

SUMMARY ANALYSIS OF AMENDED BILL

Author: Skinner Analyst: Janet Jennings Bill Number: AB 2666
 Related Bills: See Prior Analysis Telephone: 845-3495 Amended Date: May 28, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Tax Credits/Information Reporting/Failure To File Information Penalty/FTB Compile Information Received & Submit To State Chief Information Officer For Publication On The Reporting Transparency In Government Internet Web Site

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE ALL THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended April 27, 2010.

X FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO _____.

____ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 27, 2010, STILL APPLIES.

X OTHER – See comments below.

SUMMARY

This bill would require the Franchise Tax Board (FTB) to annually compile tax expenditure information claimed on returns of publicly-traded companies and submit this information to the State Chief Information Officer (CIO).

SUMMARY OF AMENDMENTS

The May 28, 2010, amendments removed the requirements for taxpayers to report the number of employees, the average wage, and the penalty for failure to report. As a result of the amendments, the implementation considerations in the previous analysis of the bill as amended April 27, 2010, were resolved regarding undefined terms and on what date the number of employees are to be reported. However, the implementation concern regarding the date on which the report from the FTB to the CIO is due has not been resolved and is restated below for convenience. In addition, the Fiscal Impact and remaining Policy Concern have been restated for convenience.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	06/16/10

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2011, and would be specifically operative for tax expenditures claimed on tax returns for taxable years beginning on or after January 1, 2010, with a tax expenditure report due to the State CIO beginning March 30, 2012, and each March 30 thereafter.

POSITION

Pending.

Summary of Suggested Amendments

If the author intends to limit the reporting of claimed tax expenditures to publicly-traded companies filing under the Corporation Tax Law, suggested language is provided in Appendix 1.

This bill uses the term "tax expenditures;" however, this term is not defined in the bill. The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this provision. A suggested definition is provided in Appendix 1.

ANALYSIS

THIS BILL

This bill would require the FTB to compile claimed tax expenditures from tax returns of publicly-traded companies, under the Personal Income Tax Law and the Corporate Tax Law, beginning with the 2010 taxable year.

This bill defines a publicly traded company as a company with securities that are either listed or admitted to trading on a national or foreign exchange, or is the subject of two-way quotations, such as both bid and asked prices, that is regularly published by one or more broker-dealers in the National Daily Quotation Service or a similar service.

This bill would require the FTB to report the compiled information from returns with taxable years beginning on or after January 1, 2010, and submit that information to the CIO, by March 30, 2012, and then by March 30 of each year thereafter. The CIO would be required to develop on the Reporting Transparency in Government Internet Web site a database searchable by company name and the amount of tax expenditures claimed.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

Personal income tax returns may be filed, with extension, until October 15. Corporate returns may be filed even later, dependent on when the taxpayer's fiscal year ends. The department generally processes returns within six months of receipt. If the author's intent is to have each report contain complete information for the taxable year, the due date of the report should be changed. For example, the return due date for corporate taxpayers with fiscal years beginning December 1, 2010, and ending November 30, 2011, is February 15, 2012, and with extension, September 15, 2012. The department would complete processing these returns by March 2013. Thus, the earliest that data from these corporate returns could be included in a report would be approximately June 2013.

FISCAL IMPACT

This bill would require revising tax forms, and the department to compile additional data. As a result, this bill would impact the department's printing, processing, and storage costs for tax returns. The additional costs have not been determined at this time. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

POLICY CONCERNS

California has a self-assessed tax system that relies on the responsiveness of the individual and corporate taxpayer to report the proper amount of tax. A self-assessed tax system works in part because the taxpayer has confidence that the information reported to the government will be confidential and used only for the specified purpose. If tax information is used or disclosed for other than the specified purpose, the effectiveness of the state's self-assessed tax system may be impacted.

LEGISLATIVE STAFF CONTACT

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Appendix 1

Suggested amendments for AB 2666, as Amended May 28, 2010

Amendment 1

On page 3, lines 3 and 4, strikeout "Part 10 (commencing with
section 17001) or"

Amendment 2

On page 3, line 14, insert:

(c) For the purpose of this section, "tax expenditure" means any credit against the tax imposed under Part 11 (commencing with Section 23001).