

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wyland Analyst: Jeff Garnier Bill Number: AB 1622

Related Bills: See Prior Analysis Telephone: 845-5322 Amended Date: May 20, 2003

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** S Corporations/Carryforward of Net Operating Loss and Tax Credits

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 AMENDED May 8, 2003, STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would provide limited tax relief for corporations required to be S corporations due to the passage of AB 1122 (Stats. 2002, Ch. 35).

## SUMMARY OF AMENDMENTS

The May 20, 2003, amendments clarified the calculation of the amount of credit carried forward and removed the provision that would have prohibited the use of a "net operating loss" (NOL) to offset a built-in gain if the NOL qualified to be used against the S corporation's measured tax. The amendments also added double jointing language to the bill.

Except for items discussed in this analysis, the department's analysis for the bill's May 8, 2003, amendment still applies.

## POSITION

Pending.

Board Position:

S                       NA                       NP  
 SA                       O                       NAR  
 N                       OUA                       PENDING

Legislative Director  
Brian Putler

Date  
6/4/03

## ANALYSIS

### THIS BILL

For federal S corporations required to become California S corporations in the 2002 tax year under AB 1122, this bill would allow:

- NOLs generated in a C corporation tax year to be carried forward to an S corporation tax year under the NOL provisions in effect for the year the NOL was generated. For example, 55% of an NOL generated in 2001 while a C corporation could be utilized in 2004 as an S corporation. An NOL that is used to offset a built-in gain would not also be permitted to reduce the S corporation's taxable income.
- 100% of credits generated in a C corporation tax year to be applied against the S corporation measured tax. The amount of the credit available for taxable years beginning on or after January 1, 2003, would be the credit carry forward amount as of the last day the corporation was a C corporation minus the amount of the credit used in the S corporation's 2002 tax year. Thus, the credit would not be reduced to one-third. The individual credit's rules in effect the year the credit was generated would apply.

## ECONOMIC IMPACT

### Revenue Estimate

The May 20, 2003 amendments do not change the revenue loss estimated in the prior analysis. The revenue loss stated in the prior analysis was:

Fiscal Year	2003-2004	2004-2005	2005-2006
NOL Carryover from C Corp to S Corp	Losses less than \$500,000	\$1 million loss	\$1 million loss
Credit Carryover from C Corp to S Corp	Losses less than \$250,000	Losses less than \$250,000	Losses less than \$250,000

## LEGISLATIVE STAFF CONTACT

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