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**Statutory and Constitutional Limitations on the 20-Year  
Collection Period Under Revenue and Taxation Code § 19255**

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<sup>2</sup> Although the authors and/or presenters of this paper might have clients affected by the rules applicable to the subject matter of this paper and have advised such clients on applicable law, no such participant has been engaged by a client to participate on this paper. No author has a direct personal or financial interest in the issue addressed in this paper.

## EXECUTIVE SUMMARY

This paper examines the statutory and constitutional limitations on California’s authority to collect delinquent income-tax liabilities under Revenue and Taxation Code (“R&TC”) section 19255 (“19255”). The statute, enacted through Assembly Bill 911 (2006), was intended to impose a fixed twenty-year limit on the Franchise Tax Board’s (“FTB”) power to collect taxes after they become due and payable. Its purpose was to bring California’s practice into conformity with federal law and with the constitutional policy of finality embodied in Article XIII, Section 30 of the California Constitution.

Despite this legislative intent, the plain language of 19255 supports an interpretation that effectively nullifies its limitation. The FTB interprets 19255 to treat any subsequent assessment, such as a collection fee, penalty, or cost recovery, as restarting the twenty-year clock. Internal FTB correspondence and guidance manuals obtained through Public Records Act disclosures (2023–2024) confirm that this “event-based reset” interpretation is programmed into FTB’s information systems, resulting in liabilities that may remain enforceable indefinitely. The effect is to convert a statute of limitations into a mechanism for perpetual enforcement.

The ostensible plain reading of 19255 is incompatible with both legislative history and constitutional design. The 1932 *Tax Liens Amendment* (Proposition 16) added Article XIII, Section 30 to the Constitution to ensure that “every tax” would, after a fixed period, be conclusively presumed paid. Debates recorded in the *Voter Information Guide* (Nov. 8, 1932) show that the amendment was interpreted to apply broadly to all forms of taxation, including corporate and income taxes, not merely property taxes. The Legislature’s adoption of a twenty-year limitation in 2006 and its subsequent efforts to clarify that limit through AB 357 (2019) and AB 2369 (2022) reflect continuing adherence to this constitutional mandate.

A comparative analysis highlights California’s divergence from national norms. Federal law (26 U.S.C. § 6502) establishes a ten-year period for collection that cannot be administratively renewed; other states, such as New York, Texas, and Florida, also apply similar fixed periods. No jurisdiction interprets limitation statutes to allow indefinite renewal through internal administrative acts. California’s practice, therefore, raises significant questions under the doctrines of separation of powers, due process, and administrative finality.

This paper proposes a corrective statutory amendment modeled on AB 357 (2019) that would:

1. Clarify that each tax assessment is subject to a single, non-renewable twenty-year limitation period;
2. Specify that penalties, costs, and fees do not restart that period; and
3. Require annual public reporting by the FTB on the number and amount of accounts abated under 19255.

The proposed amendment would restore the Legislature's exclusive constitutional authority over temporal limits on taxation, ensure administrative consistency with Article XIII, Section 30, and strengthen public confidence in the fairness of California's tax system. Because the affected accounts are largely uncollectible, the fiscal impact would be minimal while administrative efficiency and taxpayer equity would be substantially improved.

In summary, this proposal reaffirms a principle first adopted by California's voters in 1932 and reiterated by the Legislature in 2006: that taxation, like all exercises of state power, must be constrained by time as well as by law. Amending 19255 to prevent perpetual collection will align statutory practice with constitutional purpose and restore the essential guarantee of temporal finality in California tax administration. (Franchise Tax Bd., Disclosure Response (Jan. 12, 2024) (Public Records Act No. 23-00957), pp. 2–3; Voter Information Guide, Gen. Elec. (Nov. 8, 1932), Argument Against Assembly Constitutional Amendment No. 2, p. 21.)),

The FTB, however, also has the power to issue regulations that support a reasonable application of the statute that is consistent with the legislative intent and the California Constitution. Given that several attempts to correct 19255 have failed to leave the suspense file, a regulation would provide interim relief to California taxpayers who are otherwise subject to an ongoing limitation period.

