

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Perea	AB 1423

SUBJECT

Conformity to the Regulated Investment Company (RIC) Modernization Act of 2010

SUMMARY

This bill would generally conform to the RIC Modernization Act of 2010.

PURPOSE OF BILL

The general purpose of conforming to changes in federal law is to simplify both the preparation of California income tax returns and the administration of California income tax laws.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective immediately. The operative dates of conformity to the following twelve provisions of the RIC Modernization Act of 2010 (herein the "Act") would be as follows:

	Act Section	Provision	Operative Date
1	101	Capital Loss Carryovers of Regulated Investment Companies	The provision would generally be operative for net capital losses for taxable years beginning on or after December 23, 2010. The provision relating to the treatment of present-law carryovers would be operative for taxable years beginning on or after December 23, 2010.
2	201	Savings Provisions for Failures of Regulated Investment Companies to Satisfy Gross Income and Asset Tests	The provision would be operative for taxable years for with respect to which the due date (determined with regard to any extensions) of the return of tax is due on or after December 23, 2010.

Anne Maitland, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 9/14/11
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	Act Section	Provision	Operative Date
3	301	Modification of Dividend Designation Requirements and Allocation Rules for Regulated Investment Companies	The provision would be operative for taxable years beginning on or after December 23, 2010.
4	302	Earnings and Profits of Regulated Investment Companies	The provision would be operative for taxable years beginning on or after December 23, 2010.
5	303	Pass-Thru of Exempt-Interest Dividends and Foreign Tax Credits in Fund of Funds Structure	The provision would be operative for taxable years beginning on or after December 23, 2010.
6	304	Modification of Rules for Spillover Dividends of Regulated Investment Companies	The provision would be operative for distributions in taxable years beginning on or after December 23, 2010.
7	305	Return of Capital Distributions of Regulated Investment Companies	The provision would be operative for distributions made in taxable years beginning on or after December 23, 2010.
8	306	Distributions in Redemption of Stock of a Regulated Investment Company	The provision would be operative for distributions on or after December 23, 2010.
9	307	Repeal of Preferential Dividend Rule for Publicly Offered Regulated Investment Companies	The provision would be operative for distributions in taxable years beginning on or after December 23, 2010.
10	308	Elective Deferral of Certain Late-Year Losses of Regulated Investment Companies	The provision would be operative for taxable years beginning on or after December 23, 2010.

	Act Section	Provision	Operative Date
11	309	Exception to Holding Period Requirement for Certain Regularly Declared Exempt-Interest Dividends	The provision would be operative for stock for which the taxpayer’s holding period begins on or after December 23, 2010.
12	502	Modification of Sales Load Basis Deferral Rule for Regulated Investment Companies	The provision would be operative for charges incurred in taxable years beginning on or after December 23, 2010.

ANALYSIS

FEDERAL/STATE LAW

See page 616 of the Franchise Tax Board’s report titled [“Summary of Federal Income Tax Changes – 2010”](#) for a detailed discussion of federal law and the state laws that would be affected by this bill.

THIS BILL

This bill would conform to the following twelve provisions of the Act:

	Act Section	Provision
1	101	Capital Loss Carryovers of Regulated Investment Companies
2	201*	Savings Provisions for Failures of Regulated Investment Companies to Satisfy Gross Income and Asset Tests
3	301	Modification of Dividend Designation Requirements and Allocation Rules for Regulated Investment Companies
4	302	Earnings and Profits of Regulated Investment Companies
5	303	Pass-Thru of Exempt-Interest Dividends and Foreign Tax Credits in Fund of Funds Structure

