

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Calderon Analyst: Angela Raygoza Bill Number: AB 2230

Related Bills: See Legislative History Telephone: 845-7814 Amended Date: April 5, 2010

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Make Available As Public Record and Post On Website List Of 100 Largest Publicly Traded Corporations

SUMMARY

This bill would require the Franchise Tax Board (FTB) to post specified information on the 100 largest publicly traded corporations on the FTB's public Web site.

SUMMARY OF AMENDMENTS

The April 5, 2010, amendments removed language that would have made technical, non-substantive changes to the Revenue and Taxation Code, and added language that would require the FTB to publish an annual list of the 100 largest publicly traded corporations, based on gross receipts, filing tax returns in California.

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

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to increase the transparency of corporate tax expenditures, evaluate their effectiveness, and, if necessary, close unfair tax loopholes.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2011, and would specifically require the first report to be posted no later than March 31, 2011.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal and state law provides that tax returns and tax information are confidential and may not be disclosed unless authorized specifically by statute. Any FTB employee or member responsible for the improper disclosure of federal or state tax information is subject to criminal prosecution. Improper disclosure of federal tax information is punishable as a felony and improper disclosure of state tax information is punishable as a misdemeanor.

Board Position:

_____ S _____ NA _____ NP
_____ SA _____ O _____ NAR
_____ N _____ OUA X PENDING

Legislative Director

Date

Brian Putler

04/20/10

Current state law permits disclosure of tax return information to other state and local tax agencies, the Multistate Tax Commission, and tax officials from other states and Mexico. All exchanges of tax information with these entities carry strict confidentiality rules and are prohibited from being released to the public, unless authorized by statute. Current state law also prohibits publication of home telephone numbers and home addresses of elected or appointed officials.

Current state law requires the FTB to compile and make publicly available an annual list that identifies the largest 250 tax delinquencies of individual and business taxpayers with state income tax liens where the total balance owed is greater than \$100,000.

THIS BILL

This bill would require the FTB to post an annual list on the FTB's public Web site of the 100 largest publicly traded corporations, based on gross receipts, filing tax returns for a taxable year and with tax expenditures. The annual list would be required to be available to the public and posted to the Web site by March 31, 2011, commencing with tax returns filed for taxable years beginning on or after January 1, 2008.

This bill would require the annual list to include the following:

- Name of the corporation,
- California corporation number,
- Address of the principal office,
- Aggregate amount of tax expenditures, and
- Effective tax rate.

This bill would define the following:

- "Effective tax rate" means an amount, expressed as a percentage, determined by dividing the amount of taxes paid by a taxpayer for a taxable year by an amount equal to the sum of the following:
 - Taxable income of the taxpayer for the taxable year,
 - Tax expenditures of the taxpayer that were deducted by the taxpayer in arriving at the taxable income of the taxpayer for the taxable year.
- "Tax expenditure" means tax expenditures as detailed in the California Income Tax Expenditures, Compendium of Individual Provisions Report, compiled by the FTB.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

LEGISLATIVE HISTORY

AB 1418 (Horton, Stats. 2006, Ch. 716) requires the FTB to compile and make publicly available an annual list that identifies the largest 250 tax delinquencies that exceed \$100,000, selected from both the Personal Income Tax and Corporation Tax records as of December 31 of the previous year.

AB 1678 (Alquist, 1997/1998) would have required the FTB to compile, on a monthly basis, a listing of the 100 largest tax delinquencies under the Personal Income Tax Law and the Bank and Corporation Tax Law. This bill would have also required that the board post each of those monthly lists on a freely accessible page on the internet. AB 1678 failed passage out of the Assembly Revenue and Taxation Committee.

OTHER STATES INFORMATION

The following states were reviewed because they have laws similar to the one proposed by this bill:

Arkansas law requires the Director of the Department of Finance and Administration to disclose the name of the taxpayer and the amount of various state tax credits, rebates, discounts, or collection commissions the taxpayer receives. The law bars disclosure if the information would give an advantage to competitors or bidders or is exempt from disclosure under any other law requiring specific information to be kept private. The director must give the taxpayer whose information is requested adequate notice of up to seven days before releasing the information

Illinois law requires any recipient that receives economic development assistance from a state granting body, to report annually on the progress of the development and employment commitments for the project. This report must be submitted to the Department of Commerce and Economic Opportunity each year and include the following:

- Level of capital investment in the project
- Number of jobs created by the project
- Grant or loan received by the Large Business Development Program
- Tax credit received under the Growing Economy Tax Credit Program

The Department is required to compile and publish all data in all of reports in both written and electronic form."

Massachusetts law requires all corporations, banks, and various insurance companies to file a report with the secretary of state including the following information:

- Gross receipts or sales
- Gross profit
- Income subject to apportionment
- Massachusetts taxable income
- Amounts of each credit taken
- Net interest income

This information is made for public inspection after the secretary of state expunges the name of the taxpayer and the location, including street address, of the taxpayer's principal office.

West Virginia requires the Tax Commissioner to provide the name and address of every corporate taxpayer and the amount (by category) of various tax credits asserted on a tax return to the secretary of state for public inspection.

Wisconsin law requires the state's Department of Revenue to furnish to a person who requests the information the amount of state income tax, franchise tax, or gift tax reported by an individual or corporation if the request satisfies the following conditions:

- Individual seeking the information must be a Wisconsin resident,
- Individual must pay a four dollar fee per return from which information is sought,
- Individual must prove his or her identity, and
- Individual must sign a statement disclosing his or her address and the reason for making the request.

FISCAL IMPACT

The department estimates it would incur one-time costs of \$70,000 (1/2 PY) for programming changes and testing and additional resources to determine the top 100 publicly traded corporations in California. On-going costs would be minimal to maintain and update the list.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

Legislative Analyst

Angela Raygoza

(916) 845-7814

angela.raygoza@ftb.ca.gov

Revenue Manager

Monica Trefz

(916) 845-4002

monica.trefz@ftb.ca.gov

Legislative Director

Brian Putler

(916) 845-6333

brian.putler@ftb.ca.gov