Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Nava	Analyst:	Angela Raygoza	Bill Number:	AB 62
Related Bills:	See Legislative History	Telephone:	845-7814	Introduced Date:	December 4, 2006
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/September & October, 2006, Riverside & Ventura County Wildfires

SUMMARY

This bill would allow taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the 2006 Riverside and Ventura County wildfires.

PURPOSE OF THE BILL

According to the author's staff, the purpose of the bill is to provide immediate tax relief to individuals and businesses affected by the 2006 Riverside and Ventura County 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 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.

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. For state purposes, this election may be made for any President-declared disaster prior to passage of any state legislation allowing special carryover treatment because California conforms to federal law. The election is not available for a Governor-only declared disaster until enabling state legislation has been enacted.

Nonbusiness disaster losses not reimbursed by insurance or otherwise are deductible under state and federal tax law to the extent each loss exceeds $100. Total nonbusiness disaster losses are deductible only to the extent that the total loss amount for the year exceeds 10% of adjusted gross income.

Board Position:			Department Director	Date
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State tax law identifies specific events as disasters that are then allowed additional special carry forward treatment. That is, 100% of the excess disaster loss may be carried over for up to five taxable years, and if any excess loss remains after the five-year period, the remaining excess loss may be carried over at a specified percentage for up to 10 additional years.

THIS BILL

This bill would add the wildfires that occurred in Riverside and Ventura counties in September and October, 2006, to the current list of specified disasters under the Personal Income Tax (PIT) Law and the Corporation Tax Law. This bill would allow these Governor-only declared disasters to be treated in the same manner as Presidential declared disasters.

Specifically, this bill would allow special disaster treatment of losses sustained as a result of those disasters. The $100 and 10% of adjusted gross income limitations in existing law would apply to disaster losses on nonbusiness property.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

SB 38 (Battin, 2007/2008) would allow taxpayers disaster loss treatment for losses sustained as a result of the Riverside County Esperanza wildfire. The bill is currently in the first house.

AB 18 (La Malfa, Stats. 2005, Ch.624), allowed taxpayers disaster loss treatment for losses sustained as a result of the following disasters: Shasta County wildfires, and the flooding and slides in the counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

AB 1510 (Kehoe, Stats. 2004, Ch. 772) allowed taxpayers disaster loss treatment for losses sustained as a result of the following disasters: Middle River levee break in San Joaquin County, Southern California wildfires, floods, mudflows and debris flows directly related to the Southern California wildfires, and San Simeon earthquake.

AB 44 (Wiggins, Stats. 2001, Ch. 618) allowed taxpayers disaster loss tax treatment for losses sustained as a result of the earthquake that occurred in September, 2000, in Napa, California.

PROGRAM BACKGROUND

Governor Schwarzenegger proclaimed the Riverside County wildfire to be a disaster on October 26, 2006; the Ventura County wildfire was proclaimed to be a disaster by the Governor on September 24, 2006. President Bush did not declare either one of these fires to be a federal disaster.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the revenue impact from this bill would be as follows:

Revenue Analysis for AB 62 – as introduced Enactment assumed before June 30, 2007 Effective and Operative January 1, 2005 ($ in Millions)			
Fiscal Year	2005-06	2006-07	2007-08
Disaster Relief	a/	b/	None

a/ Insignificant revenue gain of under $150,000
b/ Insignificant revenue loss of under $150,000

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

Revenue Discussion

This bill would generate a revenue impact to the extent excess losses remain after computing the casualty loss deduction otherwise allowed against current year taxes only. Further, to the extent remaining losses are applied to the preceding tax year (2005), acceleration in revenue loss would occur.

The estimated loss in value of affected property is $3 million. Assuming 20% of such damages would NOT be reimbursed by insurance, but would exceed the 10% of AGI limitation, the fire casualty caused an estimated $600,000 of potential deductions. It is assumed only one-half of these losses can be claimed in the current tax year. Thus, an estimated $300,000 ($300,000 x 0.5) of possible tax deductions is at issue under this bill.

If all excess losses were deducted on an amended 2005 tax return, roughly $18,000 ($300,000 x 6% tax rate) in lost revenues would result. To the extent these deductions would have been claimed in later years had they not been taken in 2005, there is an insignificant revenue gain in those later years.

LEGISLATIVE STAFF CONTACT

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