ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Strickland	Analyst:	Janet Jennings	Bill Number:	SB 548
Related Bills:	See Legislative History	Telephone:	845-3495	Amended Date:	March 24, 2011
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Eliminate Mandatory Electronic Tax Payments Requirement/Electronic Tax Payment Credit

SUMMARY

This bill would eliminate the requirement that certain taxpayers make tax payments electronically and would provide a tax credit for certain taxpayers that voluntarily make electronic payments.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The March 24, 2011, amendments removed legislative intent language and replaced it with the provisions discussed in this analysis. This is the department's first analysis of the bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to incentivize taxpayers to make electronic payments rather than penalize taxpayers that may be unable to utilize electronic payments.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2012, and would specifically apply to taxable years beginning on or after January 1, 2011.

ANALYSIS

<u>FEDERAL LAW</u>

Federal Reserve Banks and certain financial institutions that are depositories or financial agents of the United States have authority to accept tax payments for taxes imposed under the federal tax laws. Because federal tax payments can be made at most local banks, the need for electronic payment processing is reduced significantly at the federal level.

Board Position:			Executive Officer	Date
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The IRS provides electronic payment options to taxpayers; individual taxpayers are not required to submit individual tax payments electronically.

STATE LAW

Personal Income Tax (PIT) taxpayers with a tax liability exceeding $80,000 in a taxable year or with an estimated tax payment or extension payment in excess of $20,000 are required to remit tax payments electronically. Taxpayers required to remit payments electronically who instead remit payments using another method are subject to a 1 percent penalty calculated on the amount paid, unless the failure to pay electronically was due to reasonable cause. Taxpayers subject to this requirement may request a waiver under certain circumstances from the Franchise Tax Board (FTB).

Corporate taxpayers with a tax liability exceeding $80,000 in a taxable year or with an estimated tax payment in excess of $20,000 are required to remit tax payments electronically. Taxpayers required to remit payments electronically who instead remit payments using another method are subject to a 10 percent penalty calculated on the amount paid, unless the failure to pay electronically was due to reasonable cause. Taxpayers subject to this requirement may request a waiver under certain circumstances from the FTB

THIS BILL

This bill would provide an income tax credit under the PIT law equal to 1 percent of the payments remitted electronically during the taxable year, if either of the following conditions applies:

- The taxpayer had an extension or estimated tax payment exceeding $20,000 for any tax year beginning on or after January 1, 2009, or
- The total tax liability exceeds $80,000 in any taxable year beginning on or after January 1, 2009.

This bill could be interpreted to prevent PIT taxpayers under the above thresholds from submitting electronic payment to the FTB.

This bill would also repeal the current mandated electronic funds transfer (EFT) requirement and the 1 percent of payment penalty for failure to pay electronically for PIT taxpayers.

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.

LEGISLATIVE HISTORY

AB 1389 (Assembly Budget Committee, Stats. 2008, Ch. 751) was a Franchise Tax Board-sponsored bill that established an EFT payment requirement for PIT taxpayers whose estimated or extension payments are $20,000 or more, or whose total tax liability is $80,000 or more.

AB 2480 (Campbell, Stats 2004, Ch. 267) authorizes a penalty for tax preparers required to file returns electronically, but fail to do so, unless that failure is attributable to reasonable cause and not willful neglect.

AB 1756 (Assembly Budget Committee, Stats. 2003, Ch. 228) generally requires personal income tax returns prepared by tax practitioners that prepare more than 100 individual income tax returns in a calendar year to be filed electronically beginning with the following calendar year.

SB 1974 (Greene, Stats 1992, Ch. 1294) allows corporate taxpayers to make an election with the FTB to no longer be required to pay by EFT, if in the previous year the corporate taxpayer did not exceed the EFT mandatory thresholds for estimate, extension, or total tax liabilities.

SB 467 (Senate Budget Committee, Stats. 1991, Ch. 473) requires the FTB, the Employment Development Department, and the State Board of Equalization to implement EFT for the payment of state taxes. FTB corporate taxpayers with an estimated or extension payment exceeding $50,000 or a total tax liability exceeding $200,000 were mandated to pay through EFT beginning January 1, 1993.

OTHER STATES' INFORMATION

Laws from the states of *Illinois, Massachusetts, Michigan, Minnesota, New Jersey and New York* were reviewed due to their similarities to California's economy, business entity types, and tax laws. While all of the states provide electronic payment options, only *New Jersey*, *Illinois, Massachusetts,* and *New York* have mandatory EFT requirements.

- *Illinois* requires EFT for any individual whose annual tax liability equals or exceeds $200,000, and for any other taxpayer whose annual tax liability equals or exceeds $20,000.
- *Massachusetts* limits mandatory EFT requirements to business taxes and withholding payments; individual EFT is voluntary.
- *New Jersey* requires any business taxpayer with a prior year liability of $10,000 or more in any single tax year to remit payments for all taxes by using EFT methods; individual EFT is voluntary.
- *New York* requires any business taxpayer that is required to file electronically to also pay electronically; individual EFT is voluntary.

FISCAL IMPACT

The Department estimates that this bill would cost approximately 72 cents in processing costs for each electronic payment converted into a paper payment. Assuming this bill would convert approximately 141,000 electronic payments into paper payments, Department staff anticipates it would cost more than $100,000 in additional processing costs annually.

Additionally, the bill would require system reprogramming and processing changes. The added costs have not been determined at this time. As the bill continues to move through the legislative process, additional costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Estimated Revenue Impact of SB 548 For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011 ($ in Millions)			
	2011-12	2012-13	2013-14
Estimated E-Pay Credit	-$110.0	-$150.0	-$170.0
Estimated E-Pay Penalty Revenue Lost	-$3.6	-$0.5	-$0.2
Estimated Interest Income Lost on Float	-$0.2	-$0.9	-$2.1
Total Estimated Fiscal Impact	-$113.8	-$151.4	-$172.3

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: Proponents could argue that this bill reduces compliance costs for affected taxpayers that do not have access to electronic payment technology, while continuing to encourage PIT taxpayers to utilize EFT payments—the cost efficient method for receiving payments.

Con: Opponents could argue that the state's current fiscal crisis would be exacerbated by the allowance of a credit for those taxpayers paying by EFT, and the additional costs and lost efficiencies for processing additional paper transactions currently processed electronically through the use of EFT.

LEGISLATIVE STAFF CONTACT

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