Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Hayashi	Analyst:	Deborah Barrett	Bill Number:	AB 2755
Related Bills:	See Prior Analysis	Telephone:	845-4301	Amended Date:	June 16, 2008
		Attorney:	Patrick Kusiak	Sponsor:	Franchise Tax Board

SUBJECT: Mandatory Personal Income Tax Electronic Payments

____ 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 DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended __________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO __________________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 16, 2008, STILL APPLIES.

____ OTHER – See comments below.

SUMMARY

This three-member Franchise Tax Board sponsored bill would require personal income taxpayers with estimated tax or extension payments that exceed $20,000 or with tax liabilities of more than $80,000 to remit their payments electronically.

SUMMARY OF AMENDMENTS

The June 16, 2008, amendments revised the penalty for noncompliance to the bill's provisions from 10% to 1%. The "This Bill" and "Economic Impact" discussions are revised to reflect the reduction for the revised penalty percentage and changes in the performance of the Pooled Money Investment Account (PMIA). The remainder of the department's analysis of the bill as amended April 16, 2008, still applies.

POSITION

Support.

On November 28, 2007, the three-member Franchise Tax Board voted 2-0, with the member from the Department of Finance abstaining, to sponsor the language included in this bill.

Board Position:			Asst. Legislative Director	Date
_X_ S	___ NA	___ NP		
___ SA	___ O	___ NAR	Patrice Gau-Johnson	6/19/08
___ N	___ OUA	___ PENDING		

<u>THIS BILL</u>

This bill would require for all payments made by an individual on or after January 1, 2009, regardless of the taxable year to which the payments apply, to be electronically remitted to the Department in a form and manner prescribed by the Department once either of the following conditions are met for taxable years beginning on or after January 1, 2009:

- Any installment payment of estimate tax or extension payment exceeds $20,000.
- The total tax liability, as defined, exceeds $80,000.

For purposes of this section, the following definitions apply:

- “Total tax liability” is the total tax liability as shown on the original return after any adjustments are made for mathematical errors or erroneously omitted tax.
- “Electronically remit” means to send payment through use of any of the electronic payment applications provided by the Department.

This bill would permit a taxpayer that is required to remit electronic payments to elect to discontinue making electronic payments in instances where the threshold requirements are not met in the preceding taxable year. A taxpayer required to remit electronic payments may obtain a waiver of those requirements if the Department determines that the amounts paid in excess of the threshold amounts were not representative of the taxpayer’s tax liability. Once the waiver is received, the requirement to make, or not make, future electronic payments are subject to the terms of the waiver.

A taxpayer that is required to remit electronic payments, but remits payment by other means, can be subject to a penalty of 1% of the amount paid, unless the failure to remit electronically was for reasonable cause and not willful neglect.

This bill would specify that requirements of the Administrative Procedures Act are not applicable to the provisions of this bill.

ECONOMIC IMPACT

Based on data and assumptions discussed below, the proposal would result in the following revenue impact:

Estimated Revenue Impact of AB 2755 Amended June 16, 2008 Effective for Tax Payments Made On or After 1/1/09 Enactment Assumed after 6/30/08			
Fiscal Impact	2008-09	2009-10	2010-11
Penalty Revenues	Gain < $150K	Gain < $150K	Gain < $150K
Reduced Taxes	$0	Loss < $500K	Loss < $500K
Additional Interest Earnings for the State	$3 million	$5 million	$7 million

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

The revenue impact of this bill depends on the amount of penalties assessed and collected in any given year and the extent taxpayers who use electronic fund transfer (EFT) payment methods experience small reductions in their taxable interest income in future years. This happens as a result of the reduced float times for the interest-bearing funds from which their income tax payments are drawn.

Penalty Revenue

The projected number of mandatory EFT individual payments over $20,000 is estimated at 140,000 in any given year. Based on corporate taxpayer behavior, compliance with mandatory EFT payments is expected to be very high. Potential penalty assessments and collections from individual income taxpayers failing to comply with the proposed EFT payment requirement are estimated to be less than $150,000 annually.

Reducing the penalty percentage from 10% to 1% is expected to increase non-compliance minimally. The revenue gain from assessed penalties remains to be less than $150,000 annually.

Reduced Taxes on Interest Income

It is estimated that mandatory EFT for individuals would result in a reduction of approximately $5 million of interest income by affected taxpayers each year ($14 billion targeted EFT payments x money market daily rate of 0.00841% x 5 fewer float days ≈ $6 million reduced taxable interest income minus 10% for those who currently pay through EFT ≈ $5 million). Assuming a marginal tax rate (MTR) of 9%, the estimated revenue loss from the reduced taxable incomes of affected taxpayers is approximately $500,000 ($5 million interest income x 9% MTR).

The reduction in the penalty percentage is expected to have a small impact on compliance with the EFT requirement. The impact on reduced taxes due to reduced interest income is expected to be minimal.

Interest Revenues to State due to Faster Deposits of Taxes

The projected interest revenue to the general fund portion of this bill's revenue analysis is lowered because the Department of Finance has lowered its projections of PMIA yield rates from the Governor's Budget[1]. The projected revenue gains shown in the above table are included in the May Revision.

The reduction in the penalty percentage is expected to have a small impact on compliance with the EFT requirement. However, this is expected to have a minimal impact on interest revenue.

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[1] Changes to PMIA rate:

08-09 Fiscal Year	Jan projection	May revise projection
1st qtr	4.85	3.54
2nd qtr	4.75	3.07
3rd qtr	4.68	2.7
4th qtr	4.66	2.45

09-10 Fiscal Year	Jan projection	May revise projection
1st qtr	4.69	2.35
2nd qtr	4.76	2.43
3rd qtr	4.84	2.67
4th qtr	4.88	2.99