

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Solorio Analyst: Janet Jennings Bill Number: AB 2578

Related Bills: See Legislative History Telephone: 845-3495 Amended Date: April 9, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Include Information Regarding Tax Advantage Saving Plans On Website and In Publication

SUMMARY

This bill would require the Franchise Tax Board (FTB) to include information regarding tax-advantaged savings plans on the FTB website, and in publications.

RECOMMENDATION

No position.

Summary of Amendments

The April 9, 2012, amendments removed the prior provisions of the bill, related to the State Scholarshare program, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

REASON FOR THE BILL

According to the author's office, the purpose of the bill is to educate taxpayers of the option to direct deposit refunds into tax advantaged savings plans.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2013, and operative as of that date.

ANALYSIS

FEDERAL/STATE LAW

Federal law allows taxpayers three direct deposit options:

- Split the refund with direct deposits into two or three checking and/or savings accounts, including an IRC section 529 college savings account, an IRC section 408(a) traditional IRA , an IRC section 408A Roth IRA , an IRC section 408(k) SEP IRA or
- Direct deposit the refund into one checking or savings account, including an IRC section 529 college savings account, an IRC section 408(a) traditional IRA , an IRC section 408A Roth IRA , an IRC section 408(k) SEP IRA or
- Use the refund to purchase up to \$5,000 in U.S. Series I Savings Bonds.

Board Position:
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Executive Officer	Date
Selvi Stanislaus	4/20/12

State law allows taxpayers two direct deposit options:

- Split the refund with direct deposits into two checking and/or savings accounts, including an IRC section 529 college savings account, an IRC section 408(a) traditional IRA , an IRC section 408A Roth IRA , an IRC section 408(k) SEP IRA or
- Direct deposit the refund into one checking or savings account, including an IRC section 529 college savings account, an IRC section 408(a) traditional IRA , an IRC section 408A Roth IRA , an IRC section 408(k) SEP IRA.

Taxpayers cannot directly deposit their federal or state income refunds to an IRC section 401(k), 403(b), 457, or 408(p) in general, as deposits are restricted to salary reductions, employer contributions, or a combination of both.

THIS BILL

This bill would require the FTB to include information on the FTB website, tax form instructions, and any other publications for taxpayers, that the taxpayer has the option to deposit all or a portion of a tax refund into the following IRC plans:

- An IRC section 401(k)
- An IRC section 403(b)
- An IRC section 457
- An IRC section 529
- An IRC section 402A
- An IRC section 408A
- An IRC section 408(k)
- An IRC section 408(p)

LEGAL CONSIDERATIONS

As stated above, under state and federal law if contributions are made outside of the plan's provisions for IRC sections 401(k), 403(b), 457, or 408(p), the plans would be in violation of both federal and state law, which could result in loss of the tax advantages of the plan.

IMPLEMENTATION CONSIDERATIONS

The bill would require a "taxpayer return form instructions and any other publications for taxpayers pursuant to Article 1 (commencing with Section 18501) of Chapter 2 of Part 10.2 of Division 2," to be revised to include the option to direct deposit all or a portion of a tax refund into a tax advantaged savings plan. Because the section referenced includes fiduciaries and trusts that do not have the option for direct deposit on the designated forms, the department would incur significant costs to modify those forms. If it not the author's intent to include fiduciaries and trusts, it is recommended that the bill be amended to refer to "state individual income tax return instructions and publications" to clearly designate that it is the individual taxpayer forms that should be revised.

LEGISLATIVE HISTORY

AB 2625 (Solorio 2011/2012) would allow taxpayers to direct an amount in excess of their tax liability to a Scholarshare Qualified Tuition Program account (SQTP) or other Qualified Tuition Programs (QTP) and require the FTB to revise the tax forms to allow a taxpayer to request information on the SQTP and other QTP. This bill is in the Assembly Revenue and Taxation Committee.

AB 1175 (Fletcher & Perea, 2011/2012) would require the FTB to revise the personal income tax instructions to inform a taxpayer that they can request a direct deposit of a refund into an existing SQTP account. This bill is in the Senate Governance and Finance Committee.

SB 323 (Oropeza, 2009/2010) would have required the FTB to revise the tax return to include a separate space for a taxpayer to designate a direct deposit to an IRC section 529 college savings plan. This bill was held in the Assembly Appropriations Committee Suspense File.

SB 918 (Oropeza, 2007/2008) would have allowed taxpayers to direct any amount in excess of their tax liability to a Qualified Tuition Program (QTP) account. This bill was held in the Assembly Appropriations Committee Suspense File.

AB 2437 (Baca, 2005/2006) would have allowed taxpayers to designate a minimum amount of \$250 to be deposited to the credit of the taxpayer's QTP. This bill failed to pass out of the Assembly Revenue & Taxation Committee.

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.

Florida has only a corporation income tax and does not offer designations of direct deposits for corporate tax refunds.

Illinois, Massachusetts, Michigan, Minnesota, and New York allow designations, but none specifically for tax advantaged savings accounts.

FISCAL IMPACT

As the bill continues to move through the legislative process and implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Estimated Revenue Impact of AB 2578 For Taxable Years Beginning On Or After January 1, 2013 Assumed Enactment After June 30, 2012		
2012-13	2013-14	2014-15
\$0	-\$100,000	-\$200,000

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

SUPPORT/OPPOSITION¹

Support: None provided

Opposition: None provided

ARGUMENTS

Proponents: This bill could increase awareness and participation in tax advantaged savings plans.

Opponents: Addition of non tax items in the instructions and publications for taxpayers can make the instructions and publications cumbersome, and changes the primary purpose of the tax return instructions and publications from reporting taxes to making savings designations.

LEGISLATIVE STAFF CONTACT

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

janet.jennings@ftb.ca.gov

Titus Toyama

Interim Legislative Director, FTB

(916) 845-6333

titus.toyama@ftb.ca.gov

¹ As reported on the Legislative Counsel's Web site at < <http://www.leginfo.ca.gov/cgi-bin/postquery> >
[as of April 12, 2012]