	Act Section	Provision
6	304	Modification of Rules for Spillover Dividends of Regulated Investment Companies
7	305	Return of Capital Distributions of Regulated Investment Companies
8	306	Distributions in Redemption of Stock of a Regulated Investment Company
9	307	Repeal of Preferential Dividend Rule for Publicly Offered Regulated Investment Companies
10	308	Elective Deferral of Certain Late-Year Losses of Regulated Investment Companies
11	309	Exception to Holding Period Requirement for Certain Regularly Declared Exempt-Interest Dividends
12	502	Modification of Sales Load Basis Deferral Rule for Regulated Investment Companies
<p>* This bill would conform to Section 201 with the following modifications: (1) the tax imposed on asset-test failures would be computed by applying the California corporate tax rate (i.e., 8.84 percent) in lieu of the highest federal tax rate (i.e., 35 percent), (2) the minimum amount of tax imposed on asset-test failures would be \$12,500 in lieu of the federal minimum amount of \$50,000, and (3) the tax imposed on income-test failures would not apply.</p>		

LEGISLATIVE HISTORY

None.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

- *Illinois, Michigan, Minnesota, and New York* conform to the Act.
- *Massachusetts* has different conformity rules for personal income tax and corporate tax. Under its corporate tax law, *Massachusetts* generally has automatic conformity to the IRC; thus, for corporate tax purposes, *Massachusetts* conforms to the Act.
- *Florida*, which imposes corporate income tax but not personal income tax, conforms to the Act.

FISCAL IMPACT

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

ECONOMIC IMPACT

	Act Section	Provision	2011/12	2012/13	2013/14
1	101	Capital Loss Carryovers of Regulated Investment Companies	\$0	\$250,000	\$450,000
2	201	Savings Provisions for Failures of Regulated Investment Companies to Satisfy Gross Income and Asset Tests	Negligible Gain	Negligible Gain	Negligible Gain
3	301	Modification of Dividend Designation Requirements and Allocation Rules for Regulated Investment Companies	-\$1,000	-\$500	-\$500
4	302	Earnings and Profits of Regulated Investment Companies	-\$3,000	-\$2,000	-\$2,000
5	303	Pass-Thru of Exempt-Interest Dividends and Foreign Tax Credits in Fund of Funds Structure	-\$100,000	-\$80,000	-\$70,000
6	304	Modification of Rules for Spillover Dividends of Regulated Investment Companies	Negligible Loss	Negligible Loss	Negligible Loss
7	305	Return of Capital Distributions of Regulated Investment Companies	Negligible Gain	Negligible Gain	Negligible Gain

	Act Section	Provision	2011/12	2012/13	2013/14
8	306	Distributions in Redemption of Stock of a Regulated Investment Company	-\$450,000	-\$350,000	-\$350,000
9	307	Repeal of Preferential Dividend Rule for Publicly Offered Regulated Investment Companies	Negligible Loss	Negligible Loss	Negligible Loss
10	308	Elective Deferral of Certain Late-Year Losses of Regulated Investment Companies	-\$1,000	-\$1,000	-\$1,000
11	309	Exception to Holding Period Requirement for Certain Regularly Declared Exempt-Interest Dividends	Negligible Loss	Negligible Loss	Negligible Loss
12	502	Modification of Sales Load Basis Deferral Rule for Regulated Investment Companies	-\$370,000	-\$200,000	-\$100,000
Totals			-\$925,000	-\$383,500	-\$73,500

Note: There would be net gains of \$36,500 and \$145,500 in 2014-14 and 2015-16, respectively, primarily due to the revenue impact of the capital-loss-carryover provision.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: Pacific Life Insurance Company
 California Taxpayers' Association
 Investment Company Institute
 Securities Industry and Financial Markets Association
 Franklin Templeton Investments
 California Chamber of Commerce
 Fireman's Fund Insurance Company
 Spidell Publishing, Inc.
 Pacific Investment Management Company
 BlackRock
 Capital Group Companies
 Dodge and Cox Funds
 California Retailers Association
 California Bankers Association
 Charles Schwab
 California Society of Enrolled Agents

Opposition: None.

VOTES

Concurrence	09/08/11	Y: 64	N: 9
Senate Floor	08/31/11	Y: 38	N: 0
Assembly Floor	05/16/11	Y: 77	N: 0

LEGISLATIVE STAFF CONTACT**Contact**

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¹ Senate Floor Bill Analysis, August 29, 2011.