

SUMMARY ANALYSIS OF AMENDED BILL

Author: Lieber, et al. Analyst: Gail Hall Bill Number: AB 1370
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: July 18, 2007
 Attorney: Douglas Powers Sponsor: _____

SUBJECT: Net Operating Loss Deduction/Allow Carryforward For 20 Years Beginning On Or After January 1, 2008

- 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 ANALYSES OF BILL AS AMENDED June 1, 2007, and INTRODUCED February 23, 2007, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would allow certain taxpayers to elect a longer period to deduct losses incurred from certain business activities.

SUMMARY OF AMENDMENTS

The July 18, 2007, amendments removed the United States Food and Drug Administration limitation so that all qualified taxpayers in bioscience activities could carry over net operating losses (NOLs) for 20 years.

Except for the "THIS BILL" and "ECONOMIC IMPACT" discussion, the remainder of the department's analyses as amended on June 1, 2007, and introduced on February 23, 2007, still apply.

POSITION

Pending.

Board Position:	Legislative Director	Date
<input type="checkbox"/> S	Brian Putler	8/10/07
<input type="checkbox"/> NA		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NP		
<input type="checkbox"/> O		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

ANALYSIS

THIS BILL

This bill would allow certain personal income taxpayers and corporate taxpayers to have a longer period to deduct NOLs incurred from certain biopharmaceutical and other biotechnology (bioscience) business activities.

This bill would add an additional type of NOL that would be specific to bioscience activities of a qualified taxpayer. This new NOL would have a 20-year carryover period, following an election by the taxpayer. A "qualified taxpayer" would be defined as a taxpayer engaged in bioscience activities described in Codes 325411 to 325414 and 541710 of the NAICS¹ (2002 edition and as further amended).

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of this measure, under the assumptions discussed below, is estimated to be as follows:

Revenue Impact of AB 1370				
Enactment Assumed After June 30, 2007				
	2007-08	2008-09	2009-18	2019-20
Revenue Impact	\$0	\$0	\$0	-\$400,000*

* This bill would result in revenue losses beginning in 2018/19 fiscal year. (See Revenue Discussion below).

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Under current law, NOLs created in 2008 would be potentially usable for ten years, until the tax year beginning 2018. After ten years, NOLs may no longer be carried forward and used. This bill would allow a taxpayer ten additional NOL carryover years. The first revenue impact of the bill would be in 2019, when unused losses created in 2008 could be used. Using company-level data and a micro-simulation model, it was estimated that \$8 million of NOLs generated by the qualified taxpayers in 2008 would be used in 2019. Using an estimated tax rate of 5%, this would result in a revenue loss of \$400,000 in that year.

¹ North American Industry Classification System.

Taking into account the losses generated after 2008, the sum of all the losses carried forward would reach a maximum of approximately \$25 million per year in 2028 resulting in a revenue loss of \$1.25 million in 2028 (\$25 million \times 5% tax rate).

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