

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Gaines Analyst: William Koch Bill Number: AB 2225
Related Bills: See Legislative History Telephone: 845-4372 Introduced Date: February 18, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Wage, Supplemental Wage, Stock Option And Bonus Payment Withholding/Eliminate 10 Percent Increase

SUMMARY

This bill would limit the 10 percent withholding increase on wages, supplemental wages, stock options, and bonus payments to amounts paid on and after November 1, 2009, and before the effective date of the bill.

PURPOSE OF THE BILL

According to the author’s office, the purpose of this bill is to provide tax relief to taxpayers to help revitalize the economy.

EFFECTIVE/OPERATIVE DATE

As an urgency statute, this bill would be effective immediately upon enactment and operative for supplemental wages, stock options, and bonus payments paid on or after the effective date of the bill.

The provisions of the bill impacting withholding on wages would be operative immediately upon enactment.

POSITION

Pending.

ANALYSIS

STATE LAW

Current state law requires the Franchise Tax Board to annually provide the Employment Development Department (EDD) with wage withholding tables to be used by employers to withhold taxes on wages paid to their employees. Employers are also required to withhold tax, at a fixed rate, on supplemental wages including stock options and bonus payments.

Board Position:	Department Director	Date
_____ S		
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_____ NP		
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_____ X PENDING	Selvi Stanislaus	04/12/10

Prior to ABX4 17 (Committee on Budget, Stats. 2009, 4th Ex. Sess. 2009/2010, Ch. 15), the wage withholding tables were based on the estimated amount of tax due on the wages paid by the employer. For wages paid on or after November 1, 2009, ABX4 17 requires the amount determined for the wage withholding tables to be increased by 10 percent. ABX4 17 also increased the withholding rate on supplemental wages, other than stock options and bonus payments, from 6 percent to 6.6 percent. The withholding rate for stock options and bonus payments increased from 9.3 percent to 10.23 percent.

Taxpayers are required to make estimated tax payments if the amount of taxes withheld or otherwise available for a taxable year is less than the amount due. Penalties are imposed if a taxpayer underpays their estimated taxes.

THIS BILL

This bill would repeal and add back the former withholding section to the Revenue and Taxation Code that would result in limiting the 10 percent withholding increase on wages, supplemental wages, stock options, and bonus payments to amounts paid on and after November 1, 2009, and before the effective date of the bill. As a result, withholding on wages, supplemental wages, stock options, and bonus payments paid on or after the effective date of the bill would no longer be increased by 10 percent.

The fixed rate of withholding on supplemental wages, other than stock options, and bonus payments would be restored to 6 percent. The fixed rate of withholding for stock options, and bonus payments would be restored to 9.3 percent.

This bill would also make a technical, non-substantive change to the definition of supplemental wages.

IMPLEMENTATION CONSIDERATIONS

The department estimates that it would take approximately two weeks to revise and provide the reduced wage withholding tables to EDD. Although this bill would be effective and operative immediately upon enactment, a reduction of withholding on wages may be delayed until employers have received and implemented the new withholding tables.

TECHNICAL CONSIDERATIONS

A conforming amendment relating to the reduction of withholding on wages should be made to Unemployment Insurance Code section 13020.

LEGISLATIVE HISTORY

AB 1959 (Logue, 2009/2010) contains provisions similar to this bill. AB 1959 is currently assigned to be heard in the Assembly Committee on Revenue and Taxation.

SB 952 (Wyland, 2009/2010) contains provisions similar to this bill. SB 952 is currently assigned to be heard in the Senate Committee on Revenue and Taxation.

SB 1337 (Wyland, 2009/2010) contains provisions similar to this bill. SB 1337 is currently assigned to be heard in the Senate Committee on Revenue and Taxation.

ABX4 17 (Committee on Budget, Stats. 2009, 4th Ex. Sess. 2009/2010, Ch. 15) increased the withholding rate on wages, supplemental wages including stock options and bonus payments, by 10 percent.

ABX3 19 (Evans, 2009/2010) and SBX 3 17 (Ducheny, 2009/2010) both contained provisions that would have increased the withholding rate on wages, supplemental wages, stock options and bonus payments by 10 percent. ABX3 19 was sent to enrollment but was withdrawn from enrollment without action by the Governor. SBX3 17 was vetoed by Governor Schwarzenegger on June 30, 2009. In his veto message the Governor stated, "I have been very clear that the Legislature must solve the entire deficit, must make the hard decisions now, and must not push the problem off to tomorrow. This bill and its companion measure, SBX3 16, do not meet any of those criteria."

ABX3 36 (Laird, 2007/2008) contained provisions that would have increased the withholding rate on wages, supplemental wages, stock options and bonus payments by 10 percent. Governor Schwarzenegger vetoed this bill. In his veto message the Governor stated, "I am returning Assembly Bill X3 36 without my signature, as I cannot support taking more money away from the paychecks of hard working Californians to balance the state budget. While this year's budget does not permanently solve California's structural deficit, it solves this year's \$15.2 billion dollar budget gap, does not take money out of people's paychecks or borrow from voter-approved local government or transportation funds."

AB 2065 (Oropeza, Stats. 2002, Ch. 488) authorized a 9.3 percent withholding rate on stock options and bonus payments in lieu of the withholding tables or supplemental wage withholding rates.

OTHER STATES' INFORMATION

The states of *Florida*, *Illinois*, *Massachusetts*, *Michigan*, *Minnesota*, and *New York* were surveyed due to their similarities to California's economy, business entity types, and tax laws. With the exception of *Florida*, which does not have a personal income tax, all of these states require withholding of tax on wages paid by employers to their employees. However, these states do not require withholding greater than the estimated amount of tax due.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 2225 Withholding Tables/Eliminate 10 Percent Increase Enactment Assumed September 30, 2010 (\$ in Millions)		
2010-11	2011-12	2012-13
-\$1,400	-\$170	-\$75

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

LEGISLATIVE STAFF CONTACT

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