

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Leonard Analyst: Gloria McConnell Bill Number: ACA 13
Related Bills: See Legislative History Telephone: 845-4336 Introduced Date: 08/22/01
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Board of Equalization Renamed/Newly Named Tax Appeals Commission Responsible for Collecting and Administering Income Taxes

SUMMARY

This constitutional amendment would:

- change the name of the five-member Board of Equalization (BOE) to the Tax Appeals Commission (TAC), and
- require TAC to collect and administer income¹ taxes.

PURPOSE OF THE MEASURE

According to the legislative intent provided in the measure, the purpose of this measure is to streamline administration of the income tax system.

EFFECTIVE/OPERATIVE DATE

This measure would be effective and operative the day following passage by the voters in the next general election, which would be March 5, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

The Internal Revenue Service (IRS) collects and administers the federal income tax and various other taxes, including employment taxes. Tax appeals are adjudicated by the United States Tax Court, which is part of the judicial branch of the federal government.

¹ In this analysis "income" tax includes the franchise tax, which is a corporate tax measured by income and included in the provisions of the Bank and Corporation Tax Law.

Board Position:	Department Director	Date
<input type="checkbox"/> S	Brian Toman for G.H.G.	09/21/01
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input checked="" type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

Under California law, three separate taxing agencies are involved with the income tax laws:

- Employment Development Department (EDD) collects California's personal income taxes (PIT) through California employers. The employers withhold PIT from their employee's wages and transmit the withheld amounts to EDD. EDD administers this PIT wage withholding program, along with other employment-based programs.
- Franchise Tax Board (FTB) was created by law to administer California's Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL).
 - FTB collects taxes under the PITL and B&CTL through withholding from sources other than wages, payment of estimated income taxes, and other types of payments. FTB administers, as part of the PITL, provisions that allow taxpayers to make charitable-type contributions via their tax returns (voluntary contributions).
 - FTB administers, as part of the B&CTL, the filing of information returns for tax-exempt organizations.
 - FTB administers other non-income tax related programs: Homeowners' and Renters' Assistance program (HRA), child support and other non-tax debt collection programs, Political Reform Audit (PRA), and the Non-admitted Insurance Tax program (NIT). Further, FTB is responsible for developing and implementing the California Child Support Automation System (CCSAS).
- Board of Equalization hears taxpayer appeals of FTB actions on income tax matters. BOE also administers property, sales and use and certain other tax laws and hears the related appeals of BOE staff's actions on these tax matters.

THIS MEASURE

This constitutional amendment would give the renamed BOE the added responsibility for collecting and administering income taxes.

IMPLEMENTATION CONSIDERATIONS

The Revenue and Taxation Code, which requires FTB to collect and administer the income tax, would be in conflict with this constitutional amendment. Therefore, FTB and its staff may be precluded from implementing this constitutional amendment. FTB may have to continue its statutory responsibility to administer the income tax laws until such time as directed otherwise through the enactment of legislation (enabling legislation) or order of a state appellate court as to a constitutional violation. According to the author's staff, the author anticipates that enabling legislation would be introduced once the voters pass the constitutional amendment.

FTB's administration of HRA, the non-tax debt collection programs, PRA, and NIT, which are not income tax matters, would continue irrespective of this constitutional amendment. It is unclear whether TAC would be responsible for administering the voluntary contributions and tax-exempt organizations as part of the income tax laws. Also, the enabling legislation may need to address responsibility for CCSAS.

LEGISLATIVE HISTORY

AB 15 (Klehs, et. al.; 1993/94) would have abolished the FTB and transferred its duties and powers to the BOE. AB 15 was vetoed by Governor Wilson. The veto message stated there was an inherent conflict of interest for the BOE to serve as both administrator of the tax system and the appellate body for taxpayer appeals.

OTHER STATES' INFORMATION

California is the only state where income taxes, and other taxes, are collected and administered by different agencies. All other states have a central taxing authority, commonly named the Department of Revenue. Several states have independent judicial bodies, such as tax courts or tribunals, to adjudicate tax appeals.

FISCAL AND ECONOMIC IMPACT

This constitutional amendment in and of itself should not affect departmental costs and tax revenue. The fiscal and economic impact, if any, would result from the ensuing enabling legislation.

TECHNICAL CONSIDERATION

This measure generally replaces the name "Board of Equalization" with "Tax Appeals Commission." However, on pages 5 and 6 of the measure an inconsistency exists, only the name "Commission" is used to replace both the names "Board of Equalization" and "Board."

LEGISLATIVE STAFF CONTACT

Gloria McConnell
Franchise Tax Board
845-4336

Brian Putler
Franchise Tax Board
845-6333