

ANALYSIS OF AMENDED BILL

Franchise Tax Board

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Bill Number: AB 877

Related Bills: See Legislative History

Telephone: 845-4783

Amended Date: May 6, 2014

Attorney: Bruce Langston

Sponsor: _____

SUBJECT: Business Expense Deduction/Disallow Amounts Paid for Fines and Penalties Assessed by Professional Sports League

SUMMARY

This bill would disallow professional sports franchise owners from deducting certain fines and penalties, under the Personal Income Tax Law and Corporation Tax Law.

RECOMMENDATION

No position.

Summary of Amendments

The May 6, 2014, amendments removed provisions of the bill related to voting systems, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to disallow a deduction for a fine or penalty imposed on a professional sports team owner.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2014.

ANALYSIS

FEDERAL/STATE LAW

Current federal and state laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business, unless specifically excluded by statute. No deduction is allowed for any fine or similar penalty paid to a government for a violation of law. Under current federal and state laws, a deduction is allowed for a fine or similar penalty paid to an entity other than the government as an ordinary and necessary business expense. Individuals are allowed to deduct ordinary and necessary expenses paid or incurred for the production of income and for the management, conservation, or maintenance of property held for the production of income. The expenses must not be a nondeductible personal living expense or exceed specific statutory limits.

Board Position:

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_____ N _____ OUA

Executive Officer

Date

Selvi Stanislaus

06/04/14

THIS BILL

For taxable years beginning on or after January 1, 2014, this bill would disallow a deduction for a fine or penalty paid or incurred by an owner of a professional sports franchise when that fine or penalty is assessed or imposed by the professional sports league that includes that franchise.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 458 (Wieckowski, 2013/2014) was identical to AB 1276 and would have disallowed the deduction of punitive damages paid or incurred in connection with any judgment in, or settlement of, any action. AB 458 failed to pass out of the Senate.

AB 1276 (Feuer, 2011/2012) would have disallowed the deduction of punitive damages paid or incurred in connection with any judgment in, or settlement of, any action. AB 1276 failed to receive the required two-thirds vote to move out of the Assembly.

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.

All six states follow the federal rules that allow the deduction of fines and penalties to owners of professional sports franchises.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Instances of issuance of penalties or fines to owners of professional sports franchises by the respective sports league are relatively infrequent. To determine the magnitude of the potential impact to the General Fund, both the frequency and amount of penalties and fines issued must be known. Because it is difficult to predict the frequency and value of these penalties and fines, we cannot provide an annual estimate. However, according to our calculations, every \$1,000,000 in penalties and fines issued would result in additional tax of up to \$130,000.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Proponents may argue that eliminating the deductibility of these fines and penalties would further enforce the punishment of an unacceptable behavior or action.

Opponents: Opponents may argue that eliminating the deductibility of these fines and penalties would increase taxes on businesses, burdening the economy and increasing the costs of goods and services to the average consumer.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

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