

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number/Version Date
Franchise Tax Board	Eng	AB 2638 (E-08/24/12)

SUBJECT

Report Of Revenue Loss From Tax Expenditures Exceeding \$5 Million

SUMMARY

This bill would expand the information included in the annual Tax Expenditure Report (TER) prepared by the Department of Finance (DOF) by requiring the Franchise Tax Board (FTB) and the Board of Equalization (BOE) to report on the fiscal and tax effect of the tax expenditures.

REASON FOR THE BILL

The reason for this bill is to ensure tax expenditure data is available for the state budget deliberations.

EFFECTIVE/OPERATIVE DATE

As an administrative measure, this bill would be effective January 1, 2013. The bill specifies that the FTB would be required to make its first report to the Legislature and the DOF by December 1, 2013, and then annually on each December 1st thereafter.

PROGRAM BACKGROUND

The department has published an annual Tax Expenditure Report¹ (Report) since 2003. The Report is published each December and distributed to the DOF, FTB Board Members, the Assembly Revenue and Taxation Committee, the Senate Governance and Finance Committee, and posted for the public on the FTB's internet Web site. The Report describes tax expenditures found in California corporation tax and California personal income tax laws. The Report summarizes the actual and projected costs and the policy goals for current tax expenditures within the California income tax system.

The department currently provides statistical information to the DOF on tax expenditures for use in the DOF's annual report to the Legislature on expenditures exceeding \$5 million.

ANALYSIS

STATE LAW

State law requires the DOF to provide an annual report to the Legislature on tax expenditures, providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures.

¹ Available on FTB's Web site at https://www.ftb.ca.gov/aboutftb/Tax_Expenditure_Report_2011.pdf [as of March 14, 2012]

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State law requires all state agencies to submit to the Governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the next fiscal year.

The Governor is required to submit a budget within the first ten days of the regular session of the Legislature. The Governor's budget is developed using the state agency reports described above.

THIS BILL

This bill would require the FTB to submit by December 1 of each year a report to the DOF and the Legislature on the revenue loss for personal income tax expenditures and corporation income and franchise tax expenditures that exceed five million dollars.

The report would be prepared using the most recent tax year that full year data is available, the current state fiscal year, and the budget year, in the following categories:

- By the adjusted gross income of the claimants.
- By the tax liability of the taxpayer.
- By region.
- By industry code.

Additionally, the report on the expenditures for the most recent tax year that full year data is available is to include the following information:

- The average, median, highest, and lowest amounts claimed by taxpayer bracket.
- The amounts claimed and as of the time the report is prepared, amounts disallowed.
- The usage for the same or similar tax expenditures adopted by other states with similar economies, business entity types, and tax laws, or the federal government.
- Any distinguishing tax characteristic, including other tax expenditures claimed.

This bill would also require the FTB to provide sufficient data to support a subsequent analysis of the revenue loss of the tax expenditure.

LEGISLATIVE HISTORY

AB 2641 (Arambula and Solorio, 2009/2010) would have required the Legislature to review all tax expenditures. This bill failed to pass out of the Assembly Committee on Appropriations.

ACA 6 (Calderon, 2009/2010) would have limited new tax expenditures to a seven-year operative period. This bill failed to pass out of the Assembly.

SB 1086 (Florez, 2009/2010) would have required specific information to be included in the California Income Tax Expenditure Report produced by the DOF. This bill was held in the Senate Revenue and Taxation Committee.

AB 1843 (Garrick, 2007/2008) would have required a state agency to provide the State Controller's Office with information concerning state expenditures on programs administered by those agencies. This bill was held on the Senate floor.

AB 831 (Parra, 2007/2008) would have required any legislative measure creating new tax expenditures or extending the operation of existing tax expenditures to include a repeal of the expenditure in a manner that reflects the needs and conditions of the proposed expenditure. This bill failed to pass out of the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *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, Massachusetts, Michigan, and New York require a tax expenditure report, similar to the reports proposed by this bill, to be submitted by the respective Governor of each state to the Legislature every year.

Minnesota requires the Commissioner of Revenue to prepare a tax expenditure budget report for the state. The report contains the amount of tax revenue foregone for each tax expenditure, the legal authority for each tax expenditure, and the year in which each was enacted. The report is submitted to the Legislature by February 1 of each even-numbered year.

FISCAL IMPACT

The costs to the department to implement the bill are expected to be minor and could be accomplished with existing resources.

ECONOMIC IMPACT

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

APPOINTMENTS

None.

SUPPORT/OPPOSITION²

Support: John Chiang, California State Controller (Sponsor); American Federation of State, County and Municipal Employees, California Federation of Teachers; California Labor Federation; California School Employees Association, California Tax Reform Association; California Professional Firefighters.

Opposition: California Manufacturers and Technology Association; California Taxpayers Association.

VOTES

Concurrence	08/24/12	Y: 54	N: 23
Assembly Floor	05/29/12	Y: 50	N: 27
Senate Floor	08/21/12	Y: 23	N: 15

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² As reported on the Legislative Counsel's Web site at: http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2601-2650/ab_2638_cfa_20120621_170411_sen_comm.html [as of July 10, 2012]