

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Oropeza Analyst: Jane Tolman Bill Number: AB 1768

Related Bills: See Legislative History Telephone: 845-6111 Amended Date: 08-31-2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Adjust Interest Rate for Corporate Overpayments

SUMMARY

This bill would change the rate of interest for overpayments of income tax by corporate taxpayers.

This bill also would make numerous changes affecting other state agencies regarding the assessment and development of programs under their respective jurisdictions. These provisions would not impact the department. This bill analysis will only discuss those provisions impacting the department.

SUMMARY OF AMENDMENTS

The August 31, 2002, amendments added the interest provisions discussed below in THIS BILL. The amendments also made numerous other changes affecting other state agencies that would not impact the department.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

It appears the purpose of the bill is to alter state law for the payment of interest on refunds for corporate taxpayers and to allow the rate change to be rounded to the nearest full percent.

EFFECTIVE/OPERATIVE DATE

This bill is an urgency statute and would become effective upon enactment. The provision regarding interest on overpayments is operative for periods beginning on or after July 1, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

The interest rate the IRS charges and pays to corporations for overpayments is the short-term federal rate plus two percentage points. The underpayment rate for corporations is the short-term federal rate plus three percentage points. For larger corporate overpayments (any portion that exceeds \$10,000), the rate is reduced to the sum of the short-term federal rate plus one-half of one percentage point. These rates are adjusted quarterly, with each successive rate becoming effective two months after the date of each quarterly adjustment. As of July 1, 2002, the federal interest rate for corporate overpayments was 5%.

Board Position:

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Department Director

Date

Gerald H. Goldberg

9/16/02

Current state law conforms to the federal method of calculating the imposition of interest for underpayments. With respect to the rate, state law modifies the federal overpayment rate to be equal to the federal underpayment rate. However, by providing that the overpayment rate is equal to the underpayment rate, state law does not provide different rates of interest for personal income taxpayers or corporate income taxpayers.

The rate of interest on overpayments and underpayments is determined semi-annually. As of July 1, 2002, the current state interest rate for overpayments and underpayments was 6%.

THIS BILL

For corporations only, this bill would reduce the interest rate for overpayments by providing that the rate of interest for overpayments for periods beginning on or after July 1, 2002, would be equal to the lesser of 5% or the rate of a 13-week United States Treasury bill (T-Bill). Any rate change would be rounded to the nearest full percent.

IMPLEMENTATION CONSIDERATIONS

Since this bill would apply to overpayments for periods on or after July 1, 2002, the department would be required retroactively to recalculate the interest rate for overpayments processed after July 1, 2002, but before the enactment of this bill.

LEGISLATIVE HISTORY

AB 3000 (Assembly Budget Committee, 2001/2002) addresses the bilingual services California offers and the interest rate adjustment for refunds. This bill was enrolled August 31, 2002.

SB 1843 (Senate Budget Committee, 2001/2002) was virtually identical to this bill but those provisions were amended out of the bill August 28, 2002. SB 1843 failed to pass its third reading in the Assembly.

OTHER STATES' INFORMATION

A review of *Illinois, Michigan, Massachusetts, Minnesota, and New York* laws found these states conform to the federal interest overpayment and underpayment rates. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

The department would incur a cost of \$90,000 for programming changes so the system will change the interest rate. This estimate does not include costs for recalculating interest from July 1, 2002 to present.

ECONOMIC IMPACT

Revenue Estimate

Based on the discussion below, the following table reflects the estimated impact of changing the corporate overpayment rate to the lesser of 5% or the 13-week T-Bill:

Revenue Impact of AB1768 For Overpayments For Periods Beginning After Enactment Fiscal Years (In Millions)		
2002-03	2003-04	2004-05
\$8	\$14	\$21

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion

The impact of this provision of the bill would depend on the amount of corporate overpayments and the interest rate difference for overpayments proposed by this bill and under current law.

The above estimate was based on the following data and assumptions:

- Projected interest rates for both the 13-week T-Bill and current law rates were based on historical trends for the 13-week T-Bill.
- Assumed a 5% reduction in taxpayer behavior for prepayments of audit disputes.
- Assumed no problems with implementation for the change in the interest rate calculation.

ARGUMENTS/POLICY CONCERNS

Since only corporations are subject to the rate change discussed in this bill, the application of two different interest rates would result in dissimilar treatment between corporations and other taxpayers.

LEGISLATIVE STAFF CONTACT

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