Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Cedillo/Huffman	Analyst:	Matthew Cooling	Bill Number:	SB 1036
Related Bills:	See Legislative History	Telephone:	845-5983	Introduced Date:	February 12, 2010
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: FTB Disclosure Of Tax Return Information To Cities/Expands To Allow Disclosure By City Officials To Other Persons Designated By City Resolution

SUMMARY

This bill would expand an existing program that allows cities to authorize third-parties to view taxpayer information received from the Franchise Tax Board (FTB).

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to allow cities to authorize external resources to view taxpayer information provided by the FTB to increase enforcement of city business tax laws thus increasing city revenue.

EFFECTIVE/OPERATIVE DATE

Assuming enactment before October 1, 2010, this bill would become effective and operative beginning on or after January 1, 2011; the existing statute would be specifically repealed on January 1, 2014.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal law allows the Internal Revenue Service to provide extracts of data from its master files to state tax agencies for purposes of tax administration.[1]

Current state law allows the FTB to disclose a taxpayer's name, address, social security or taxpayer identification number, and business activity code to tax officials of a city for purposes of tax administration. Use of this information is limited to employees of the taxing authority of the city. The FTB is only authorized to send information on taxpayers that report income from a trade or business to the FTB that have an address within the boundaries of the city.

[1] 26 USC § 6103(d).

Board Position:			Department Director	Date
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Under current state law, unauthorized disclosure[2] or willful unauthorized inspection or unwarranted disclosure[3] by any employee of a city with a reciprocal agreement with the FTB is considered a misdemeanor. Additionally, under current law, tax information provided to the taxing authority of a city may not be furnished to, or used by any person other than an employee of, that taxing authority.

THIS BILL

This bill would allow a city with a reciprocal agreement with the FTB to adopt a resolution to enter into a contract with a third-party vendor to process the taxpayer data received by the FTB. The resolution by any city contracting with a third-party vendor would have to certify that the person designated by the resolution meets all of the following requirements:

- The person has an existing contract with the city to examine the FTB records,
- The person is required by the contract to only disclose the information contained in the FTB records to a city employee or another person authorized by the resolution,
- The person is prohibited from providing consulting services to private industry while engaged in this contract, and
- The person is prohibited by contract from retaining the information obtained by the FTB after the contract expires.

IMPLEMENTATION CONSIDERATIONS

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

This bill would allow a person, designated by a city, to disclose tax information to a city employee or any other person authorized by resolution. It appears this bill would allow a city employee to disclose tax information to another city employee or other third party, which increases the possibility of unlawful or unauthorized disclosure of taxpayer information. To limit the disclosure of taxpayer information, it is recommended that the author amend the language of the bill to specify who would have access to the taxpayer information provided by the FTB.

LEGISLATIVE HISTORY

AB 63 (Cedillo, Stats. 2001, Ch. 915) allows the FTB to disclose a taxpayer's name, address, social security or taxpayer identification number, and business activity code to tax officials of a city.

SB 920 (Oropeza, Stats. 2007, Ch. 666) authorizes the FTB to disclose specified information from business entity returns to the State Controller's Office (SCO) for use in SCO's administration of the Unclaimed Property Law.

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[2] California Revenue and Taxation Code (CR&TC) section 19542 states that it is a misdemeanor for the FTB or any employee of the FTB or the State to disclose any information regarding a taxpayer.
[3] CR&TC section 19542.1 states that it is unlawful for any person described in CR&TC 19542 to willfully inspect a taxpayer's information without a warranted reason to do so, such as a collections process or tax return examination.

SB 1146 (Cedillo, Stats. 2008, Ch. 345) requires a city that administers a business tax to provide specific data upon request to the FTB and authorizes a city to exchange data with FTB in lieu of obtaining mandated cost reimbursement.

PROGRAM BACKGROUND

FTB and participating cities have the authority to exchange data through a reciprocal agreement at no cost to either party. Under the current program (City Business Tax), FTB may disclose limited confidential tax data to participating city tax officials.[4] In exchange for this information, the cities provide information to FTB on local business taxpayers.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

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[4] R&TC section 19551.1.