

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Quirk-Silva & Gorell Analyst: Diane Deatherage Bill Number: AB 1777  
 Related Bills: See Prior Analysis Telephone: 845-4783 Amended Date: April 7, 2014  
 Attorney: Bruce Langston Sponsor: Franchise Tax Board

**SUBJECT:** First-Time Abatement of Timeliness Penalties

**SUMMARY**

This bill would provide a penalty relief program for timeliness penalties (failure to file or failure to pay) when requested by taxpayers filing under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL).

**RECOMMENDATION**

Support.

On December 4, 2013, the three-member Franchise Tax Board voted 2-0, with the Director of Finance abstaining, to sponsor the language included in this bill.

**SUMMARY OF AMENDMENTS**

The amendments to the bill include:

- A principal coauthor was listed.
- A nonsubstantive technical change in the language.

As a result of the April 7, 2014, amendments, the department has identified an additional technical consideration. For convenience, all new and existing concerns, as well as the "This Bill," "Fiscal Impact," "Economic Impact," and "Support/Opposition" sections are provided below. The remainder of the department's analysis of the bill as introduced February 18, 2014, still applies.

**ANALYSIS**

THIS BILL

This bill would amend state law to establish penalty abatement authority similar to the federal first-time abatement procedure.

Board Position:	Asst. Legislative Director	Date
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This bill would require the Franchise Tax Board, upon taxpayer request, to abate a failure-to-file or failure-to-pay penalty when:

- Reasonable cause is either absent or the taxpayer chooses to forgo a reasonable cause review, and at the time the abatement request is made:
  - The taxpayer is otherwise compliant with their income or franchise tax filing requirement;
  - For the calendar year of the request for abatement and the four years immediately prior to the request for abatement no other timeliness penalty has been imposed; and
  - The taxpayer has paid, or is current on an arrangement to pay, all tax currently due.

A continuous appropriation would be made for refunds of penalties paid before the bill's effective date and abated under the bill's provisions. Such payments would constitute a public purpose.

#### IMPLEMENTATION CONSIDERATIONS

This bill would require changes to the department's accounting systems to allow tracking of taxpayers that have received penalty relief based on their compliance history. Additionally, the department would require the development of procedures, training materials, notices, forms, instructions, and other documents necessary to implement the penalty relief this bill would allow.

Further, call center and accounts receivable staff estimates an increase in taxpayer requests for penalty relief and a resulting increase in the volume of "reasonable cause" determinations that would require additional staff to maintain acceptable response times.

#### TECHNICAL CONSIDERATIONS

Subdivision (f) provides for a continuous appropriation from the General Fund for refund amounts of penalties abated under this bill that have been previously paid. Under existing law, these amounts would be paid from the Tax Relief and Refund Account and not the General Fund. In addition, because existing law includes a continuous appropriation to pay such amounts, this amendment is unnecessary.

The technical change replacing "of the act adding this subdivision" with "this act" inadvertently deleted the word "of". The language should be amended to insert "of" before "this act" on page 3, line 26.

#### FISCAL IMPACT

Staff estimates a cost of approximately \$449,000 for the systems changes, additional staffing, and development of procedures, notices, forms, instructions, and other documents necessary to implement this bill with on-going annual additional staffing costs of approximately \$380,000 to address the estimated increase in taxpayer contacts resulting from this bill.

**ECONOMIC IMPACT**

Revenue Estimate

Estimated Revenue Impact of AB 1777 As Amended April 7, 2014 For Requests Made Before, On, or After January 1, 2015 Enactment Assumed After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$5.4	- \$24	- \$23

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

**SUPPORT/OPPOSITION**

Support: Franchise Tax Board (Sponsor), California Chamber of Commerce, California Manufacturers & Technology Association, California Taxpayers Association, Spidell Publishing Inc., California Grocers Association, California Society of Enrolled Agents, Council on State Taxation, State Board of Equalization – George Runner, and State Board of Equalization – Michelle Steel<sup>1</sup>

Opposition: None provided.

**LEGISLATIVE STAFF CONTACT**

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<sup>1</sup> From the Assembly Revenue and Taxation Committee's bill analyses, dated March 21, 2014 and April 25, 2014.