Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Anderson	Analyst:	Diane Deatherage	Bill Number:	SB 641
Related Bills:	See Prior Analysis	Telephone:	845-5806	Amended Dates:	May 2, 2013 & January 6, 2014
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Minimum Franchise Tax/Exempt Qualified New Corporations Second, Third, and Fourth Taxable Years

SUMMARY

This bill would exempt certain new corporations from paying the minimum franchise tax for its second, third, and fourth taxable years.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 2, 2013, amendments resolved the department's implementation and technical considerations as discussed in the department's analyses of this bill as introduced, February 22, 2013, and as amended, April 17, 2013. The January 6, 2014, amendments included changes to the operative date, clarified that the bill would only apply to the corporation's second, third, and fourth taxable years, and made other technical changes. As a result of the amendments, the department no longer has any implementation or technical considerations. Except for the discussion included in this analysis, the department's analysis of the bill as introduced February 22, 2013, still applies.

EFFECTIVE/OPERATIVE DATE

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

ANALYSIS

THIS BILL

For taxable years beginning on or after January 1, 2014, this bill would exempt a qualified new corporation, as defined, from the minimum franchise tax for its second, third, and fourth taxable years.

Board Position:			Legislative Director	Date
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This bill would define the following terms:

- "Qualified new corporation" means a corporation that, on or after the effective date of this bill, meets all of the following:
    - Incorporates under the laws of this state or qualifies to transact intrastate business in this state, and
    - Commences business operations at or after the time of its incorporation.
    - Reasonably estimates that it will have gross receipts, less returns and allowances, reportable to this state of $10,000 or less for its second, third, or fourth taxable year.

- "Qualified new corporation" shall not include a corporation that commenced business operations as a sole proprietorship, a partnership, or any other form of business entity immediately prior to its incorporation.
- "Gross receipts, less returns and allowances reportable to this state," means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120[1] and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.[2]

The determination of gross receipts shall include all members of a commonly controlled group, as defined in Section 25105, of which the corporation is a member.

If actual gross receipts, less returns and allowances, exceed ten thousand dollars ($10,000), in the qualified new corporation's second, third, or fourth year, then an additional tax of eight hundred dollars ($800) will be due and payable on the due date of the return, in addition to the measured tax due for the taxable year.

The exemption would not apply to a limited partnership, a limited liability company, a limited liability partnership, a charitable corporation, a regulated investment company, a real estate investment trust, a real estate mortgage investment conduit, a qualified Subchapter S subsidiary, or to the formation of any corporation that reorganizes solely for the purpose of avoiding payment of its minimum franchise tax.

FISCAL IMPACT

This bill would impact the department's printing, processing and programming costs to automate the verification of the gross receipts for qualified taxpayers. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

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[1] "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.
[2] "Nonbusiness income" means all income other than business income.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 641 As Amended January 6, 2014 For Taxable Years Beginning On Or After January 1, 2014 Enactment Assumed After June 30, 2014 ($ in Millions)		
2014-15	2015-16	2016-17
- $8.1	- $34	- $55

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

SUPPORT/OPPOSITION[3]

Support: California Chamber of Commerce, Southwest California Legislative Council

Opposition: California Tax Reform Association, SEIU California

LEGISLATIVE STAFF CONTACT

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[3] From Senate Governance and Finance Committee Analysis, dated April 22, 2013.