## I. INTRODUCTION

The administration of tax law is fundamentally constrained by the concept of temporal finality. In the United States, statutes of limitation in taxation serve as both procedural boundaries and substantive protections against perpetual enforcement. California's R&TC 19255, enacted through Assembly Bill 911 (2006), was intended to mirror this principle by limiting the FTB's authority to collect outstanding income-tax liabilities to twenty years after they became due and payable. Modeled loosely on the Internal Revenue Code's ten-year limitation under 26 U.S.C. § 6502, 19255 represented an effort to balance taxpayer finality with the state's interest in effective collection.

In practice, however, 19255 has not achieved its intended purpose. The FTB has applied the statute as expressly written in subsections (c)(1) and (c)(2) that classify any subsequent assessment, including minimal administrative fees, penalties, or costs, as restarting the twenty-year clock. This express language transforms a statutory limitation into an effectively perpetual mechanism of enforcement. While the FTB has applied the statute as written, the application of 19255 to reset the 20-year statute contravenes the legislative purpose behind the 2006 enactment and undermines the constitutional framework of limitations articulated in Article XIII, Section 30 of the California Constitution.

The constitutional dimension of this issue is particularly important. The modern policy of tax collection finality in California originates from the 1932 adoption of the so-called *Tax Liens Amendment* (Proposition 16), which became Article XIII, Section 30 of the California Constitution. That provision, as understood by both its proponents and opponents, was intended to authorize the Legislature to impose temporal limits on *all* forms of taxation, not merely property tax. The debates reflected a deep concern over fairness, administrative efficiency, and the prevention of endless governmental claims. The same logic undergirds 19255, situating the statute within a broader constitutional tradition that demands predictability and repose in taxation.

This paper undertakes an integrated analysis of the statutory and constitutional framework. It draws upon legislative materials, the text and history of the 1932 constitutional amendment, and internal administrative documents obtained from the FTB through Public Records Act ("PRA") requests from 2023 to 2024. It argues that the current application of 19255 not only contradicts legislative intent but also raises constitutional concerns under principles of

due process, separation of powers, and administrative finality. Ultimately, it proposes a corrective statutory amendment, consistent with Assembly Bill 357 (2019), and situates that correction within California’s constitutional and comparative legal landscape.

## II. LEGISLATIVE AND ADMINISTRATIVE BACKGROUND

### A. Origins of the Statutory Limitation: Assembly Bill 911 (2006)

Before 2006, California had no general statute of limitations governing the collection of income tax liabilities. The FTB could pursue enforcement indefinitely, a condition widely viewed as inconsistent with fairness and modern tax administration. Drawing from the federal model under 26 U.S.C. § 6502, the Legislature enacted Assembly Bill 911 (“AB 911”), codified as R&TC § 19255. Introduced by Assembly Member Chu, the measure sought to provide taxpayers with closure and to improve administrative efficiency. The twenty-year period represented a compromise between the shorter federal limitation and the state’s longer administrative processes. *See*, Assem. Bill 911, 2005–2006 Reg. Sess., § 19255, subd. (a), as enacted by Stats. 2006, ch. 538, § 2.

Section 19255(a) provides that, except as otherwise stated, “after 20 years have lapsed from the date the latest tax liability for a taxable year . . . becomes due and payable,” the FTB may not collect the amount due, and the liability is abated by operation of law. Subsection (c)(1) defines “tax liability” broadly to include “additions to tax, interest, penalties, fees, and any other amounts relating to the imposed liability,” and subsection (c)(2) provides that if multiple liabilities exist for the same taxable year, the later due-and-payable date governs the commencement of the limitation period.

Subsection (c)(2) specifically states

If more than one liability is “due and payable” *for a particular taxable year*, with the exception of a liability resulting from a penalty imposed under Section 19777.5, the “due and payable” date that is later in time shall be the date upon which the 20-year limitation of subdivision (a) commences.

