

**Franchise Tax Board**

**ANALYSIS OF ORIGINAL BILL**

Author: Florez Analyst: Janet Jennings Bill Number: SBX6 19  
 Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: May 26, 2010  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** FTB Compile Specified Corporation Tax Expenditure Information & Include On The State Reporting Transparency In Government Internet Web Site

**SUMMARY**

This bill would require the Franchise Tax Board (FTB) to post certain tax expenditure information on the Reporting Transparency in Government Internet Web site.

**PURPOSE OF THE BILL**

It appears the intent of this bill is to increase the transparency of government spending.

**EFFECTIVE/OPERATIVE DATE**

This bill would become effective on the 91<sup>st</sup> day following adjournment of the special session, and specifies that the information would be first compiled based on information from the 2010 taxable year.

**POSITION**

Pending.

**ANALYSIS**

STATE LAW

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, and the Multistate Tax Commission solely for tax administration purposes. Additionally, the FTB is authorized to publish statistical data related to taxpayer information so long as no individually identifiable information is revealed. Unauthorized disclosure of state tax information is a misdemeanor and unauthorized disclosure of federal tax information is a felony.

As specifically authorized, the FTB is required to compile and make publicly available an annual list that identifies the largest 250 tax delinquencies that exceed \$100,000 selected from both the personal income tax and corporation tax records.

Board Position:	Department Director	Date
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_____ X PENDING	Selvi Stanislaus	06/10/10

State law requires the Department of Finance (DOF) to provide an annual report to the Legislature on tax expenditures providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures. State law requires all state agencies to submit to the Governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the ensuing fiscal year.

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. State law also provides various exemption credits, including a personal exemption credit and exemption credits for dependents, blind persons, and individuals 65 or older. These exemptions are not deductions from adjusted gross income but are credits against tax.

### THIS BILL

This bill would require the FTB to compile the following information to be reported on the Reporting Transparency in Government Internet Web site:

1. The name, mailing address, and California corporation number of any taxpayer receiving credits of \$20,000 allowed from corporate tax expenditures.
2. The amount claimed by each taxpayer for the corporate tax expenditure.

Additionally, this bill requires the FTB to report the above information along with a description of the initial justification for the expenditure. The report must be searchable by corporation name, corporation number, expenditure type, and key word. This bill requires all data from the report to be available for download by the public in Excel or comparable format.

### IMPLEMENTATION CONSIDERATIONS

To avoid confusion and provide clear direction, the language of the bill should specify if the tax expenditures are to be reported from original, amended, and/or audited corporate tax returns.

### TECHNICAL CONSIDERATIONS

To remove unnecessary language the following amendment is suggested:

On page 2, line 3, ~~strikeout~~ “or otherwise available to a corporation.”

To clarify that the aggregate credit threshold is based on credits claimed on the return, the following amendment is suggested:

On page 2, line 8, ~~strikeout~~ “receiving” and insert:

claiming

To clarify the information captured for the report is based on each tax expenditure, the following amendment is suggested:

On page 2, line 11, after “for”, strikeout “the” and insert:

each

## **LEGISLATIVE HISTORY**

SB 1086 (Florez, 2009/2010) is similar to this bill, with the exception that the credit reporting threshold would be \$10,000 rather than \$20,000. SB 1086 is currently being held in the Assembly Committee on Revenue and Taxation.

AB 1843 (Garrick, 2007/2008) would have required a state agency, as defined, to provide the State Controller's Office with information concerning state expenditures on programs administered by those agencies. This bill was held on the Senate floor.

AB 168 (Ridley-Thomas, 2005/2006) would have required the DOF to submit a report on tax expenditures to the Legislature. This bill was vetoed by Governor Schwarzenegger, whose veto message can be found in Appendix A.

AB 990 (Ridley-Thomas, 2003/2004) would have required the DOF to submit a report on tax expenditures to the Legislature. This bill failed to pass out of the Legislature by the constitutional deadline.

AB 2106 (Ridley-Thomas, 2003/2004) would have required the DOF to submit a report on tax expenditures to the Legislature. AB 2106 was vetoed by Governor Schwarzenegger, whose veto message can be found in Appendix A.

## **FISCAL IMPACT**

This bill would require an effort to collect and assemble the required information from various sources throughout the department. A fiscal estimate will be developed as the bill moves through the legislative process.

## **ECONOMIC IMPACT**

This bill would not impact state income tax revenues.

## **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 A

BILL NUMBER: AB 168  
VETOED DATE: 09/22/2005

To the Members of the California State Assembly:

I am returning Assembly Bill 168 without my signature.

The Department of Finance and the Legislative Analyst's Office currently have broad authority to review and report tax expenditures to the Legislature. This bill's restatement of the existing tax reporting requirements is redundant and unnecessary.

Sincerely,

Arnold Schwarzenegger

BILL NUMBER: AB 2106  
VETOED DATE: 09/24/2004

To the Members of the California State Assembly:

I am returning Assembly Bill 2106 without my signature.

Under existing law, the Department of Finance already is required to provide an annual tax expenditure report to the Legislature containing specific information. This bill changes the type of information that is provided in the annual report. However, some of the information that Department of Finance would be required to report is not available. For example, the original intent of a given tax expenditure is often not clearly defined in the enabling statute. In addition, the number and income distribution of taxpayers benefiting from sales tax exemptions would not be known because this information is not required to be reported by retailers when filing their tax returns. Furthermore, some of the information might not be available for reporting to the Legislature because of existing confidentiality requirements.

Therefore, I cannot sign this bill.

Sincerely,

Arnold Schwarzenegger