



1-1-1989

Revenue and Taxation

University of the Pacific; McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/mlr>



Part of the [Legislation Commons](#)

Recommended Citation

University of the Pacific; McGeorge School of Law, *Revenue and Taxation*, 20 PAC. L. J. 729 (1989).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol20/iss2/29>

This Greensheet is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in McGeorge Law Review by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Revenue and Taxation

Revenue and Taxation; Katz—Harris Taxpayers' Bill of Rights Act

Revenue and Tax Code §§ 19276.5, 26428.5 (repealed); §§ 7080, 7081, 7082, 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090, 7091, 7092, 7093, 7094, 7095, 7096, 7097, 7098, 7099, 7156, 21001, 21002, 21003, 21004, 21005, 21006, 21007, 21008, 21009, 21010, 21011, 21012, 21013, 21014, 21015, 21016, 21017, 21018, 21019, 21020, 21021, 21022 (new).

AB 2788 (Harris); 1988 STAT. Ch. 1573

AB 2833 (Katz); 1988 STAT. Ch. 1574

Chapters 1573 and 1574 enact the Katz-Harris Taxpayers' Bill of Rights Act which governs the assessment, audit, and collection of state taxes administered by the Franchise Tax Board (FTB) and the State Board of Equalization (SBE).¹ The Act establishes the position of the Taxpayers' Rights Advocate who is responsible for coordinating resolution of taxpayer complaints and problems, and for providing staying actions where a taxpayer has suffered or will suffer irreparable loss as a result of SBE or FTB actions.²

The Taxpayers' Rights Advocate must develop a taxpayer education and information program explaining in simple terms: (1) Taxpayers' duties and responsibilities; (2) taxpayers' most common errors; and (3) how those errors may be avoided or corrected.³ The Act requires that the FTB and SBE develop programs that allow individual taxpayers or industry representatives to present proposals or changes to the tax law.⁴

The Act provides circumstances for relief of additional taxes, interest and penalties if taxpayers fail to file a timely return or fail to make timely payment because they reasonably relied on written

1. CAL. REV. AND TAX CODE §§ 7080, 21001.

2. *Id.* §§ 7083, 21004.

3. *Id.* §§ 21005(a)(3), (b)(1), 7084(b)(1), (2) (enumerating areas specified for education and information programs).

4. *Id.* §§ 7085(b)(2), 21006(b)(2).

advice of the FTB.⁵ Additionally, the Act provides circumstances by which a taxpayer is entitled to reimbursement of reasonable fees and expenses relating to a hearing before the SBE.⁶

Employees of the FTB or SBE are not permitted to conduct or authorize any investigation⁷ or surveillance⁸ over any person for nontax administration related purposes.⁹ The Act further provides requirements for giving notice when filing or recording tax liens¹⁰ and provides the circumstances required for release of tax liens.¹¹

The legislature declares that taxes are the most sensitive point of contact between citizens and government and that there is a delicate balance between revenue collection and freedom from government oppression.¹² The Act is considered necessary by the legislature in order to improve the self-assessment of taxes and the relationship between the taxpayers and the government.¹³ The legislature intends to promote improved taxpayer self-assessment by improving the clarity of tax laws and by improving efforts to inform the public of the proper application of the law.¹⁴ By enacting the Taxpayers' Bill of Rights, the legislature intends to guarantee that the rights, privacy, and property of taxpayers are adequately protected during the process of assessing and collecting taxes.¹⁵

KH

5. *Id.* § 21012.

6. *Id.* §§ 7091, 21013.

7. *Id.* §§ 7092(e)(1), 21014(e)(1) (definition of investigation).

8. *Id.* §§ 7092(e)(2), 21014(e)(2) (definition of surveillance).

9. *Id.* §§ 7092(a), 21014(a). *See also id.* §§ 7092(c), (d); 21014(c), (d) (exceptions to this provision).

10. *Id.* §§ 7097, 21019 (30 days prior to filing the lien).

11. *Id.* §§ 7097(c), 21019(c).

12. *Id.* §§ 7081, 21002.

13. *Id.* §§ 7081, 21002.

14. *Id.* §§ 7081, 21002.

15. *Id.* §§ 7081, 21002.