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Date: April 24, 2017

To: Members, Assembly Appropriations Committee

From: Therese Twomey, CalTax Fiscal Policy Director

Subject: **SUPPORT for AB 433 (Bocanegra and Ridley-Thomas), as amended on April 3, 2017**

The California Taxpayers Association and the listed organizations are pleased to support AB 433, which would authorize a retailer to assign to a customer the right to receive a direct sales tax refund from the State Board of Equalization, where the amount of the refund is \$50,000 or more.

When a retailer collects more sales tax than is due from a customer, current law requires the excess tax to either be returned to the customer or paid to the state. The BOE is authorized to refund the excess only to the retailer, and may not issue the refund directly to the customer. This approach is cumbersome and often disadvantages the customer, as discussed below. AB 433 would remedy these issues to:

- **Afford customers an opportunity to receive a rightfully owed refund.** Customers seeking a refund of overpaid taxes must submit a claim to the retailer. Ideally, the retailer files the claim with BOE on behalf of the customer to initiate the refund process. However, because existing law does not mandate that the retailer file the claim, some choose not to do so, and the customer has no administrative recourse to force retailers to file a claim.

This problem was highlighted in BOE's letter arguing in support of last session's identical measure. The BOE wrote:

“Because the retailers are not entitled to keep the amount they overpaid to the BOE, often they lack incentive to go through the burden of filing a refund. Allowing these retailers to assign the right to claim a refund to their customers would transfer the ability to file a claim for refund to the person who would benefit directly. Thus, it would provide customers dealing with unmotivated retailers a means to obtain what they are rightfully owed in a timely fashion.”

- **Provide timely refunds that can be reinvested into the economy.** The refund claim process can be lengthy. Customers first must submit a claim with the retailer, who then in turn may file a claim with the BOE for review and potential audit. During this process, the agency works with the retailer to obtain additional information from the customer, or may need to work directly with the customer in cases where a retailer may be unable or unwilling to provide requested information. Then, if the claim is approved, the refund is credited to the retailer, who in turn pays it to the customer.

By streamlining this circuitous practice and eliminating the middleman (the retailer), the refund may be expedited by 2-3 months, providing the recipients with cash that can be reinvested back into the economy.

AB 433 is a good-government measure that provides fair opportunities to customers to receive refunds that are rightfully owed. It helps get cash into the hands of small businesses so they can reinvest it into the economy. And it overhauls a process that a number of states have jettisoned in favor of the one proposed in this measure or direct customer refunds.

For these and other reasons, the following organizations support this legislation:

California Taxpayers Association
California Chamber of Commerce
California Manufacturers and Technology Association
California Retailers Association
Council on State Taxation
Computing Technology Industry Association
Kern County Taxpayers Association
National Federation of Independent Business
Orange County Business Council
Orange County Taxpayers Association
Ryan, Inc.
West Coast Lumber & Building Material Association

cc: The Honorable Raul Bocanegra, California State Assembly
The Honorable Sebastian Ridley-Thomas, California State Assembly