

## BILL ANALYSIS

Department, Board, Or Commission <b>Franchise Tax Board</b>	Authors <b>Bocanegra &amp; Jones-Sawyer</b>	Bill Number <b>AB 877</b>
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### 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.

### 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.

### 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.

### 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.

Gail Hall, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 08/29/14
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## 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 by owners of professional sports franchises.

## FISCAL IMPACT

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

## ECONOMIC IMPACT

### Revenue Estimate

The estimated revenue impact of this bill would be dependent on the frequency and amount of fines and penalties incurred by the sports franchise owners which are assessed by the professional sports league.

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 are unable to 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.

## APPOINTMENTS

None.

**SUPPORT/OPPOSITION<sup>1</sup>**

Support: California State Conference of the National Association for the Advancement of Colored People (California NAACP).

Opposition: None provided.

**VOTES**

	<b>Date</b>	<b>Yes</b>	<b>No</b>
Concurrence	08/28/14	54	12
Assembly Floor <sup>2</sup>	01/27/14	50	24
Senate Floor	08/11/14	27	9

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<sup>1</sup> From Senate Floor Analysis, dated June 25, 2014.

<sup>2</sup> When this vote occurred, the bill was related to electronic voting systems.