

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Frommer Analyst: Jeff Garnier Bill Number: AB 1297

Related Bills: See Prior Analysis Telephone: 845-5322 Amended Date: June 22, 2004

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Prohibit Tax Shelters from Being an Insurable Risk

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would:

- Prohibit insurance companies to insure losses resulting from or in connection with an abusive tax shelter.
- Create a penalty equal to 75% of the proceeds received for insurance relating to an abusive tax shelter.

SUMMARY OF AMENDMENTS

The June 22, 2004, amendments refined the definition of an "abusive tax avoidance transaction" under the Insurance and Revenue and Taxation Codes. The amendments substitutes the definition of an "abusive tax avoidance transaction" in the bill prior to the amendment, which is described as a transaction lacking economic substance, with reference to the definition of abusive tax avoidance transaction that is presently contained in the Revenue and Taxation Code. The Revenue & Taxation Code defines an abusive tax avoidance transaction as a plan or arrangement devised for the principal purpose of avoiding tax and includes listed transactions.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director	Date
Jana Howard for Brian Putler	6/28/04

POSITION

Pending.

LEGISLATIVE STAFF CONTACT

Jeff Garnier
Franchise Tax Board
845-5322
jeff.garnier@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov