

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Migden Analyst: Gail Hall Bill Number: SB 663  
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: May 17, 2005  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Clarify Coordination Of U.S.-Source Income & Subpart F Water's-edge Partial Inclusion

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced February 22, 2005.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.  
 AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS 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 February 22, 2005, STILL APPLIES.
- OTHER – See comments below.

**SUMMARY**

This bill would clarify specific provisions of the corporation tax law relating to water's-edge taxpayers.

**SUMMARY OF AMENDMENTS**

The May 17, 2005, amendments revised the bill so that it now applies to *water's-edge elections* made on or after January 1, 2006, instead of *taxable years* on or after January 1, 2006. The amendments also added intent language and created two versions of Revenue and Taxation Code Section 25110: one version for water's-edge elections made prior to January 1, 2006, and another version for water's-edge elections made on or after January 1, 2006. As a result of the amendments:

1. the two technical considerations discussed in the analysis of the bill as introduced on February 22, 2005, have been resolved,
2. the revenue estimate has been revised,
3. an implementation consideration has been added, and
4. a technical consideration has been added.

Items 2, 3, and 4 noted above are discussed further in this analysis. Except for the discussion in this analysis, the remainder of the department's analysis of the bill as introduced on February 22, 2005, still applies.

Board Position:

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

Legislative Director

Date

Brian Putler

6/9/05

## **EFFECTIVE/OPERATIVE DATE**

If enacted in 2005, this bill would be effective and operative January 1, 2006. The bill specifies that it would apply to water's-edge elections made on or after January 1, 2006, and also contains *no inference language* with respect to any water's-edge election made prior to January 1, 2006.

## **POSITION**

Pending.

## **IMPLEMENTATION CONSIDERATIONS**

The May 17, 2005, amendments created two versions of Revenue and Taxation Code Section 25110, which may create confusion for taxpayers and the department. An alternative numbering system for each version (i.e., 25110.3 and 25110.5) is suggested.

## **TECHNICAL CONSIDERATIONS**

On page 5, line 35, after "elections," "made" should be inserted.

## **ECONOMIC IMPACT**

### Revenue Estimate

If this bill simply clarifies existing law, there would be no revenue impact.

### Revenue Discussion

The bill as introduced on February 22, 2005, applied to taxable years beginning on or after January 1, 2006, whereas, the bill as amended on May 17, 2005, applies to water's-edge elections made on or after January 1, 2006. The significance of this change is that this bill would no longer affect a taxpayer with a current water's-edge election.

The revenue estimate included in the analysis of the bill as introduced on February 22, 2005, discussed revenue at risk if the legal interpretation of current law made by some water's-edge taxpayers is sustained. The revenue at risk was estimated as ranging from a few million annually to \$50 million annually in the near future for current water's-edge taxpayers. Since this bill now would apply to future water's-edge elections only, instead of current water's-edge taxpayers, the revenue discussion in the bill as introduced on February 22, 2005, no longer applies.

## **LEGISLATIVE STAFF CONTACT**

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