Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: McClintock | Analyst: Roger Lackey | Bill Number: SB 77

Related Bills: See Prior Analysis | Telephone: 845-3627 | Amended Date: 04-30-2001

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Ratepayer Relief Rebate Act Of 2001

____	DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________.
X	AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
X	AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced January 11, 2001.
X	FURTHER AMENDMENTS NECESSARY.
____	DEPARTMENT POSITION CHANGED TO ____________.
X	REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 11, 2001, STILL APPLIES.
____	OTHER - See comments below.

SUMMARY

This bill would rebate $200 or $530, depending on the taxpayer's filing status, to California taxpayers for a total of $5.36 billion.

SUMMARY OF AMENDMENTS

The April 30, 2001, amendments added $60 million to the previous $5.3 billion to be allocated to California taxpayers in the form of a rebate.

The amendments also specified that a married couple would be considered as one taxpayer for purposes of the rebate, and that any individual that is claimed as a dependent on another individual's tax return would be precluded from claiming the rebate.

Also, the amendments would allow any taxpayer that was a part-year resident in the 2000 calendar year to claim a prorated rebate.

Finally, the amendments would affirm that individuals who did not have a tax liability for a taxable year beginning in the 2000 calendar year would be eligible for the rebate and would require the Franchise Tax Board to specify a filing process for these individuals to receive payment of the rebate.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
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____ N	____ OUA	X PENDING		

As a result of the amendments, some of the implementation considerations discussed in the department's analysis of the bill as introduced January 11, 2001, have been resolved; however, new implementation considerations have been identified. The new implementation considerations, along with the remaining implementation and policy considerations, are included below. In addition, a new fiscal impact and revenue estimate are provided below.

Except for the discussion in this analysis, the department's analysis of the bill as introduced January 11, 2001, still applies.

IMPLEMENTATION CONSIDERATIONS

Developing a new process for individuals to file a tax return for the sole purpose of receiving the rebate would be very difficult. The department would have to develop or at least revise current forms and make them available for these individuals. It would be helpful if the bill provided more guidance on how the process should be handled, including a due date for the returns to be received. Since a number of these individuals are likely not to have filed any previous tax returns, the department would have no address information to be able to contact them. As a result, other methods would have to be utilized to inform these individuals about the rebate. The absence of clarity regarding eligibility for the rebate raises other concerns. (See Legal Impact below.)

This bill would apply to any taxpayer filing a return by May 1, 2001, whether the return is an original return for 2000 or a properly filed amended return for any prior year. Information on returns processed during the 2001 calendar year will not be available until late 2001. It would be difficult for the department to provide 2001 filing season information that would allow the State Controller's office to issue rebates by May of 2001, which has already passed.

The filing date for personal income taxes for calendar year 2000 is April 15, 2001. Allocation of the $5.36 billion appropriation would occur in May of 2001. Therefore, this bill would overlap into the income tax filing season and the State Controller's disbursing of income tax refunds. In addition, it is not known if the State Controller's office would have the capacity to disburse both income tax refunds and the rebates provided for by this bill at the same time.

Given the fixed amount of funds and the expected number of taxpayers (13.8 million) and individuals filing solely for the purpose of receiving the rebate (estimated to be between 2 to 3 million), it is unclear if the $5.36 billion appropriation would be sufficient to satisfy the specified allocation to **all** eligible taxpayers and individuals. In addition, it is unclear what would occur once the appropriation was depleted.

This bill allows a rebate to any individual that files a tax return for the rebate and could be vulnerable to fraud through the filing of multiple returns with different names, addresses to obtain the rebate. The author may consider adding language to the bill to discourage fraudulent returns.

Additional resources would be necessary to prevent the fraudulent filing of returns for the purpose of obtaining the rebate.

The bill allows rebates of $530 to each taxpayer filing married joint and head of household, but allows only $200 to a taxpayer filing married separate. As a result, a married couple filing a joint return will receive rebates totaling $530, whereas a married couple filing separately will receive rebates totaling $400. Generally, certain incomes, credits, and expenses of a married couple that file a joint return are divided equally for married taxpayers that file separately. As written, this bill would allow a married couple that chooses to file separately $130 more than a married couple that chooses to file a joint return (the difference between $530 and $400).

As illustrated in the implementation considerations above, it does not appear that this bill would be effective in allocating the rebates to the author's targeted group. There is no direct correlation between utility consumption bills and a taxpayer's filing status.

FISCAL IMPACT

The costs to implement a one-time rebate for the 2001 calendar year are estimated to be **$8.4 million, 124.0 Personnel Years (Pys) for fiscal year 2000-01** and **$1.8 million, 23.3 PYs for fiscal year 2001-02**. In addition, there will be costs of **$1.9 million, 26.0 PYs for fiscal year 2001-02** for **non-resident claimants**.

The bill will need to be amended to add supplemental appropriations for the Franchise Tax Board's (FTB's) fiscal year 2000-01 budget and to appropriate funds for FTB's fiscal year 2001-02 budget to administer the rebate program.

ECONOMIC IMPACT

According to departmental projections, approximately 13.8 million taxpayers under the Personal Income Tax Law are projected to file tax returns for the 2000 tax year. Based on these projections, it is estimated that all of the $5.36 billion appropriated would be used to satisfy rebates for individuals with a filing requirement. The appropriation would not include sufficient funding for the approximately two to three million additional filers that do not have a filing requirement, but may file to obtain the rebate.

ARGUMENTS/POLICY CONCERNS

The $530 or $200 amount received by each individual would be considered income under federal income tax law. Therefore, the Controller would be required to issue every recipient a Form 1099, indicating that the rebate would be required to be reported as income on the taxpayer's federal income tax return. In addition, since the bill contains no language precluding the amount from California's calculation of adjusted gross income, the rebate amount also would be taxable for state purposes.

LEGAL IMPACT

The bill limits the rebate to individuals that were residents for some portion of the year. Federal law prohibits discrimination in favor of residents unless there is a substantial reason for the difference in treatment and the discrimination against nonresidents bears a substantial relationship to the State's objective. This bill may be challenged as contrary to federal law.

The bill extends the rebate to any individual, single or married, with no tax liability, and directs the Franchise Tax Board to establish a process for such individuals to file a return for the sole purpose of receiving a payment. It is unclear which individuals with no tax liability are eligible for the rebate. To the extent the process established by the department includes rules regarding eligibility for the rebate, such a process may be challenged as an improper delegation of legislative authority.

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