

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Bass Analyst: Janet Jennings Bill Number: AB 2676
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 19, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Continue Election To Report Use Tax On Income Tax Return

SUMMARY

This bill would make permanent the law allowing taxpayers the election to file and pay use tax on their income tax returns.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to improve voluntary compliance with state use tax laws by repealing the cease operative date.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2011, and would apply to returns filed on and after that date.

POSITION

Pending.

ANALYSIS

STATE LAW

California use tax is imposed on any person who purchases tangible personal property for use, consumption, or storage in this state where the purchase is not subject to California sales tax. Generally, use tax is applied in instances where the sale is not made in California, but the property is purchased for use in California, such as purchases shipped from out-of-state retailers to a California consumer. The state use tax rate is the same as the sales tax rate. The State Board of Equalization (BOE) is responsible for collecting sales and use tax. Beginning with income tax returns filed for taxable years on and after January 1, 2003, and ending on or before December 31, 2009, taxpayers may elect to report and pay state use tax on their state income or franchise tax return or file a use tax return directly with the BOE.

Board Position:	Department Director	Date
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THIS BILL

This bill would remove the cease operative date provisions from existing law, thereby allowing taxpayers to permanently continue the election to file and pay use tax on their income tax return.

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.

TECHNICAL CONSIDERATIONS

To clarify the effective and operative date of this bill, the following amendment is suggested:

On page 6 line 39 after "years" add "beginning".

LEGISLATIVE HISTORY

AB 469 (Eng, 2009/2010) would have replaced the option for a taxpayer to report use tax on the state income tax return with a requirement to report use tax. This bill was vetoed October 11, 2009, by Governor Schwarzenegger. The full veto message can be found in Appendix A.

AB 969 (Eng, 2007/2008) was the same as AB 469 (Eng, 2009/2010). This bill was vetoed October 14, 2007, by Governor Schwarzenegger. The full veto message can be found in Appendix B.

SB 1009 (Alpert, Stats 2003, Ch. 718) added the election for taxpayers to report and pay use tax on their state income tax returns.

FISCAL IMPACT

Changes in the instruction booklets required by this bill could be accomplished during normal annual revisions and would have a minor impact on the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

LEGISLATIVE STAFF CONTACT

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Appendix A

BILL NUMBER: AB 469
VETOED DATE: 10/11/2009

To the Members of the California State Assembly:

I am returning Assembly Bill 469 without my signature.

I have vetoed a similar measure before. My concerns with the bill remain the same. This bill exposes individual taxpayers to additional recordkeeping and confusion about a tax that few Californians understand and even fewer track for tax purposes.

For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger

BILL NUMBER: AB 969
VETOED DATE: 10/14/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 969 without my signature.

Although increasing use tax reporting is desirable, I have concerns that the effective date of January 1, 2008 is too soon for taxpayers to compile adequate records of their purchases that are subject to the use tax for calendar year 2007. Further, I would like to see a plan to better educate taxpayers on the use tax, as I suspect that many taxpayers have little knowledge of the tax and may unknowingly fail to pay it.

Sincerely,

Arnold Schwarzenegger