

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Hollingsworth Analyst: Janet Jennings Bill Number: SBX6 6
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 24, 2010
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Repeal Large Corporate Understatement Penalty

SUMMARY

This bill would repeal the Large Corporate Understatement Penalty (LCUP).

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to stimulate the economy by freeing-up corporate funds to allow them to bolster their workforce and capital investment.

EFFECTIVE/OPERATIVE DATE

This bill would be effective 91 days after adjournment of the special session. In the absence of language in the bill specifying otherwise, the provisions of this bill would be operative for taxable years beginning on or after January 1 of the year in which the bill is effective.

POSITION

Pending.

ANALYSIS

STATE LAW

The LCUP is a strict liability penalty assessed against any corporation that has an understatement of tax in excess of \$1 million in any open taxable year beginning on or after January 1, 2003. In the case of taxpayers that are required or authorized to be included in a combined report, the \$1 million threshold applies to the aggregate amount of tax liability for all taxpayers that are required or authorized to be included. The penalty is calculated as 20 percent of the understatement of tax, and the calculation of the understatement is cumulative.

THIS BILL

This bill would repeal the LCUP assuming the special session is adjourned on July 1, 2010, the bill would be effective during 2010. As a result, the penalty would cease to apply to taxable years beginning on or after January 1, 2010.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR, PENDING) and Department Director/Date (Selvi Stanislaus, 05/10/10).

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.

LEGISLATIVE HISTORY

AB 2725 (Nestande, 2009/2010) this bill would repeal the LCUP. This bill is currently in the Assembly Revenue and Taxation Committee.

SBX1 28 (Committee on Budget and Fiscal Review, Stats. 2008, 1st Ex. Sess. 2007-2008, Ch. 1), among other things, enacted the LCUP.

FISCAL IMPACT

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

ECONOMIC IMPACT

Estimated Revenue Impact of SBX6-6 Assumed Enactment With Tax Year 2010 Operative as of January 1, 2010 (\$ in Millions)			
2009-10	2010-11	2011-12	2012-13
-\$0	-\$760	-\$520	-\$490

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

LEGISLATIVE STAFF CONTACT

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