

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cedillo & Burton Analyst: Jeff Garnier Bill Number: SB 614

Related Bills: See Prior Analysis Telephone: 845-5322 Amended Date: June 2, 2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Tax Shelters & Tax Avoidance/Increase in Penalties Imposed/FTB Develop & Administer Voluntary Compliance Initiative

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 12, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would:

- Create a regime of penalties and reporting requirements for investors, promoters, tax advisors, and tax preparers involved in abusive tax shelter transactions to identify existing abusive tax shelter transactions on tax returns filed in prior years and to curtail the use of abusive tax shelter transactions in future years.
- Provide for a voluntary compliance initiative permitting a taxpayer to file an amended return and pay the tax and interest associated with the abusive tax shelter transaction.
- Codify the economic substance doctrine.
- Extend the statute of limitations for taxpayers involved in abusive tax shelter transactions from four to eight years.
- Expand the department's ability to issue a subpoena.
- Expand the rules to obtain a court order to enjoin abusive tax shelter transactions from being marketed within this state.
- Impose interest on taxpayers with taxable income greater than \$200,000 to whom the department issues either a notice of tax due or a notice of proposed assessment.

Board Position:

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Legislative Director
Brian Putler

Date
6/9/03

SUMMARY OF AMENDMENTS

The June 2, 2003, amendments removed a provision that would have denied a deduction for interest paid to the Franchise Tax Board on underpayments involving certain tax-motivated transactions (Item 18 of the prior analysis). The amendments also made two technical corrections.

Except for the removal of Item 18 as noted above, the department's prior analysis for the May 12, 2003, amendments still apply.

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