Emphasis added.

Although the text appears straightforward, its internal structure undermines its purpose. Because “tax liability” seemingly includes administrative charges and penalties, and because the

limitation resets based on the latest due date, the statute allows a new fee or penalty to revive the state's right to collect indefinitely. This drafting defect was not apparent during legislative deliberation, as attention focused on fairness rather than definitional precision.

#### **B. Legislative Response: AB 357 (2019) and AB 2369 (2022)**

By 2016, the FTB's interpretation had become a matter of concern. Practitioners reported decades-old liabilities revived by minor assessments. Cal CPA proposed a technical correction, introduced as Assembly Bill 357 (Nazarian, 2019), clarifying that penalties, costs, and fees do not restart the limitation period for the principal tax debt.

Drafted with input from FTB staff, the bill redefined "tax liability" to exclude penalties and costs (except the limited-liability-company fee under R&TC § 17942) and required that all related items lapse concurrently with the principal liability. It passed both houses but was not enacted before adjournment; AB 2369 (2022) revived the effort but also stalled. Committee analyses emphasized that the application of 19255 "effectively nullifies the statute of limitation" and "undermines legislative intent." *See*, Assem. Bill 357, 2019–2020 Reg. Sess., § 19255 (proposed amendment); Sen. Comm. on Governance & Fin., Analysis of Assem. Bill 357 (July 3, 2019) at 2–3.) 2016.

#### **C. FTB Administrative Position**

PRA disclosures confirm that FTB applies 19255 expressly as written. The December 15, 2023, Disclosure Response (No. 23-00957) included internal 2016 emails acknowledging that "the 20-year clock restarts every time an assessment is made," conceding this "is not how the federal statute operates." The FTB concluded it "must interpret the statute as written." The January 12, 2024, Disclosure produced internal manuals that classified fees and penalties as "new liabilities," thereby resetting the limitation and distinguishing them from interest accrual. An amendment to 19255 is broadly acknowledged necessary to remove this application of a never-ending limitation period.

### **III. CONSTITUTIONAL FOUNDATIONS**

Proposition 16 (1932), the *Tax Liens Amendment*, added what is now Article XIII, § 30. It authorized the Legislature to provide that "the lien of every tax shall cease for all purposes thirty

years after such tax became a lien,” and that every tax “shall be conclusively presumed to have been paid.” (Voter Information Guide, Gen. Elec. (Nov. 8, 1932)). Proponents cited fairness; opponents warned it would restrict “utility, corporate, and other state taxes.” Specifically, the argument against the Constitutional amendment stated

If taxes — public utility taxes, corporation taxes, bank taxes, or any other kinds of taxes — remain unpaid for thirty years after they have become due and payable, the proposed amendment would cancel those taxes and consider them fully paid. The amendment would thus relieve from taxation those taxpayers who choose not to pay at the expense of those taxpayers who are conscientious toward their tax obligations.

Voter Information Guide, Gen. Elec. (Nov. 8, 1932), Argument Against Assembly Constitutional Amendment No. 2, p. 21.); *see, also*, TAX LIENS, Cal. Proposition 16 (1932), UC Hastings Scholarship Repository (archival ballot pamphlet reproduction).

Those opposed to the amendment understood the plain language of the amendment to apply to “every tax,” not just the unstated property tax. The amendment’s universality, “every tax,” empowered the Legislature to impose time limits across tax types. Statutes like 19255 are direct descendants of that constitutional grant. When the plain text of 19255 seemingly allows liabilities to persist beyond thirty years, it comes into direct conflict with the California Constitution.

#### **IV. COMPARATIVE STATE AND FEDERAL FRAMEWORK**

Federal law (26 U.S.C. §§ 6501, 6502) limits assessment to three years and collection to ten years, with narrowly defined exceptions. The IRS may not reset the period by administrative act. *See*, IRM 5.1.19.1 (2020). The U.S. Supreme Court in *Rothensies* emphasized that such limits are “an almost indispensable element of fairness as well as of practical administration of an income tax policy.” *Rothensies* at 329.

