

# ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Cedillo Analyst: Norman Catelli Bill Number: SB 1066

Related Bills: See Legislative History Telephone: 845-5117 Introduced Date: February 27, 2003

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

**SUBJECT:** Definition of "Taxable Year" for Calendar or Fiscal Years Beginning on or After January 1, 2000.

## SUMMARY

This Franchise Tax Board sponsored bill would add a definition of the term "taxable year" for California franchise tax purposes that was inadvertently repealed beginning January 1, 2000.

## PURPOSE OF THE BILL

This bill is intended to clarify tax law regarding the definition of "taxable year."

## EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective immediately upon enactment and would be operative for taxable years beginning on or after January 1, 2003.

## POSITION

On November 26, 2002, the Franchise Tax Board voted to sponsor the provision discussed in this analysis.

## ANALYSIS

### BACKGROUND

California tax law imposes a franchise tax for the privilege of doing business in California. For taxable years beginning prior to January 1, 2000, this tax was a "prepaid" tax, meaning the tax for the privilege of doing business in the current year (the *taxable* year) was measured by the amount of income earned during the prior year (*income* year). Thus, the "taxable year" was defined in Revenue and Taxation Code (R&TC) Section 23041 as the calendar year or fiscal year for which the tax is payable.

This "prepayment concept" was confusing and out of step with the manner in which other states imposed their franchise tax. As a result, in 2000, legislation was enacted that ended the "prepayment" concept, thereby making the current year, i.e., the "taxable year," the relevant concept for determining the period for which the franchise tax is due as well as the period during which the income was measured.

Board Position:

\_\_\_\_\_ S                      \_\_\_\_\_ NA                      \_\_\_\_\_ NP  
\_\_\_\_\_ SA                      \_\_\_\_\_ O                      \_\_\_\_\_ NAR  
\_\_\_\_\_ N                      \_\_\_\_\_ OUA                      \_\_\_\_\_ X PENDING

Department Director  
Gerald H. Goldberg

Date  
3/28/03

When the R&TC definition of “taxable year” was changed in 2000, the explicit definition that “taxable year” means the year for which the tax is payable was repealed. However, an explicit definition of “taxable year,” which is also called the “privilege year,” is significant to the theory of a franchise tax and should be included in the R&TC.

### FEDERAL/STATE LAW

Federal law generally defines the term “taxable year” as:

- The taxpayer’s annual accounting period, if it is a calendar year or a fiscal year,
- The calendar year, if the taxpayer has not been keeping books and records, or,
- The period for which the return is made, if a return is made for a period of less than 12 months.

Current R&TC Section 24631 defines “taxable year” the same as federal law. R&TC Section 23041 also contains a definition of “taxable year” (for years beginning before January 1, 2000) that states that “taxable year” means the year for which the tax is payable. In addition, taxpayers are required to have the same taxable year for state purposes as for federal purposes, unless they have received permission from FTB to have a different taxable year.

### THIS BILL

This bill would amend Revenue and Taxation Code Section 23041 to explicitly define “taxable year” as the year for which the franchise tax is payable.

### IMPLEMENTATION CONSIDERATIONS

Since this provision of the bill clarifies the law, implementing it would not impact the department’s programs and operations.

### **LEGISLATIVE HISTORY**

SB 1061 (Cedillo, 2003-2004) contains the same provision as this bill. SB 1061 is scheduled for hearing in the Senate Revenue and Taxation Committee on April 23, 2003.

AB 1843 (Ackerman, Stats. 2000, Ch. 862) eliminated the term and concept of “income year” from the Personal Income Tax Law, the Administration of Franchise and Income Tax Laws and Regulations, and the Corporation Tax Law.

AB 1185 (Senate Revenue and Taxation Committee, Stats. 2001, Ch. 543), a clean up bill for AB 1843, replaced the obsolete term “income year” with “taxable year.”

### **OTHER STATES’ INFORMATION**

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* define “taxable year” by reference to the Internal Revenue Code. These states were selected due to their similarities to California’s economy, business entity types, and tax laws.

### **FISCAL IMPACT**

This bill would not impact the department's costs.

### **ECONOMIC IMPACT**

This bill has no identifiable state revenue impact.

### **ARGUMENTS/POLICY CONCERNS**

Providing a definition of "taxable year" creates consistency within the R&TC provisions relating to the franchise tax. Clear definitions and internal consistency reduces the possibility of confusion and reduces complexity of the tax laws.

### **LEGISLATIVE STAFF CONTACT**

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