

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Silva Analyst: Brian Werking Bill Number: AB 1552

Related Bills: None Telephone: 845-5103 Introduced Date: January 26, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Mello-Roos Community Facility Fees Deduction

SUMMARY

This bill would allow Mello-Roos Community Facility Fees (Mello-Roos Fees) as a deduction on the state tax return.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

It appears from the author’s January 26, 2012, press release¹ the purpose of this bill is to stop the Franchise Tax Board’s (FTB) initiative to require a taxpayer to include information regarding the deductible and non-deductible portions of a taxpayer’s property tax bill beginning on the 2012 personal income tax return.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2012.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws generally allow a taxpayer to deduct any state, local, or foreign real property taxes imposed on property owned by the taxpayer and paid or accrued by the taxpayer during the taxable year. Deductible real property taxes must be based on the assessed value of the property, commonly referred to as an ad valorem or general tax levy, and the taxes must be charged uniformly against all properties in the jurisdiction. These ad-valorem taxes are usually identified on a property tax bill as an amount that includes a tax rate percentage.

¹ Available at <<http://ocrealestatevoice.com/wp-content/uploads/2012/02/Jim-Silva-Press-Release.pdf>> [as of February 29, 2012].

Board Position:	Executive Officer	Date
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Generally, a taxpayer may not deduct Mello-Roos Fees or any other assessment, charge, or special assessment for local benefits (such as streets, sidewalks, and other like improvements) of a kind tending to increase the value of the property assessed that are imposed because of and measured by some benefit inuring directly to the property against which the assessment is levied, unless the assessment or charge is made for the purpose of maintenance or repair, or for the purpose of meeting interest charges with respect to those local benefits. In the case of property used in a trade or business or property held for the production of income, an assessment, charge, or special assessment for local benefits imposed upon such property is deductible by a taxpayer as a business expense.

An assessment, charge, or special assessment for local benefits is usually identified on a property tax bill as an amount that does not include a tax rate percentage. These assessments may include, but are not limited to, the following:

- Mello-Roos Community Facilities Districts
- 1915 Assessment District Bonds
- Parcel taxes, fee, and charges
- Lighting and landscape
- School or college measures and bonds
- Water, sewer, and flood
- Police and fire
- Libraries

THIS BILL

This bill would allow a taxpayer to deduct on the California tax return, any amount paid by the taxpayer pursuant to the Mello-Roos Community Facility Act of 1982.

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.

This bill would allow a taxpayer to deduct on the California tax return all Mello-Roos Fees paid by the taxpayer. These fees are not always easily distinguished from other non ad-valorem assessments on a taxpayer's property tax bill. Because of this, a taxpayer may not be able to differentiate Mello-Roos Fees from other non ad-valorem assessments paid, and may inaccurately report the Mello-Roos Fee deduction.

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 allow for a credit or a deduction for corporations and individuals based on the ad valorem property taxes paid or incurred without the inclusion of special assessments paid or incurred; this is the same basis from which the California property tax deduction is determined. In addition, *Illinois* requires a personal income taxpayer to provide the parcel number of the real property for which the ad valorem tax was paid or incurred in order to be eligible for the property tax credit.

Massachusetts allows for a corporate income tax deduction based on the ad valorem property taxes paid or incurred; the same basis from which the California property tax deduction is determined. *Massachusetts* also allows a personal income tax credit that is based on the ad valorem property taxes paid or incurred by the taxpayer as well as a portion of the water and sewer fees paid or incurred by the taxpayer.

Florida allows for a corporate income tax deduction based on the ad valorem property taxes paid or incurred; this is the same basis from which the California property tax deduction is determined. Florida does not impose a personal income tax.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1552 For Taxable Years Beginning On or After January 1, 2012 Assumed Enactment After June 30, 2012 (\$ in Millions)		
2012-13	2013-14	2014-15
-\$13	-\$20	-\$25

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: Some proponents may say that Mello-Roos Community Facility Fees are assessed on real property owners for similar purposes as ad valorem property taxes. This bill would provide equitable tax treatment between both assessments.

Con: Some opponents may say that, with the state's current fiscal crisis, additional tax expenditures should be avoided.

POLICY CONCERNS

This bill would create differences between federal and California tax law, requiring taxpayers to review closely their property tax bills to calculate two different deduction amounts for the federal and state income tax returns, thereby increasing the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

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