States follow suit. New York Tax Law § 174-b imposes a twenty-year limit, which is unrenovable by ministerial actions. Texas Tax Code § 111.202 imposes a three-year limit; Florida Statutes § 95.091(3)(a) caps collection at five, and liens expiring after 20 years after the

last date the tax may be assessed. While Florida's collection statutes appears similar to California's, Florida's 20-year expiration of a tax lien applies to the collection of penalties and interest as well as the underlying tax; after the lien expires, the state may not initiate any action to collect the tax, penalties, or interest secured by the lien. *See*, Florida Statutes § 95.091.

Florida applies statutes of limitation for tax matters as absolute jurisdictional bars, with no judicially created exceptions, mirroring the policy rationale articulated in *Rothensies* but with a clear statutory and jurisdictional emphasis. *See*, *Verizon Commc'ns Inc. v. Dep't of Revenue*, 2024-6146 (2024); *Florida Gas Transmission Co. v. Department of Revenue*, Doc 2001-20019 (6 original pages) (2001). New York law is more rigid and formalistic in its application of tax statutes of limitations, with little room for equitable relief and a strong emphasis on the statutory text, especially in administrative proceedings. *See*, N.Y. Tax Law § 1083; *Matter of Ficco*, DTA No. 814293 (N.Y. Div. Tax App. ALJ, Jan. 7, 1999); *Matter of Ronon*, DTA No. 818584 (N.Y. Div. Tax App. ALJ, Jan. 10, 2002).

California alone permits indefinite renewal by administrative event under the plain text of 19255. California courts recognize the principle that statutes of limitations in the tax context are legislative judgments about repose, designed to balance the interests of the government and taxpayers by providing certainty and finality to tax matters. *e.g.*, *Kuperman v. Assessment Appeals Bd.* No. 1 et al., Doc 2006-5484 (2006); *Franchise Tax Board v. Superior Court of San Francisco County*, Doc 98-14136 (7 pages) (1998); *see, also*, *People v. Zamora*, 18 Cal.3d 538 (1976). 19255 as written contravenes certainty and finality to tax matters, undermining California taxpayers' confidence.

## **V. STATUTORY AND CALIFORNIA CONSTITUTIONAL TENSION**

The conflict between legislative intent and administrative interpretation places 19255 in a constitutional gray zone. The Legislature's fixed limitation has become a self-reviving authorization. Courts have long rejected such contradictions of purpose: "The intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act." *People v. Pieters*, 52 Cal. 3d 894, 899 (1991), citing *Lungren v. Deukmejian*, 45 Cal. 3d 727, 735 (1988).

Both 19255 and Article XIII, § 30 have express legislative intents to limit the collection of tax. *United States v. Marion*, 404 U.S. 307 (1971), observed that time limits are essential to

fairness; California’s perpetual collection denies repose. Article XIII, § 30’s thirty-year ceiling expresses a constitutional command that taxes must end. Under *People v. Davenport*, 41 Cal. 3d 247 (1985), statutes must be construed to avoid conflict with the Constitution. “[T]he terms of a statute are by fair and reasonable interpretation capable of a meaning consistent with the requirements of the Constitution, the statute will be given that meaning, rather than another in conflict with the Constitution.” *Id.* at 264. “This follows from the presumption that the legislative body intended to enact a valid statute, which presumption has been applied to initiative measures as well as to legislative enactments.” *Id.* The only consistent construction is the AB 357 model, where each liability has a nonrenewable twenty-year period.

## **VI. PROPOSED STATUTORY AND ADMINISTRATIVE REFORM**

### **A. Legislative Objective**

Reform should restore 19255’s original function: a real limitation. The amendment should (1) fix each assessment to a single twenty-year period; (2) clarify that fees and penalties do not reset it; and (3) add transparency.

