & TAX. CODE § 6480.12 (West Supp. 1992) (defining producer as any person who produces fuel in California).

2. *See id.* § 6480.11 (West Supp. 1992) (defining importer as any person who imports fuel in California).

3. *Id.* §§ 6480.16(a), (e), 6480.1 (West Supp. 1992); *see* CAL. GOV'T CODE §§ 15601-15625 (West 1992) (enumerating the powers, duties, and qualifications for the State Board of Equalization).

4. *See* CAL. BUS. & PROF. CODE § 23046 (West 1985) (defining air common carrier as a person engaged in regularly scheduled air transportation between fixed terminals under a certificate of public convenience and necessity).

5. *See* CAL. REV. & TAX. CODE § 6357.5(d) (West Supp. 1992) (defining immediate consumption or shipment as delivery of fuel and petroleum products by the seller directly into an aircraft for consumption or transportation outside the United States and not for storage by the purchaser or any third party).

6. *Id.* § 6480.21(a)(2) (amended by Chapter 889); *see id.* § 6357.5(c) (West Supp. 1992) (defining foreign destination); *cf.* ILL. REV. STAT. ch. 120, para. 439.3-5(12), 439.33-5(8), 439.103-5(8), 441-5(22) (Smith-Hurd 1991 & Supp. 1992) (allowing exemptions in use taxes, service taxes, service occupation taxes, and retail taxes for fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for a destination outside the

Existing law states that a wholesaler shall not collect the use tax if the person buying the fuel issues a certificate which certifies that the fuel is to be used for a purpose exempted by law.⁷ Chapter 889 specifies circumstances in which the issuance of a certificate is not required to qualify for an exemption from the tax,⁸ and allows the State Board of Equalization to authorize the purchase of fuel without payment of the tax.⁹

Existing law requires wholesalers of fuel to collect use taxes from retailers and includes among wholesalers persons who sell fuel in this state for resale to a retailer, or to person who is not a retailer and subsequently uses the fuel.¹⁰ Chapter 889 provides that "wholesaler" shall also include every person who is a retailer of fuel that is placed exclusively into the fuel tanks of watercraft.¹¹

BED

Revenue and Taxation; sales and use taxes--refund offsets

Government Code §§ 53550, 53552 (amended); Revenue and Taxation Code § 7204.2 (new); § 7204.1 (amended).
SB 992 (Royce); 1992 STAT. Ch. 802
(Effective September 22, 1992)

United States). It was the Legislature's intent in enacting § 6357.5 to allow domestic producers to compete equally with foreign producers because federal prohibitions on the taxation of imported airline fuel sold in California put domestic producers at a disadvantage. 1988 Cal. Stat. ch. 1227, sec. 1, at 4096-97 (enacting CAL. REV. & TAX. CODE § 6357.5).

7. CAL. REV. & TAX. CODE § 8740(a) (amended by Chapter 889).

8. *See id.* § 8740(f) (amended by Chapter 889) (providing that a wholesaler of liquified gas is not required to obtain an exemption certificate on sale of such gas when intended for home heating use, provided that the liquified petroleum gas is delivered into a tank that is not equipped with a fuel delivery device that would allow the fuel to be transferred into the tank of a motor vehicle).

9. *Id.* § 8740(b)-(e) (amended by Chapter 889).

10. *Id.* § 8616(a) (amended by Chapter 889); *id.* § 8736 (West Supp. 1992).

11. *Id.* § 8616(b) (amended by Chapter 889).

Existing law permits cities,¹ counties² and redevelopment agencies³ to adopt a sales and use tax,⁴ and requires that those entities contract with the State Board of Equalization (Board)⁵ for administration of the tax.⁶ Under existing law, when the Board makes a refund of taxes that exceeds the greater of \$50,000 or 20% of a local agency's quarterly taxes, the local agency may request that amount be transmitted to the agency.⁷ Existing law provides that upon receipt of a request, the Board is required to offset the refund amount against the periodic transmittals of tax revenues to the local agency over a period to be determined by the Board.⁸ Chapter 802 mandates that the Board make refund payments of each agency's

1. See CAL. GOV'T CODE §§ 34000-45345 (West 1988 & Supp. 1992) (providing for the government of cities).

2. See *id.* §§ 23000-33017 (West 1988 & Supp. 1992) (providing for the government of counties).

3. See CAL. REV. & TAX. CODE § 7200.1 (West Supp. 1992) (defining redevelopment agency as used in the Bradley-Burns Uniform Local Sales and Use Tax Law); *id.* § 7200 (West 1987) (defining the Revenue and Taxation Code sections 7200 through 7212 as the Bradley-Burn Uniform Local Sales and Use Law); CAL. HEALTH & SAFETY CODE § 33003 (West 1973) (defining redevelopment agency).

4. See CAL. REV. & TAX. CODE § 7202(a)(1) (West Supp. 1992) (authorizing the imposition of taxes); *id.* § 7202.5 (West Supp. 1992) (establishing a credit for any taxes due to a redevelopment agency); *id.* § 7202.6 (West Supp. 1992) (authorizing the imposition of taxes by a redevelopment agency). See generally *Leathers v. Medlock*, 111 S.Ct. 1438 (1991); *Bacchus Imports, Ltd. v. Dias*, 468 U.S. 263 (1984); *Southwest Concrete Prod. v. Gosh Const. Corp.*, 51 Cal. 3d 701, 274 Cal. Rptr. 404 (1990); *Union Oil Co. v. State Board of Equalization*, 60 Cal. 2d 441, 34 Cal. Rptr. 872 (1963) (upholding the constitutionality of sales and use taxes).

5. See CAL. CONST. art. XIII, § 13 (authorizing equalization of local assessment levels by the State Board of Equalization); CAL. GOV'T CODE § 15606 (West Supp. 1992) (providing for the powers and duties of the State Board of Equalization).

6. CAL. REV. & TAX. CODE § 7202(a)(8)(D) (West Supp. 1992).

7. *Id.* § 7204 (West 1987); see *id.* § 7204.1(a)(4) (amended by Chapter 802) (defining offset portion as that amount which exceeds the greater of \$50,000 or 20% of the local agency's quarterly taxes).

8. *Id.* § 7204.1(b) (amended by Chapter 802).

share of the refund amount through equal quarterly deductions from each local agency's share prior to the transmittal.⁹

STL

9. *Id.* § 7204.1(d) (amended by Chapter 802). The Legislature is apparently attempting to codify the decision in *Aerospace Corp. v. State Board of Equalization*, 218 Cal. App. 3d 1300, 267 Cal. Rptr. 685 (1990). 1992 Cal. Stat. ch. 802, sec. 1, at ___ (amending CAL. REV. & TAX. CODE § 7204.1). *Aerospace* requires state and local agencies to refund sales and use taxes, with interest, paid on purchases made in connection with federal defense contracts. *Aerospace*, 218 Cal. App. 3d at 1314, 267 Cal. Rptr. at 699. Chapter 802 permits refunds to be paid over a ten year period. CAL. REV. & TAX. CODE § 7204.1(d)(4) (amended by Chapter 802). Chapter 802 also requires the Legislature to continue to negotiate a settlement with the United States relating to the amount and repayment of the sales tax refund liability of state and local agencies. *Id.* § 7204.2(a) (enacted by Chapter 802). Further, Chapter 802 requires that a task force be established to implement a method of distribution of sales tax refund liability. *Id.* § 7204.2(b)(2) (enacted by Chapter 802). Chapter 802 is an urgency measure which will take effect immediately. 1992 Cal. Stat. ch. 802, sec. 6, at ___.

