



SOURCE: Legislative, Research & Statistics Division

SUMMARY: This proposal amends Revenue and Taxation Code (RTC)¹ section 32387 to authorize electronic service of levies under the Alcoholic Beverage Tax (ABT) program.

EXISTING LAW: Section 32387 authorizes the State Board of Equalization (BOE) to serve a notice of levy, personally or by first-class mail, to collect delinquent liabilities under the ABT program. The bank or levied party must hold captured funds for ten days to allow a taxpayer time to claim hardship or levy exemption. After ten days, the bank or levied party must send the money to the BOE.

CODE SECTIONS TO AMEND: Section 32387.

IDENTIFICATION OF PROBLEM: Currently, the BOE and the California Department of Tax and Fee Administration (CDTFA) may only serve a notice of levy personally or by first-class mail to the levied party at a designated central location. CDTFA typically receives levy responses and funds from the levied party 20 to 30 days after mailing the notice. Serving levies by mail delays the levy process since it takes additional time to prepare and mail the levy. Additionally, this change was made to other special tax and fee programs in 2022.² Without this change, ABT will be administered differently from those programs.

PROPOSED SOLUTION: Amend section 32387 to allow a notice of levy under the ABT program to be served electronically to levied parties.

JUSTIFICATION

A. Briefly describe the ramifications of not acting.

Without adopting these proposed changes, the ABT program will not conform with other changes made by the CDTFA to other special tax and fee programs leading to government inefficiencies in administration of the program.

Additionally, potential revenue from levies under the ABT program will be delayed in comparison to other special tax and fee programs.

B. State the reasons why the BOE should have the responsibility for this program and why it should not be placed at another level of government (if applicable).

Article XX, section 22 of the California Constitution authorizes the BOE to administer the Alcoholic Beverage Tax and makes the BOE constitutionally responsible for the program. Through an Interagency Agreement (IAA), the CDTFA collects the ABT revenue and administers certain functions of the program in cooperation with the BOE.

C. Note whether a similar proposal has been submitted in the past and the outcome.

¹ All references will be to the Revenue and Taxation Code unless otherwise specified.

² SB 1496 (Senate Governance and Finance Committee, Stats. 2022, Ch. 474).

Several proposals have been submitted in the past and have been enacted by previous governors. A more detailed history is discussed in the program background and legislative history section.

PROGRAM BACKGROUND/LEGISLATIVE HISTORY: Section 32387 authorizes the BOE to serve a notice of levy, personally or by first-class mail, to collect delinquent liabilities under the ABT program. The bank or levied party must hold captured funds for ten days to allow a taxpayer time to claim hardship or levy exemption. After ten days, the bank or levied party must send the money to the BOE. The section was amended in 1993 and 1999 to conform provisions to the sales and use tax law which allowed levies to apply to amounts in the account, or deposited in the account, within one year after the date of the issuance of the levy and make other technical changes.³ In 2022, other special tax and fee programs administered by the CDTFA were authorized to issue electronic levies.⁴

The passage of AB 102 (2017) transferred all tax and fee programs statutorily administered by the BOE to the newly created CDTFA.⁵ The BOE retained its constitutional programs of the property tax, Tax on Insurers and Alcoholic Beverage Tax.

ARGUMENTS PRO AND CON

Pros

- Increases efficiency and administration of the ABT program by allowing notices of levies to be served electronically, which is estimated to reduce processing times by half while continuing to provide taxpayers a full ten days to claim hardship or levy exemption.
- Conforms the ABT program to other special tax and fee programs which authorize electronic service of levies.

Cons

- None.

PROBABLE SUPPORT AND OPPOSITION: Unknown

OTHER EXTERNAL PARTIES THAT MAY BE AFFECTED: CDTFA

FISCAL IMPACT (If known)

A. Identify any computer or desktop programs that would be affected by this proposal.

None.

B. Identify additional staffing and workload required to carry out the proposal.

None.

PERFORMANCE INDICATORS: Not applicable.

³ SB 704 (Senate Revenue and Taxation Committee, Stats. 1993, Ch. 1113). SB 45 (Sher, Stats. 1999, Ch. 991).

⁴ SB 1496 (Senate Governance and Finance Committee, Stats. 2022, Ch. 474).

⁵ AB 102 (Assembly Budget Committee, Ch. 16, Stats. 2017)

DRAFT LANGUAGE***Section 32387 of the Revenue and Taxation Code is amended to read:***

32387. (a) The board may, by notice of levy served ~~personally or~~ personally, by first-class mail, or by electronic transmission or other electronic technology, require all persons having in their possession, or under their control, any payments, credits other than payments, or other personal property belonging to a taxpayer or other person liable for any amount under this part to withhold from these credits or other personal property the amount of any tax, interest, or penalties due from the taxpayer or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at the time it may designate. The notice of levy shall have the same effect as a levy pursuant to a writ of execution except for the continuing effect of the levy, as provided in subdivision (b).

(b) The person served shall continue to withhold pursuant to the notice of levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The sum of both of the following:

(A) The amount of the payments, credits other than payments, or personal property described above and under the person's possession or control when the notice of levy is served on the person.

(B) The amount of each payment that becomes due following service of the notice of levy on the person and prior to the expiration of the levy.

(d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in paragraph (29) of subdivision (a) of Section 9102 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, or mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the distributor, dealer, or other person liable for the tax.

(3) Any other payments or credits due or becoming due the distributor, dealer, or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the consumer and shall be ~~delivered or mailed~~ delivered, mailed, or served by electronic transmission or other electronic technology, to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.