Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Duvall, et al. Analyst: Angela Raygoza Bill Number: AB 79

Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: March 25, 2009

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Disaster Loss Deduction/Excess Loss Carryover/November 2008 Orange, Riverside & San Bernardino 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 February 18, 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 commenced in November, 2008, in Orange, Riverside, and San Bernardino Counties.

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 March 25, 2009, amendments would add the San Bernardino County wildfire of November, 2008, to the list of specified disasters.

As a result of the amendments, the “This Bill” and “Revenue Impact” discussions, as provided in the department’s analysis of the bill as amended February 18, 2009, 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	04/24/09
____ N	____ OUA	_X_ PENDING		

ANALYSIS

PROGRAM BACKGROUND

On November 15, 2008, Governor Arnold Schwarzenegger proclaimed a state of emergency declaring the wildfires that occurred in Orange, Riverside, and San Bernardino Counties to be state disasters. On November 18, 2008, President George W. Bush declared a federal disaster for the wildfires that occurred in Los Angeles, Orange, Riverside, and Santa Barbara Counties. President Bush did not declare a federal disaster for the wildfires that occurred in San Bernardino County.

THIS BILL

As a Governor-proclaimed disaster, this bill would allow taxpayers affected by the Orange, Riverside, and San Bernardino County wildfires in November, 2008, 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 wildfires.

As a Presidentially-declared disaster, existing law allows taxpayers affected by the November, 2008, Orange and Riverside County 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.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact for this bill would be as follows:

Estimated Revenue Impact of AB 79 Effective Immediately Upon Enactment 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
Total	-$3,000	+$2,000	+$1,000	$0

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

Revenue Discussion

The revenue impact of this bill would depend on the extent affected taxpayers file amended 2007 tax returns and report a disaster loss deduction as a result of wildfires that occurred during November, 2008, in Orange and Riverside Counties.

Orange County Wildfire

Total property damages attributable to the November, 2008, Orange County wildfire are estimated at $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 approximately $9 million ($90 million X 10%). Assuming an average marginal tax rate of 7%, this would result in a disaster loss deduction of approximately $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 would extend the period to report the disaster loss deduction on amended 2007 returns 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 $6,000 (-$630,000 X 1%). Of this loss, approximately one-half 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.

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% in 2010-11, or approximately $1,000 ($3,000 X 30%). The overall revenue impact for the three-year period is zero (-$3,000 + $2,000 + $1,000).

Riverside County Wildfire

The inclusion of the Riverside County wildfire would have an insignificant impact on the revenue.

Total property damages attributable to the November, 2008, Riverside County wildfire are estimated at $6 million (18 residences destroyed at an average home value of $342,000). It is estimated that 90 percent of residential losses are insured. Therefore, uninsured losses are approximately $600,000 ($6 million X 10%). Assuming an average marginal tax rate of 7 percent, this would result in a disaster loss deduction of approximately $42,000 ($600,000 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 would extend the period to report the disaster loss deduction on amended 2007 returns from April 15, 2009, to October 15, 2009. It is estimated that approximately 1 percent of taxpayers would take advantage of this extension, for a revenue loss of approximately $420 (-$42,000 X 1%). Of this loss, approximately one-half would be applied to reduce tax liabilities (-$420 X 50% = -$210). This accelerated loss of $210 is accrued back to the 2008-09 fiscal year because it is attributable to a prior tax year.

San Bernardino County

Officials from the Chino Valley Fire Department in San Bernardino County indicated that no structures were destroyed in San Bernardino County. Because the revenue is based on damages that occurred to structures, the revenue impact for this San Bernardino County wildfire fire would be zero.

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