

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: De Leon Analyst: Gail Hall Bill Number: AB 11  
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: July 14, 2009  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** IRC 382 And IRS Notice 2008-83

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 23, 2009.
- 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 \_\_\_\_\_.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 23, 2009 STILL APPLIES.
- OTHER – See comments below.

**SUMMARY**

This bill provides that specific federal guidelines related to certain statutory deduction and loss items shall not apply for California Corporation Tax Law (CTL) purposes.

**SUMMARY OF AMENDMENTS**

The July 14, 2009, amendments removed the legislative findings and declarations relating to IRS Notice 2008-83 and added an urgency statute relating to the applicability of IRS Notice 2008-83 to California law.

Except for the “Effective/Operative Date,” “Background”, “This Bill,” and “Economic Impact” discussions, the remainder of the department’s analysis of the bill as amended April 23, 2009, still applies.

**EFFECTIVE/OPERATIVE DATE**

As an urgency measure, this bill would be effective and operative immediately upon enactment, and would specifically apply to any ownership change occurring at any time.

Board Position:	Legislative Director	Date
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<input checked="" type="checkbox"/> PENDING		

## **POSITION**

Pending.

## **BACKGROUND**

The three-member Franchise Tax Board (Board) took action at its December 4, 2008, meeting directing staff to begin regulatory action to make Notice 2008-83 inapplicable for California purposes.

At its March 19, 2009, meeting the Board authorized staff to proceed with formal procedures under the Administrative Procedures Act to adopt this regulation. (See Appendix A). The language in this bill is substantially identical to Proposed Regulation Section 24451.

## **ANALYSIS**

### THIS BILL

This bill would provide that IRS Notice 2008-83, (2008-42 I.R.B. 905), issued October 20, 2008, shall not be applicable for CTL purposes with respect to any ownership change occurring at any time.

## **ECONOMIC IMPACT**

Based on the language and enactment of Section 1261 of ARRA,<sup>1</sup> the department's Legal staff concludes Notice 2008-83 has no legal effect for purposes of California tax laws, therefore, AB 11 would have no revenue impact.

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<sup>1</sup> American Recovery and Reinvestment Act of 2009 (Public Law 111-5), enacted February 17, 2009.

## **APPENDIX A**

### **Proposed Regulation Section 24451**

§ 24451. Applicability of federal regulations related to limitations on certain built-in losses following an ownership change; force and effect of IRS Notice 2008-83 exempting banks from limitation.

a. IRS Notice 2008-83, I.R.B. 2008-42 (October 20, 2008), relating to treatment of deductions under Internal Revenue Code section 382(h) following an ownership change, shall not be applicable for purposes of the taxes imposed under Part 11 (commencing with Section 23001) of the Revenue and Taxation Code with respect to any ownership change occurring at any time.