

SUMMARY ANALYSIS OF AMENDED BILL

Author: Eng & Skinner Analyst: William Koch Bill Number: AB 2439
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: June 20, 2012
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Publish On Website List Of 1,500 Largest Corporate Taxpayers That Filed Form 10-K With Federal Securities & Exchange Commission

SUMMARY

This bill would require the Franchise Tax Board (FTB) to do the following:

- Publish, on an annual basis, a list of the 1,500 largest corporate taxpayers, as measured by gross receipts, less returns and allowances, that filed Form 10-K with the federal Securities & Exchange Commission (SEC),
- Include the tax liability of each corporate taxpayer on the list and whether each corporate taxpayer elected to utilize the single sales factor apportionment formula, and
- Update each list annually for two years to reflect any changes in the tax liability of each corporate taxpayer appearing on the list.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 20, 2012, amendments added provisions that would require the FTB to publish a list of the 1,500 largest corporate taxpayers, as specified, and struck provisions of the bill that would have required FTB to disclose, upon request, the tax liability of certain corporations and whether those corporations elected to utilize a single sales factor apportionment formula.

As a result of the amendments, the "This Bill," "Implementation Considerations," and "Fiscal Impact" sections of the department's analysis of this bill as amended May 25, 2012, have been revised, and the "Technical Considerations" section no longer applies. The "Economic Impact" and "Policy Concerns" sections remain and have been restated for convenience.

Board Position:

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Legislative Director

Date

Gail Hall

06/22/12

ANALYSIS

THIS BILL

This bill would:

- Require the FTB to publish on its Internet Web site, on or before December 1, 2013, and each December 1 thereafter, a list of the 1,500 largest corporate taxpayers, as measured by gross receipts, less returns and allowances, that filed a Form 10-K with the federal SEC. The list would include the tax liability of each corporate taxpayer appearing on the list and whether each corporate taxpayer elected to utilize the single sales factor apportionment formula. The list would be derived from timely filed, original tax returns. For corporate taxpayers included in a combined report, the gross receipts, less returns and allowances, of the combined reporting group would be used to determine whether that taxpayer would be included on the list. The list published on or before December 1, 2013, would reflect the tax liability, as of October 1, 2013, for the 2010 and 2011 taxable years. Each subsequent list would reflect the tax liability for the taxable year that closed two years before the publication of the list.
- Require the FTB to update each list annually, for two years to reflect any changes in the tax liability of each corporate taxpayer appearing on the list. The updated list would be published on or before each December 1, and reflect the tax liability as of October 1 of that year.
- Define, for purposes of this bill, “tax liability” as the amount of tax owed after application of any credits, excluding overpayments, estimated tax payments, withholding, and any other amounts paid.
- Define “gross receipts” to have the same meaning as the term is defined in Revenue and Taxation Code Section 25120.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department’s programs or operations. Department staff do note if FTB is unable to verify with certainty that a corporate taxpayer filed Form 10-K with the SEC, that taxpayer’s information would be excluded from the list.

FISCAL IMPACT

First year costs to implement this bill are estimated to be approximately \$30,000 with annual ongoing costs of approximately \$10,000.

ECONOMIC IMPACT

Revenue Estimate

This bill would not impact the state's income or franchise tax revenue.

SUPPORT/OPPOSITION¹

Support: California Labor Federation
Service Employees International Union California

Opposition: BIOCOM
California Chamber of Commerce
California Aerospace Technology Association
California Bankers Association
California Healthcare Institute
California Manufacturers and Technology Association
California Retailers Association
California Taxpayers Association
Council on State Taxation
TechAmerica

POLICY CONCERNS

California has a tax system that primarily relies on the taxpayer to self-assess and pay the proper amount of tax. If tax liability information is disclosed to public, it is unclear what impact, if any, there may be on the self-assessing tax system.

LEGISLATIVE STAFF CONTACT

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¹ As reported in the April 20, 2012, Assembly Committee on Revenue and Taxation analysis of this bill located at: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2401-2450/ab_2439_cfa_20120420_142933_asm_comm.html