Proposed Statutory Text (modeled on AB 357 (2019))

- (1) ‘Tax liability’ means a liability due and payable under Part 10 (commencing with § 17001), Part 11 (commencing with § 23001), or this part.*
- (2) ‘Tax liability’ does not include interest, penalties, costs, or fees, other than the limited liability company fee imposed under § 17942.*
- (3) The collection period for any excluded items shall lapse concurrently with the related tax liability.*
- (4) If more than one liability is due and payable for a taxable year, the later due-and-payable date shall commence the twenty-year limitation for that liability only.*
- (5) The FTB shall annually publish aggregate data identifying accounts abated under this section.*

Modeled on Assem. Bill 357 (Nazarian, 2019), § 2, proposed R&TC § 19255(c).

## **B. Legislative Effect**

| <b>Current 19255(c)</b>                       | <b>Proposed Revision</b>                  | <b>Effect</b>             |
|-----------------------------------------------|-------------------------------------------|---------------------------|
| Broad definition includes penalties and fees. | Narrows definition to principal tax only. | Prevents resets.          |
| Latest due date governs.                      | Each liability's own period governs.      | Ends cumulative renewals. |
| No reporting.                                 | Adds annual disclosure.                   | Increases transparency.   |

## **C. Constitutional Justification**

The amendment fulfills Article XIII, § 30's purpose and reasserts legislative control. It ensures agencies cannot extend jurisdiction beyond statutory limits and harmonizes administrative practice with constitutional design. The Legislature cannot circumvent the limitation placed by Article XIII, § 30 through legislative action unless the legislation furthers the purpose of the initiative. *See, Amwest Surety Ins. Co. v. Wilson*, 11 Cal. 4th 1243 (1995). 19255 cannot override Article XIII, § 30.

## **D. Implementation and Fiscal Impact**

The FTB's IT systems already track expiration fields; modification would disable "event-based resets." Fiscal impact is minimal, as most affected accounts are uncollectible. Savings arise from reduced case management and litigation. (Franchise Tax Bd., Disclosure Response (Jan. 12, 2024), AB 911 Project Reference Guide – PIT Guidelines, at 5.)

## **VII. FTB ADMINISTRATIVE REMEDY OUTSIDE STATUTORY AMENDMENT**

The 2023–2024 PRA responses reveal FTB's reasoning and institutional policy. The 2016 emails show awareness that the statute's drafting "creates an indefinite loop" by allowing trivial assessments to restart collection periods. The January 12, 2024, manual excerpt, "AB 911 Project Reference Guide – PIT Guidelines," distinguishes statutory extensions (bankruptcy, litigation) from "event-based resets," which include lien fees and collection-cost recoveries. (Franchise Tax Bd., Disclosure Response (Dec. 15, 2023) (PRA No. 23-00957), exhibit "20-Year SOL Question," internal email chain (July 2016).) This policy is embedded in FTB's IT systems:

each “event” triggers a new twenty-year clock. Thus, liability may persist indefinitely. Such implementation exceeds legislative intent and conflicts with constitutional finality. (Franchise Tax Bd., Disclosure Response (Jan. 12, 2024) (PRA No. 23-00957), AB 911 Project Reference Guide – PIT Guidelines, at 4–5.)

The FTB, however, is not without potential recourse outside of statutory amendment. The FTB itself recognizes that the express language of 19255 imposes an unreasonable interpretation. Under the California Administrative Procedure Act, which restricts agencies from deviating from unambiguous statutory language, the FTB is empowered to pass a regulation that clarifies the intent of 19255 to limit collection on all assessments for 20 years without renewal, because when the application of a statute nullifies constitutional purpose because Article XIII, § 30 was designed to prevent precisely such indefinite state claims. *See*, Gov’t Code § 11342.2 (“no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute”). The FTB is empowered to enact regulations to clarify that 19255 cannot come into direct conflict with Article XIII, § 30.

