

SUMMARY ANALYSIS OF AMENDED BILL

Author: Fuller & Runner Analyst: Davi Milam Bill Number: SB 526
 Related Bills: See Prior Analysis Telephone: 845-2551 Amended Date: January 13, 2016
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Innocent Spouse Relief/ Joint Returns/ Dissolution of Marriage Court Orders
-----------------	---

SUMMARY

Under the Administration Franchise and Income Tax Law (AFITL), this bill would modify provisions related to relief of joint liability by court order.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The January 13, 2016, amendments made technical changes, including adopting the technical amendment proposed in the department’s analysis of the bill as amended January 4, 2016.

Except for the “This Bill” and “Support/Opposition” sections, the remainder of the department’s analysis of this bill as amended January 4, 2016, still applies. The “Economic Impact” and “Policy Concerns” sections have been restated for convenience.

THIS BILL

This bill, under the AFITL, would provide that a court in a proceeding for dissolution of marriage may not reduce the amount of liability on a joint return but the court may determine the individual responsible for all or part of that liability.

This bill also would allow a court order issued in a proceeding for dissolution of marriage to relieve a spouse of liability on income earned by or subject to the exclusive management and control of that spouse, unless:

- Assets or liabilities are transferred between the individuals filing a joint return for the principal purpose of avoidance of the payment of tax or as part of a fraudulent scheme by those individuals.
- The liability is uncollectable, and within three years of when the FTB is served with or acknowledges receipt of the order, the spouse obligated by the court order does either of the following:
 - Files for bankruptcy and that liability is discharged in bankruptcy, or
 - Becomes a nonresident.

This bill also would increase the threshold amounts for a tax revision clearance certificate (TRCC) from gross income of \$150,000 to gross income of \$200,000 and for the amount of tax liability relieved from \$7,500 to \$10,000. Beginning in January 2018, the increased threshold amounts would be adjusted for inflation.

Board Position:	Legislative Director	Date
_____ S _____ NA _____ X _____ NP	Jahna Carlson for Gail Hall	2/5/16
_____ SA _____ O _____ NAR		
_____ N _____ OUA _____		

ECONOMIC IMPACT

This bill would result in a revenue impact to the general fund in an unknown amount.

Revenue Discussion

According to calculations, for every \$1 million in tax liability relief granted, the revenue loss would be \$60,000. This bill does not reduce the amount of liability on a joint return, but instead allows a divorce court order to modify the amount of joint liability each spouse is responsible to pay.

Estimating cases of relief per divorce court order as part of the judgment for dissolution of marriage cannot be predicted. To determine the magnitude of relief, both the frequency and the dollar amount of these judgments must be known. Because it is difficult to predict the frequency and the value of future actions, the revenue impact is unknown.

SUPPORT/OPPOSITION¹

Support: Fiona Ma, Member, State Board of Equalization
Sen. George Runner (Retired), Member, State Board of Equalization

Opposition: None provided.

POLICY CONCERNS

Taxpayers who file a joint return are jointly and severally liable for the full tax liability for the tax year(s) in which they filed jointly. Under state law, that liability may be revised by a divorce court, provided the order does not relieve the requesting spouse of tax liability on "income earned by or subject to the exclusive management and control of the requesting spouse." This condition reflects the longstanding tax policy of "proportional liability" (requesting spouse's pro rata share of tax liability on the requesting spouse's income). Applying a divorce court order in all situations without regard to the concept of proportional liability would be contrary to this longstanding policy.

LEGISLATIVE STAFF CONTACT

Davi Milam
Legislative Analyst, FTB
(916) 845-2551
davi.milam@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov

¹ As noted in Assembly Revenue and Taxation Committee analysis dated January 8, 2016.