

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Sher Analyst: LuAnna Hass Bill Number: SB 394
Related Bills: See Legislative History Telephone: 845-7478 Introduced Date: 02-21-01
Attorney: Patrick Kusiak Sponsor: American Electronics Assoc.

SUBJECT: California Internet Tax Freedom Act/Extends Repeal Date

SUMMARY

This bill would extend the expiration date of the California Internet Tax Freedom Act to January 1, 2007.

PURPOSE OF THE BILL

The purpose of the California Internet Tax Freedom Act is to ensure that the Internet remains a tax-free environment in California. This bill would extend the Act for a period of 5 years.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2002.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

The United States Constitution limits state authority to levy taxes and authorizes Congress to regulate commerce between the states and with foreign nations.

Federal and state law imposes various taxes on businesses and individuals. The Franchise Tax Board (FTB) is responsible for administering the state personal income tax and the bank and corporation income and franchise taxes.

The "Internet Tax Freedom Act" that was enacted under federal law imposes a three-year moratorium on new taxes on Internet access and on "multiple or discriminatory" taxes on electronic commerce. The moratorium will expire in October 2001. State law has a similar moratorium in effect, called the "California Internet Tax Freedom Act." This act placed a three-year moratorium on local taxation of Internet access or online computer services and bit or bandwidth taxes.

Board Position:

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Department Director

Date

Alan Hunter for GHG

03/26/01

This act also prohibited any tax on Online Computer Services or Internet access that is higher than the tax imposed on other computer related manufacturing or business services or a tax that is applicable to a taxpayer solely because they offer or use Online Computer Services or Internet Access. The act expressly permits the imposition of sales and use taxes, business license taxes, utility user taxes, and any other new or existing tax of general application. The moratorium will expire on January 1, 2002.

THIS BILL

This bill would allow the California Internet Tax Freedom Act to remain in effect until January 1, 2007, and be repealed as of that date.

IMPLEMENTATION CONSIDERATIONS

This bill would not impact the programs administered by the department.

LEGISLATIVE HISTORY

- AB 228 (Campbell, 2001/02) would extend the Act until January 1, 2005. This bill is in Assembly Revenue and Taxation.
- AB 1614 (Lempert, Stats. 1998, Ch. 351) enacted the California Internet Tax Freedom Act, prohibiting specified Internet taxes for three years.
- AB 1784 (Lempert, Stats. 2000, Ch. 618), as amended June 27, 2000, would have extended the expiration date of the California Internet Tax Freedom Act to January 1, 2005. It was enacted but did not become operative as it was tied to AB 2412 (Migden, 1999/2000), which was vetoed by the Governor.
- AB 2412 (Migden, 1999/2000) would have required a retailer affiliated with a retailer doing business in California to collect the sales and use tax. The Governor vetoed this bill in part because it would have re-enacted provisions that the Legislature repealed due to court decisions.
- AB 2188 (Baldwin, 1999/2000) would have exempted from tax the sale of tangible property purchased over the Internet. This bill failed passage in the Assembly Revenue and Taxation Committee.
- SB 1377 (Morrow, 1999/2000) would have exempted the sale of tangible property ordered over the Internet from taxation. This bill failed passage in the Senate Revenue and Taxation Committee.
- SB 1933 (Vasconcellos, Stats. 2000, Ch. 619) established the California Commission on Tax Policy in the New Economy to develop a long-term strategy for revising the state and local tax structure for California.
- SB 1949 (Costa, 1999/2000) would have required the governor or his representative to work with other states to develop a multi-state sales and use tax collection and administration system. The Governor vetoed this bill as California already participates in these activities.

OTHER STATES' INFORMATION

Review of Florida, Illinois, Massachusetts, Michigan, Minnesota and New York laws did not identify any Internet access taxes. Florida and Massachusetts have laws enacted that prohibit this type of taxation. These states were reviewed because of the similarities between California income tax laws and their tax laws.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact Personal Income Tax or Bank and Corporation Tax revenues.

LEGISLATIVE STAFF CONTACT

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