

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Oropeza Analyst: Deborah Barrett Bill Number: SB 920

Related Bills: None Telephone: 845-4301 Amended Date: April 11, 2007

Attorney: Tommy Leung Sponsor: _____

SUBJECT: Disclosure Of State Income Tax Data To State Controller's Office

SUMMARY

This bill would authorize the Franchise Tax Board (FTB) to disclose specified information from business entity returns to the State Controller's Office (SCO) for use in its administration of the Unclaimed Property Law.

This bill also contains provisions for the State Board of Equalization to disclose tax data to SCO that do not impact FTB and are not discussed in this analysis.

SUMMARY OF AMENDMENTS

The April 11, 2007, amendments deleted language regarding the Diesel Fuel Tax Law and added provisions relating to disclosure of tax information by FTB to SCO.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to improve efficiencies in the state's Unclaimed Property Program.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008 and be operative on or after that date.

POSITION

Pending.

Board Position:

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Department Director

Date

Selvi Stanislaus

4/27/07

ANALYSIS

FEDERAL/STATE LAW

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as the FTB. A federal return is defined as any tax return, information return, declaration of estimated tax, or claim for refund under the Internal Revenue Code. Any FTB employee or member responsible for the improper disclosure of federal tax information is subject to criminal prosecution. Improper disclosure of federal tax information is a felony.

Current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits FTB to release individual tax return information to specific state agencies. Agencies must have a specific reason for requesting the information, including investigating items of income disclosed on any return or report, verifying eligibility for public assistance, locating absent parents to collect child support, or locating abducted children. For some agencies, only limited information may be released, such as the taxpayer's social security number and address.

California law also permits FTB to release confidential tax information according to tax return sharing agreements with the IRS, the Multistate Tax Commission, and the taxing authorities of other states and Mexico. The exchange must relate to the enforcement of tax laws and the information must not be made public.

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Any FTB employee or member responsible for the unauthorized disclosure of state or federal tax information is subject to criminal prosecution. Improper disclosure of state tax information is a misdemeanor.

THIS BILL

This bill would authorize FTB, subject to federal requirements, to provide SCO on an annual basis specific information from the business entity returns or other business entity records maintained by FTB. The information authorized to be disclosed by this bill would include the following:

- Taxpayer name,
- Taxpayer identification number,
- Taxpayer address,
- Taxpayer's principal business activity code, and
- Gross revenues as reported by the taxpayer.

The bill would limit the use of the information disclosed under this bill for purposes of determining compliance with the Unclaimed Property Laws administered by SCO.

IMPLEMENTATION CONSIDERATIONS

If the technical consideration detailed below is resolved, implementing this bill would not significantly impact the department's programs or operations.

TECHNICAL CONSIDERATIONS

The bill would require FTB to provide SCO with "gross revenues" as reported by the taxpayer, which is not an item that appears on a business entity income tax return. The author may wish to amend the language to refer to "gross receipts," which is captured on the business entity returns processed by the department. The following technical amendment is suggested.

On page 5, line 30, after "gross" strikeout "revenues" and insert "receipts".

FISCAL IMPACT

Reimbursement for providing information, as required in this bill, is normally provided to the FTB through an interagency contract. Costs will be developed as the bill progresses through the legislative process, but it is expected to be minor.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

LEGISLATIVE STAFF CONTACT

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