Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Hancock	Analyst:	Rachel Coco	Bill Number:	AB 2426
Related Bills:	See Legislative History	Telephone:	845-4328	Introduced Date:	February 23, 2006
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Corporation Reporting Requirements

SUMMARY

This bill would require additional information reporting by certain corporations to the Secretary of State (SOS).

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to provide the public with information about businesses with whom they are considering doing business.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative beginning January 1, 2007.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal and state law provides that returns and tax information are confidential and may not be disclosed, unless authorized specifically by statute. Any Franchise Tax Board (FTB) employee or member responsible for the improper disclosure of federal or state tax information is subject to criminal prosecution, fines, or both. Improper disclosure of federal tax information is punishable as a felony and improper disclosure of state tax information is punishable as a misdemeanor.

Under existing state law, all information on an individual personal income tax return is confidential. For corporate returns, all information on a return is confidential, except the following information: the exact corporate title, corporate number, the date of the commencement of business in this state, taxable year adopted, filing date of return, name, date and title of individuals signing affidavit to the return, due date of the taxes, taxes unpaid, entity's address, private address of officers and directors.

Board Position:			Department Director	Date
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Current state law permits disclosure of tax return information to other state tax agencies, the Multistate Tax Commission, and tax officials from other states and Mexico. All exchanges of tax information with these entities carry strict confidentiality rules and are prohibited from being released to the public, unless authorized by statute.

Existing state law permits the department to release tax return information according to tax return sharing agreements with the IRS, which generally require IRS consent prior to release. The exchange must relate to the enforcement of tax laws, and the information must not be made public. Shared information includes sales tax, income tax, and corporation tax return data.

THIS BILL

This bill would require foreign and domestic entities to report information to SOS regarding the compensation of the entity's executive officers, the existence of any federal securities law violation by the entity, and the following information from the entity's tax return:

- A description of the method of computing the taxpayer's state tax liability.
- The amount of any exemption, deduction, credit, credit adjustment, or credit carryover claimed by the entity and how it affected the overall tax liability of the entity.
- A schedule of the entity's net and gross income, including gross profit and receipts.
- The amount of net income stated on the federal tax return.
- A description of assets.
- The total amount of income or franchise tax due and the amount paid.

This bill would require an entity to pay a $5 disclosure fee to file the report. Half of the fee would be used to further the reporting requirement and the other half would be deposited into the Victims of Corporate Fraud Compensation Fund.

Starting April 1, 2007, and for each year thereafter, this bill would require SOS to make public certain information about the entity, including the information provided in the reports required by this bill.

IMPLEMENTATION CONSIDERATIONS

Since this bill would not require the department to monitor, verify, or provide any of the corporation information, implementing this bill would not impact the department.

FISCAL IMPACT

For the same reasons state above, this bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

ARGUMENTS/POLICY CONCERNS

California has a self-assessed tax system that relies on the responsiveness of the individual and corporate taxpayer to report the proper amount of tax. A self-assessed tax system works in part because the taxpayer has confidence that the information reported to the government will be confidential and used only for the specified purpose. If tax information is used or disclosed for other than the specified purpose, the effectiveness of the state's self-assessed tax system may be impacted.

LEGISLATIVE STAFF CONTACT

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