Amend Sections 43350, 45351, 46301, 50120.1, and 55101 of the Revenue and Taxation Code to delete obsolete section references. (Technical)

Source: Fuel Taxes Division

Under existing law, Sections 43350, 45351, 46301, and 55101 of the Revenue and Taxation Code provide that if the amount of tax, interest, and penalty specified in a jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest shall attach to the amount of tax specified. These jeopardy determination statutes in the Hazardous Substance Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention and Administration Fee law, Underground Storage Tank Maintenance Fee Law, and Fee Collections Procedures Law reference Sections 43156, 45154, 46155, 50112.1, and 55043, respectively, for purposes of imposing delinquency interest.

In 2000, AB 2894 (Chapter 923) combined the delinquency penalty and interest provisions into one statute. As such, AB 2894 resulted in the repeal of Sections 43156, 45154, 46155, 50112.1, and 55043 and therefore made obsolete the references to those sections in Section 43350, 45351, 46301, and 55101.

This proposal would simply delete the obsolete section references in order to avoid confusion for taxpayers. The Board would continue to impose the delinquency penalty and interest as provided in existing law.

Section 43350 of the Revenue and Taxation code is amended to read:

> 43350. If the board believes that the collection of any amount of tax will be jeopardized by delay, it shall thereupon make a determination of the amount of tax due, noting that fact upon the determination, and the amount of tax shall be immediately due and payable. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Section~~s~~ 43155 ~~and 43156~~ shall attach to the amount of tax specified therein.

Section 45351 of the Revenue and Taxation code is amended to read:

> 45351. If the board finds and determines that the collection of any amount of fee will be jeopardized by delay, it shall thereupon make a determination of the amount of fee due, noting that fact upon the determination, and the amount of the fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid,

or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Section~~s~~ 45153 ~~and 45154~~ shall attach to the amount of fee specified therein.

Section 46301 of the Revenue and Taxation code is amended to read:

46301. If the board believes that the collection of any amount of fee will be jeopardized by delay, it shall thereupon make a determination of the amount of fee due, noting that fact upon the determination, and the amount of fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the taxpayer of notice of the determination, the determination becomes final, and the delinquency penalty and interest provided in Section~~s~~ 46154 ~~and 46155~~ shall attach to the amount of fee specified therein.

Section 50120.1 of the Revenue and Taxation code is amended to read:

50120.1. If the board determines that the collection of any amount of fee will be jeopardized by delay, it shall thereupon make a determination of the amount of fee due, noting that fact upon the determination, and the amount of the fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the feepayer of a notice of the determination, the determination becomes final, and the delinquency penalty <u>and interest</u> provided in Section 50112 ~~and the interest provided in 50112.1~~ shall attach to the amount of fee specified in the jeopardy determination.

Section 55101 of the Revenue and Taxation code is amended to read:

55101. If the board believes that the collection of any amount of the fee will be jeopardized by delay, it shall thereupon make a determination of the amount of the fee due, noting that fact upon the determination, and the amount of the fee shall be immediately due and payable. If the amount of the fee, interest, and penalty specified in the jeopardy determination is not paid, or a petition for redetermination is not filed, within 10 days after the service upon the feepayer of notice of determination, the determination becomes final, and the delinquency penalty and interest provided in Section~~s~~ 55042 ~~and 55043~~ shall be attached to the amount of the fee specified therein.