

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Chau Analyst: Diane Deatherage Bill Number: AB 2244  
 Related Bills: See Prior Analysis Telephone: 845-4783 Amended Dates: March 26, & April 24, 2014  
 Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Minimum Franchise Tax/\$200 for Dormant Business Entities & \$50 for Inactive Business Entities

**SUMMARY**

This bill would reduce the minimum franchise tax or annual tax, whichever applies, for dormant and inactive business entities under the Corporation Tax Law (CTL).

**RECOMMENDATION**

No position.

**SUMMARY OF AMENDMENTS**

The March 26, 2014, amendments would exclude certain business entities from the reduced minimum franchise tax or annual tax, whichever applies. As a result of the March 26, 2014, amendments, the department has identified an additional implementation consideration.

The April 24, 2014, amendments resolved all of the department's technical considerations and one of the implementation considerations by accepting the amendments suggested in the department's analysis of the bill as introduced on February 21, 2014.

Except for the "This Bill," "Implementation Considerations," and "Technical Considerations" sections, the department's analysis of the bill as introduced February 21, 2014, still applies. The remaining "Implementation Consideration," "Fiscal Impact," and "Economic Impact" sections are restated for convenience.

**ANALYSIS**

THIS BILL

For taxable years beginning on or after January 1, 2014, this bill would reduce the minimum franchise tax or annual tax, whichever applies, to \$200 for a dormant business entity and to \$50 for an inactive business entity.

Board Position: <input type="checkbox"/> S <input type="checkbox"/> NA <input checked="" type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Asst. Legislative Director</td> <td style="width: 40%;">Date</td> </tr> <tr> <td>Jahna Carlson</td> <td>5/1/14</td> </tr> </table>	Asst. Legislative Director	Date	Jahna Carlson	5/1/14
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This bill would define the following terms:

- “Business entity” means a corporation, a limited partnership,<sup>1</sup> a limited liability company,<sup>2</sup> a limited liability partnership,<sup>3</sup> a charitable corporation,<sup>4</sup> a regulated investment company,<sup>5</sup> a real estate investment trust,<sup>6</sup> a real estate mortgage investment conduit,<sup>7</sup> or a qualified Subchapter S subsidiary.<sup>8</sup>
- “Dormant business entity” means a business entity that is organized under the laws of this state or has qualified to transact intrastate business in this state, and that certifies, under penalty of perjury, on its tax return, that it was not doing business, within the meaning of subdivision (a) of Section 23101, in this state for the taxable year. A business entity may be a dormant business entity for no more than one period of no more than five consecutive taxable years.
- “Inactive business entity” means a business entity, other than a limited partnership or a limited liability partnership, that is organized under the laws of this state or has qualified to transact intrastate business in this state, and that reasonably believes that it will not be doing business, within the meaning of subdivision (a) of Section 23101, in this state for the taxable year. A business entity may be an inactive business for no more than one period of no more than five consecutive taxable years.

Under this bill, a business entity is limited to reporting as dormant, inactive, or a combination of both, for a total of five taxable years.

This bill would also require an inactive business that was in fact doing business in California to pay an additional \$750 by the original due date of the return.

Under this bill, a business entity that is majority or wholly-owned or an affiliated business entity of a business entity subject to the Personal Income Tax Law or CTL would be excluded from the reduced franchise minimum or annual tax provisions.

This bill would expand the crime of perjury and impose a state-mandated local program.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve this and other concerns that may be identified.

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<sup>1</sup> As defined in R&TC Section 17935.

<sup>2</sup> As defined in R&TC Section 17941.

<sup>3</sup> As defined in R&TC Section 17948.

<sup>4</sup> As described in R&TC Section 23703.

<sup>5</sup> As defined in IRC Section 851.

<sup>6</sup> As defined in IRC Section 856.

<sup>7</sup> As defined in IRC Section 860D.

<sup>8</sup> As defined in IRC Section 1361(b)(3)(B).

This bill uses a term that is undefined, i.e., “affiliated business entity.” The absence of definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of this provision.

### FISCAL IMPACT

This bill would impact the department’s printing, processing and programming costs. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

### **ECONOMIC IMPACT**

#### Revenue Estimate

Estimated Revenue Impact of AB 2244 As Amended April 24, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$1.9	- \$6.4	- \$11

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.

### **LEGISLATIVE STAFF CONTACT**

Diane Deatherage

Legislative Analyst, FTB

(916) 845-4783

[diane.deatherage@ftb.ca.gov](mailto:diane.deatherage@ftb.ca.gov)

Mandy Hayes

Revenue Manager, FTB

(916) 845-5125

[mandy.hayes@ftb.ca.gov](mailto:mandy.hayes@ftb.ca.gov)

Jahna Carlson

Asst. Legislative Director, FTB

(916) 845-5683

[jahna.carlson@ftb.ca.gov](mailto:jahna.carlson@ftb.ca.gov)