Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Nava	Analyst:	Angela Raygoza	Bill Number:	AB 50
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	June 1, 2009
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/November 2008 And May 2009 Santa Barbara County Wildfires

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

__X__ 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 ________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 1, 2008, STILL APPLIES.

__X__ OTHER – See comments below.

SUMMARY

This bill would allow special tax treatment, called disaster loss treatment, for losses sustained as a result of the wildfires that occurred during November 2008, and May 2009, in Santa Barbara County.

This analysis will not address the bill's changes to the Property Tax Law, as they do not impact the department or state income tax revenue.

SUMMARY OF AMENDMENTS

The June 1, 2009, amendments would add the May 2009, Santa Barbara County wildfire to the list of specified disasters.

As a result of the amendments, the "Program Background," "This Bill," and "Revenue Impact" discussions, as provided in the department's analysis of the bill as introduced December 1, 2008, have been revised. The remainder of that analysis still applies.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	06/23/09
____ N	____ OUA	__X__ PENDING		

ANALYSIS

PROGRAM BACKGROUND

On November 14, 2008, Governor Arnold Schwarzenegger proclaimed a state of emergency declaring the wildfires that occurred in Santa Barbara County to be a state disaster. On November 18, 2008, President George W. Bush proclaimed a federal disaster for the wildfires that occurred in Los Angeles, Orange, Riverside, and Santa Barbara Counties.

On May 5, 2009, Governor Arnold Schwarzenegger proclaimed a state of emergency declaring the wildfires that occurred in Santa Barbara County to be a state disaster. As of June 19, 2009, President Barack Obama has not proclaimed a federal disaster for this wildfire.

THIS BILL

As a Presidentially-declared disaster, this bill would allow taxpayers to deduct the disaster losses in the year the loss occurs or in the preceding year by filing an amended return.

This bill would also allow special carry forward treatment for up to fifteen taxable years for losses sustained as a result of the wildfires that occurred in Santa Barbara County during November 2008.

As a Governor-proclaimed disaster, this bill would allow taxpayers affected by the Santa Barbara County wildfire in May 2009, to elect to file an amended return for the prior taxable year to deduct the disaster loss and reduce the prior year tax liability, resulting in an expedited refund. This bill would also allow special carry forward treatment for up to fifteen taxable years for losses sustained as a result of the wildfire.

ECONOMIC IMPACT

Revenue Estimate

The revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 50 Effective Immediately Upon Enactment Enactment Assumed After June 30, 2009				
	2008-09	2009-10	2010-11	3-Year Impact
November 2008	-$13,000	+$6,000	+$4,000	-$3,000
May 2009	-$4,000	+$2,000	+$1,000	-$1,000
Total impact	-$17,000	+$8,000	+$5,000	-$4,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

November 2008 Wildfire

The revenue impact of this provision would depend on the extent affected taxpayers file amended 2007 income tax returns between April 16, 2009, and October 15, 2009, and report a disaster loss deduction as the result of wildfires that occurred during November 2008 in Santa Barbara County.

Total property damage attributable to the November 2008 Santa Barbara County wildfire is estimated at approximately $290 million (211 residences destroyed at an average home value of $1.368 million). It is estimated that 90 percent of residential losses are insured. Therefore, uninsured losses are approximately $29 million ($290 million X 10%). Assuming an average marginal tax rate of 9 percent, this would yield a disaster loss deduction of approximately $2.6 million ($29 million X 9%) for the 2008 taxable year.

Losses may be used in the year prior to the disaster, the year of the disaster, or carried forward to future years. This bill extends the period to report the disaster loss deduction on an amended 2007 return from April 15, 2009, to October 15, 2009. Approximately 1 percent of taxpayers would take advantage of this extension, for a revenue loss of $26,000 ($2.6 million X 1%). Of this loss, approximately one-half, or $13,000, would be applied to reduce tax liabilities ($26,000 X 50%) for the 2008-09 fiscal year.

Because these losses would be used on amended 2007 returns, they would not be available to offset income in later years. Future years would show offsetting revenue gains. Departmental data suggest that offsetting revenue gains would be approximately 50 percent in 2009-10, or $6,000 ($13,000 X 50%), and 30 percent in 2010-11, or $4,000 ($13,000 X 30%). The overall revenue impact for the three-year period is a loss of $3,000 (-$13,000 + $6,000 + $4,000).

May 2009 Wildfire

The revenue impact of this provision would depend on the extent affected taxpayers file amended 2008 tax returns between April 16, 2010, and October 15, 2010, and report a disaster loss deduction as the result of a wildfire that occurred during May 2009 in Santa Barbara County.

Total property damages attributable to the May 2009 Santa Barbara County wildfire is estimated at approximately $84 million (82 residences destroyed at an average home value x $1.03 million). It is estimated that 90 percent of the losses are insured. Therefore, uninsured losses are approximately $8.4 million ($84 million X 10%). Assuming an average marginal tax rate of 9 percent, this would yield a disaster loss deduction of approximately $755,000 ($8.4 million X 9%) for the 2009 taxable year.

The losses may be used in the year prior to the disaster, the year of the disaster, or carried forward to future years. This bill extends the period to report the disaster loss deduction on an amended 2008 return from April 15, 2010, to October 15, 2010. Assuming 1 percent of filers would take advantage of this extension, this would result in a revenue loss of approximately $7,500 ($755,000 X 1%). Of this loss, it is assumed that approximately one-half or approximately $4,000 derives a tax benefit from the deduction ($7,600 X 50% ≈ $4,000) for the 2009-10 fiscal year.

Because these losses would be used on amended 2008 returns, they would not be available to offset income in later years. Future years would show offsetting revenue gains. Department data suggest that offsetting revenue gains would be approximately 50 percent in 2010-11, or $2,000 ($4,000 X 50%), and 30 percent in 2011-12, or approximately $1,000 ($4,000 X 30%). The overall revenue impact for the 3-year period is a loss of $1,000 (-$4,000 + $2,000 + $1,000). Estimates are accrued back one fiscal year beginning in 2008-09.

The total revenue impact for both wildfires would be a revenue loss of approximately $17,000 in 2008-09, a gain of $8,000 in 2009-10, and a gain of $5,000 in 2010-11.

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