Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	DeVore/Spitzer, et al.	Analyst:	Angela Raygoza	Bill Number:	AB 1759
Related Bills:	See Legislative History	Telephone:	845-7814	Introduced Date:	January 7, 2008
		Attorney:	Tommy Leung	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/2007 Calendar Year Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura County Wildfires

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the 2007 Southern California wildfires.

This analysis will not address the bill's changes to the Property Tax Law, as they do not impact the department or state income tax revenue.

PURPOSE OF THE BILL

According to the language of the bill, the purpose of this bill is to provide immediate tax relief to individuals and businesses affected by the wildfires.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under federal and state tax law, a business can deduct losses sustained during the taxable year. In addition, individuals can deduct nonbusiness losses not reimbursed by insurance or otherwise to the extent each loss exceeds $100. Total nonbusiness losses are deductible only to the extent that total losses for the year exceed 10% of the individual's gross income.

Under federal and state tax law, a disaster loss occurs when property is destroyed as a result of a fire, storm, flood, or other natural event in an area proclaimed to be a disaster by the President of the United States or, for state law purposes, by the Governor.

Board Position:			Department Director	Date
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Under federal and state tax law, the taxpayer may elect to claim the loss either in the year the loss occurs or in the year preceding the loss. This election allows the taxpayer to file an amended return immediately for the prior year. The deadline to elect and file an amended return based on Federal Tax law is before the due date of the return for the taxable year in which the disaster occurred. Current state tax law extends the due date for making the election to six months after the due date of the original return. For state law purposes, this election may be made for any Presidentally-declared disaster prior to passage of any state legislation allowing special carryover treatment because California conforms to federal disaster tax law treatment. The election is not available for a Governor-only declared disaster until enabling state legislation has been enacted.

State tax law identifies specific events as disasters that are then allowed additional special carry forward treatment for state tax purposes. That special treatment allows 100% of the disaster loss to be carried forward for up to fifteen taxable years. For individual losses, the same carry forward rules apply only if the total losses exceed ten percent of the individual's federal adjusted gross income.

PROGRAM BACKGROUND

Governor Arnold Schwarzenegger proclaimed on October 21, 2007, a state of emergency declaring the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties to be a state disaster. On October 23, 2007, President George W. Bush proclaimed the same counties to be a federal disaster.

<u>THIS BILL</u>

This bill would add the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties during 2007 to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law (CTL).

Specifically, this bill would allow special carry forward treatment for 100% of the disaster loss deduction for up to fifteen taxable years as a result of the wildfires. The same rule applies to individual nonbusiness losses if the total losses for the year exceed 10% of the individual's federal adjusted gross income.

<u>IMPLEMENTATION CONSIDERATIONS</u>

Implementing this bill would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

SB 1064 (Hollingsworth, 2007/2008) would allow taxpayers disaster loss treatment for the losses sustained as a result of the wildfires that occurred in Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura Counties in 2007 and for the wind damage that occurred in Riverside County during October, 2007. This bill is currently in the first house.

AB 62 (Nava, Stats. 2007, Ch. 224) allows taxpayers disaster loss treatment for losses sustained as a result of the wildfires that occurred in Ventura County in 2006, and in El Dorado, Santa Barbara, and Ventura Counties during 2007.

SB 38 (Florez, Stat. 2007, Ch. 222) allows taxpayers disaster loss treatment for losses that occurred as a result of the wildfire in Riverside County in October 2006.

SB 114 (Florez, Stat. 2007, Ch. 223) allows taxpayers disaster loss treatment for losses that occurred as a result of the freezing conditions that occurred in California in January, 2007. The counties affected by that disaster were El Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba Counties.

ECONOMIC IMPACT

Revenue Estimate

This bill would have the following revenue impact:

Revenue Analysis for AB 1759 As Introduced January 7, 2008 Effective for Tax Years BOA January 7, 2008				
Disaster Relief	2007-08	2008-09	2009-10	Cumulative Loss
The 2007 Southern California Wildfires	Loss < $250,000	Gain < $150,000	Gain < $150,000	Loss < $150,000

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

Revenue Discussion

The most current data from the Office of Emergency Services (OES) indicates a total of 2,180 structures were destroyed and 482 were damaged as a result of the October, 2007, Southern California Wildfires (total structures = 2,662). Research conducted suggests approximately $1.6 billion of insured property losses were sustained as a result of the targeted wildfires and another $400 million was uninsured for a total of $2 billion in damages. It is estimated that 90% of uninsured losses would exceed the minimum adjusted gross income threshold resulting in total casualty loss deduction of $360 million ($400 million x 90% = $360 million). The average affected taxpayer would have a potential casualty loss of $135,000 ($360 million ÷ $2,662 structures). Current California tax law allows taxpayers with fire losses to amend their 2006 tax returns until April 15, 2008; this bill extends the filing period until October 15, 2008. It is likely that most taxpayers affected by the fires will have filed an amended return claiming their fire losses by April 15th to receive an accelerated refund.

Based on expectations about taxpayer filing behavior, it is assumed that 1% of the value of casualty losses would be filed on an amended 2006 return and that one-half of those losses could be used to offset reported income. The revenue loss accrued to 2007-08 would be negligible, less than $250,000 ($360 million x .01 x .50 x .09 marginal rate = $162,000.) Because these losses were used on the amended 2006 return, they would not be available to offset income in later years. Therefore, for 2008-09 and 2009-10, there would be insignificant revenue gains of less than $150,000 in each year, resulting in an insignificant net revenue loss for the 3-year period of less than $150,000.

Currently, affected taxpayers have ten years to deduct their disaster losses. Given that the average casualty loss for the fires is estimated to be $135,000, it is unlikely that many taxpayers will have losses remaining after ten years. Therefore, the long-term revenue effect of the additional five years of carryover is assumed to be insignificant.

LEGISLATIVE STAFF CONTACT

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