

SUMMARY ANALYSIS OF AMENDED BILL

Author: McClintock, et al. Analyst: Anne Mazur Bill Number: SCA 2
 Related Bills: See Prior Analysis Telephone: 845-5404 Amended Date: March 29, 2005
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Budget Process/Revenues Collected In Excess Of Appropriations Limit Shall Be Returned Within Next Fiscal Year By Rebate To Pit Return Filer In Proportion To Social Security Taxes Paid

- 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 ALL DEPARTMENT CONCERNS stated in the previous analysis of bill as introduced December 6, 2004.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 6, 2004 STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This measure would require revenues in excess of the amount appropriated by the Legislature be rebated within 18 months to personal income tax return filers in proportion to social security taxes paid.

This analysis addresses only those provisions of the bill affecting the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENTS

The March 29, 2005, amendments:

- Add coauthors.
- Change the period within which excess revenues must be returned to California personal income tax return filers from “the next fiscal year” to 18 months following the conclusion of the fiscal year resulting in excess revenues.
- Change the tax return filing that forms the basis of determining the proportion of social security taxes paid by every filer, spouse, or dependent covered in that filing, from the “most recent taxable year” to the taxable year ending on December 31 of the fiscal year resulting in excess revenues.

Board Position:	Department Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Brian Putler	4/28/05

- Revise other provisions relating to the budget process that have no impact on the FTB.

Except for “This Bill,” “Implementation Considerations,” and “Fiscal Impact” sections, the department’s analysis of the bill as introduced December 6, 2004, still applies. New “This Bill” and “Implementation Considerations” sections are provided. The March 29, 2005, amendments resolved the department’s concern regarding the time frame for issuing rebates to personal income taxpayers. However, the remaining implementation considerations still apply and are listed below. The department’s position and fiscal impact are restated for convenience.

POSITION

Pending.

THIS BILL

This measure would repeal and replace Article XIIB of the California Constitution with the provisions of the measure. This measure would provide that revenues collected in a fiscal year that exceed the amount that may be appropriated by the state for that fiscal year must be rebated within 18 months following the conclusion of that fiscal year to California personal income tax return filers in proportion to the total amount of social security taxes paid by every filer, spouse, or dependent covered in that tax return filing for the taxable year ending on December 31 of that fiscal year. Until the first year in which aggregate excess revenues exceed \$100 million, excess revenues may be carried forward to the next fiscal year.

IMPLEMENTATION CONSIDERATIONS

In its current version, the measure does not address administration of the rebate program. However, presumably, FTB would be responsible for this function. Unless specified in this measure, the following items, and any later identified concerns, would need to be addressed in future enabling legislation prior to the issuance of the rebates.

- Identification of the state agency responsible for administering, calculating, and issuing the rebates.
- Identification of the state agency and time frames for measuring/determining existence and amount of excess revenue.
- Authority and methodology for determining social security tax paid by the taxpayer, spouse, and dependents included on the applicable tax return filing. FTB does not collect social security tax contribution data in the course of its current tax administration activities, nor is this data readily available through other state agencies. Attempts to acquire this data from the Social Security Administration have been unsuccessful because SSA maintains the position that it is prohibited from sharing this information.
- Provisions of the Internal Revenue Code require reporting of state or local income tax refunds to the IRS. Although the rebate would be based on funds available from excess state revenues, and not solely derived from excess income taxes paid, it is possible that the refund would be required to be reported to the IRS and subject to federal income taxes.

- Depending on the factors determining the proportionate rebate amount, certain circumstances could result in rebate revisions. These factors include the receipt of amended returns with corrected W-2 information, IRS audit adjustments resulting in revisions to social security tax paid by wage earners and self-employed individuals, or processing errors.
- Currently, FTB, IRS, and other state agencies participate in an offset process where refunds are offset to satisfy an outstanding liability owed by the taxpayer to another government entity. Without clarification, this could be construed as either a payment of excess state revenues or a refund of taxes paid. As such, clarification would be needed on whether these payments would be subject to the agency-offset process.

FISCAL IMPACT

As written, this measure would not impact the department's programs and operations. However, depending on the level of responsibility given to the department, costs could be significant. At a minimum, the department would need to implement a system to calculate, issue, and track the rebates proposed in this bill. In addition, the department could have to reissue rebates returned as undeliverable or deposited into escheat, comply with additional revenue reporting requirements for rebates, and report on rebates within the offset program. It is likely that the department would receive additional phone calls and visits to field offices from taxpayers inquiring about the random selection of taxpayers receiving rebates.

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