Specifically, a narrow interpretation of the phrase “for a particular taxable year” in subdivision (c)(2) could be interpreted to mean liabilities that originate from or relate to the tax assessment for that year, not penalties that are subsequently imposed years later due to non-payment. Under this reading the original tax liability, plus any penalties/interest assessed as part of the initial determination, would all be considered together. The latest “due and payable” date among those original liabilities starts the 20-year clock. Later-assessed penalties for non-payment would NOT reset the clock because they’re derivative collection penalties, not liabilities “for” that taxable year. This interpretation recognizes that collection penalties are derivative of the underlying liability and allowing them to reset the limitations period would defeat the statute’s purpose.

Another interpretation of Section 19221 (referenced in 19255) defines when a liability “becomes due and payable.” This could be interpreted as a single point in time for each assessment, not a rolling date that changes every time a new penalty is added. Under this view, all liabilities arising from a particular assessment become “due and payable” at essentially the same time, even if penalties are technically calculated later.

The most reasonable interpretation of subdivision (c)(2) applies the limitation period only to liabilities that become “due and payable” as part of the original tax determination/assessment

process for that taxable year, not to penalties or other fees subsequently imposed during the collection phase. A regulation consistent with the most reasonable interpretation would recognize that allowing indefinite extension of the collection period through successive penalties would defeat the entire purpose of having a statute of limitations, create perverse incentives for tax authorities to continually assess penalties, and violate due process principles of finality.

The statute was enacted to provide finality and prevent indefinite collection efforts. The 20-year period is already quite generous. The legislature likely intended subdivision (c)(2) to address situations where multiple liabilities are assessed simultaneously for the same year, or where there are amended assessments with different due dates, and various penalties are imposed at the time of assessment.

Courts reject interpretations producing absurd results. *Dyna-Med, Inc. v. Fair Employment & Housing Comm'n*, 43 Cal. 3d 1379 (1987). The application of 19255 converts a limitation statute into its opposite, a mechanism for endless renewal. As the U.S. Supreme Court noted,

It probably would be all but intolerable, at least Congress has regarded it as ill-advised, to have an income tax system under which there never would come a day of final settlement and which required both the taxpayer and the Government to stand ready forever and a day to produce vouchers, prove events, establish values and recall details of all that goes into an income tax contest. Hence, a statute of limitation is an almost indispensable element of fairness as well as of practical administration of an income tax policy,

*Rothensies v. Electric Storage Battery Co.*, 329 U.S. 296, 329 (1946)

The FTB has within its power the ability to enact regulations that apply both the limitations of Article XIII, § 30 and the clear legislative intent of 19255 even without statutory amendment.

## **VIII. CONCLUSION AND POLICY SYNTHESIS**

The conflict over 19255 exemplifies how statutory drafting, when poorly executed, can erode constitutional principles, transforming a statute intended as a limitation into a perpetual one, violating the legislative purpose. The Legislature's adoption of AB 911 (2006) and its

successors reflected the constitutional policy, first articulated in 1932, that taxation must be limited in time as well as in scope. A simple statutory amendment will correct the plain language that suggests a perpetually renewing limitation period that ultimately is in conflict with the California Constitution.

The proposed amendment clarifies that penalties and fees do not restart the twenty-year clock. This represents both a technical correction and a reaffirmation of the constitutional promise that “every tax shall be conclusively presumed to have been paid” after a reasonable period. Enacting it would reestablish fairness, efficiency, and trust in California’s tax system.

However, several attempts to address the statute have failed to leave committee. While a statutory correction is the best solution, even without a statutory amendment, the FTB has the power to pass a regulation that recognizes a reasonable interpretation of the statute based on an alternative reading that is consistent with both the legislative intent and the California Constitution.

Temporal finality is not an archaic notion but a living guarantee that the state’s coercive power remains bound by time and law. Restoring that principle, whether through statutory amendment or administrative regulation, will ensure that the government’s right to tax remains balanced by the citizen’s right to repose, which is a foundational element of California’s constitutional order.