Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Nava, et al.	Analyst:	Angela Raygoza	Bill Number:	AB 50
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	September 1 and September 4, 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 AMENDED June 1, 2009, 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, in Orange, Riverside, San Bernardino, and Santa Barbara County wildfires, 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 September 1, 2009, amendments add contingent enactment language that would require this bill to be operative only if AB 666 (Jones) and SB 505 (Kehoe) are also enacted.

The September 4, 2009, amendments add the wildfires that occurred during November 2008 in Orange, Riverside, and San Bernardino Counties. The amendments also add double-jointing language that would resolve chaptering conflicts between this bill and AB 15 (Fuentes).

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	9/11/09
____ N	____ OUA	_X_ PENDING		

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 amended June 1, 2009, have been revised. The remainder of the department’s analysis dated June 1, 2009, still applies.

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 15, 2008, Governor Arnold Schwarzenegger proclaimed a state of emergency declaring the wildfires that occurred in Los Angeles, Orange, Riverside, and San Bernardino Counties to be state disasters. 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 September 1 2009, President Barack Obama has not proclaimed a federal disaster for this wildfire.

<u>THIS BILL</u>

As a Governor-proclaimed disaster, this bill would allow taxpayers affected by the November, 2008, San Bernardino County wildfire and May, 2009, Santa Barbara County wildfire 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.

As a Presidentially-declared disaster, existing law allows taxpayers affected by the November, 2008, Los Angeles, Orange, Riverside, and Santa Barbara Counties wildfires 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 state that for this bill to be operative, AB 666 (Jones) and SB 505 (Kehoe) must also be enacted. Further, the bill contains double-jointing language to resolve chaptering conflicts between this bill and AB 15 (Fuentes).

ECONOMIC IMPACT

Revenue Estimate

The revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 50 Effective After January 1, 2010 Enactment Assumed After June 30, 2009				
	2008-09	2009-10	2010-11	3-Year Impact
Orange	-$3,000	+$2,000	+$1,000	$0
Riverside	$0	$0	$0	$0
San Bernardino	$0	$0	$0	$0
Santa Barbara	-$17,000	+$8,000	+$5,000	-$4,000
Total impact	-$20,000	+$10,000	+$6,000	-$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

Orange County Impact

Freeway Complex Fire, November 15, 2008

The revenue impact of this provision would depend on the extent to which affected taxpayers file amended 2007 income tax returns and report a disaster loss deduction as a result of wildfires that occurred during November 2008 in Orange County.

Total residential property damages attributable to the November 2008 Freeway Complex Fire are estimated at approximately $90 million (202 residences destroyed at an average home value of $446,000). It is estimated that 90 percent of residential losses are insured. Therefore, uninsured losses are $9 million ($90 million X 10%). Assuming an average marginal tax rate of 7 percent, this would result in a disaster loss deduction of $630,000 ($9 million X 7%).

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 of filing an amended 2007 income tax return from April 15, 2009, to October 15, 2009. It is estimated that approximately 1 percent of filers would take advantage of this extension, for a revenue loss of approximately $6,000 (-$630,000 X 1%). Of this loss, approximately one-half of the taxpayers would be applied to reduce tax liabilities (-$6,000 X 50% = -$3,000). This accelerated loss of $3,000 is accrued back to the 2008-09 fiscal year because it is attributable to a prior tax year.

Because these losses would be used on amended 2007 income tax 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 of losses claimed in prior years in 2009-10, or approximately $2,000 ($3,000 X 50%), and 30 percent in 2010-11, or approximately $1,000 ($3,000 X 30%). The overall revenue impact for the 3-year period is zero (-$3,000 + $2,000 + $1,000).

Riverside County Impact
Freeway Complex Fire: November 15, 2008

The inclusion of Riverside County did not materially affect the revenue impact.

San Bernardino County Impact
Freeway Complex Fire: November 15, 2008

According to officials from Chino Valley Fire in San Bernardino County, no structures were destroyed in San Bernardino County.

Santa Barbara County Impact

Tea Fire: November 2008

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.

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 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 approximately $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 approximately $3,000 (-$13,000 + $6,000 + $4,000).

<u>Jesusita Fire: May 2009 Wildfire</u>

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 are estimated at approximately $84 million (82 residences destroyed at an average home value of $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 would be applied to reduce tax liabilities ($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 the Tea and Jesusita wildfires that occurred in Santa Barbara County are losses of $17,000 (-$13,000 - $4,000) in 2008-09, a revenue gain of $8,000 (+$6,000 + $2,000) in 2009-10, and a revenue gain of $5,000 (+$4,000 + $1,000) in 2010-11.

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