

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Scott Analyst: Darrine Distefano Bill Number: SB 219

Related Bills: See Legislative History Telephone: 845-6458 Amended Date: 01-07-2002

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Allow All Taxpayers To Be Eligible for Disaster Relief

SUMMARY

This bill provides specific relief for all taxpayers affected by a Presidentially declared disaster.

SUMMARY OF AMENDMENTS

The January 7, 2002, amendments eliminated all language regarding property tax assessments and added the new language discussed in this analysis.

PURPOSE OF THE BILL

The purpose of the bill is to simplify the filing requirements for all taxpayers that are affected by a Presidentially declared disaster by conforming to the federal law relief provisions.

EFFECTIVE/OPERATIVE DATE

This bill contains language specifying that it would apply to any disaster that occurs on or after September 11, 2001.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Federal and state laws define an "individual" as a natural person and a "taxpayer" as an individual, fiduciary, estate or trust, partnership, or bank and corporation.

Both federal and state laws require returns to be filed by specified dates and tax owed to be paid on or before the due date of the return without regard to any extension. Both the Internal Revenue Service (IRS) and the Franchise Tax Board (FTB) may grant a reasonable extension for payment of taxes if good cause exists.

Board Position:

_____ S	_____ NA	_____ NP
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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald H. Goldberg

1/23/02

Under federal and state laws, taxpayers may claim various kinds of losses, including casualty and disaster losses. A **casualty** loss occurs when property is destroyed as the result of a fire, storm, flood, or other catastrophe. A **disaster** loss occurs when property is destroyed as a result of a fire, storm, flood, or other natural event proclaimed a disaster by the President of the United States, or, for state law purposes, by the Governor.

Federal law defines a Presidentially declared disaster as any disaster that warrants assistance by the federal government under the Disaster Relief and Emergency Assistance Act. It also defines affected taxpayers as individuals or business entities whose principal residence or principal place of business is located in the covered disaster area or whose records are maintained in a disaster area.

Federal law provides that in the case of any taxpayer determined by the Secretary of the Treasury to be affected by a Presidentially declared disaster, certain taxpayer deadlines (including filing a return, paying certain taxes, and filing a claim for credit or refund) may be postponed for a period of up to 120 days. The provision does not apply for purposes of determining interest on any overpayment or underpayment of tax. The Secretary of the Treasury is required to abate interest on the tax assessed during this 120-day period.

State law generally conforms to federal law as it relates to the postponement of certain tax-related deadlines due to a Presidentially declared disaster, with two exceptions. Affected taxpayers are only defined as individuals and the period for postponement is 90 days rather than 120 days.

Also, FTB is required to abate interest on the tax assessed for individuals during this 90-day period.

The FTB will generally provide reasonable cause consideration to delay the filing of the California return and payment of any balance due under a separate state law to business entity taxpayers located in or affected by Presidentially declared disaster areas. However, there are no interest waiver provisions for business entity taxpayers affected by a disaster.

Federal legislation (The Victims of Terrorism Tax Relief Act of 2001 (H.R. 2884) is currently pending approval by the President. This legislation would substantially revise federal tax laws with respect to victims of terrorism and disasters. Among other relief provisions, this new federal legislation would allow an extension of tax deadlines for a period of up to one year and exclude certain disaster relief payments from taxable income.

THIS BILL

This bill would allow all taxpayers, not just individuals, affected by disasters or located in disaster areas to receive the same relief provided by federal law. Specifically, delayed filing deadlines, payment of certain taxes, and filing of a claim for refund. This bill also would conform to the new federal period of 120 days for the postponement of certain taxpayer deadlines.

Also, this bill would delete obsolete operative date language.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would improve the department's ability to administer the law relating to disaster relief. However, this bill does not address pending federal legislation. If the now pending federal legislation is enacted and this bill is not amended, the department would not be able to extend the same postponed filing deadlines to affected taxpayers as will be provided under federal law.

LEGISLATIVE HISTORY

SB 519 (Ch. 7, Stat. 1998) conformed California law to federal law as it relates to the postponement of certain tax-related deadlines. AB 2797 (Ch. 322, Stat. 1998) clarified that these deadlines are only available to individuals affected by a Presidentially declared disaster.

OTHER STATES' INFORMATION

For taxpayers and businesses affected by a Presidentially declared disaster, the majority of states conform to the current federal provisions for a Presidentially declared disaster.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Discussion

The impact on delayed filing and taxes paid in any given year is unknown due to inherent uncertainties regarding future disasters and the income profiles of victims. However, based on impacts projected by the federal law, conforming to this change would have a negligible impact (less than \$250,000) to state tax revenues.

With regard to the September 11, 2001, terrorist attacks, FTB has already notified the public of its intent to provide administrative relief to California taxpayers (individuals and businesses) directly affected.

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