SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Strom-Martin	Analyst:	Roger Lackey	Bill Number:	AB 27
Related Bills:	See Legislative History	Telephone:	845-3627	Introduced Date:	12/02/96
		Attorney:	Doug Bramhall	Sponsor:	

SUBJECT: Minimum Franchise Tax/Change From $600 To $300 For Qualified New Corporations/On or After January 1, 1998

SUMMARY

Under the Bank and Corporation Tax Law (B&CTL), this bill would reduce the minimum franchise tax, for a qualified new corporation (as defined), from $600 to $300.

EFFECTIVE DATE

This bill would take effect as a tax levy and would apply to income years beginning on or after January 1, 1998.

LEGISLATIVE HISTORY

SB 38 (Stats. 1996, Ch. 954), AB 546, AB 3298, AB 3010, AB 3394 (1996); AB 647, AB 744, AB 1098 (1995); AB 411, AB 977, AB 1721, AB 2886, AB 3807 (1993/94); AB 3506, SB 1453 (1992); AB 4275 (1989/90); SB 572 (Stats. 1987, Ch. 1139).

SPECIFIC FINDINGS

Existing state law provides a reduced minimum franchise tax of $600 for "qualified new corporations" with gross receipts, less returns and allowances, reportable to this state of less than $1 million. The reduced tax applies only to the first taxable year commencing on the date the corporation is incorporated.

Existing state law also provides that the determination of whether a corporation meets the gross receipts test is based on the aggregate gross receipts of the members of a commonly controlled group. The law defines "gross receipts less returns and allowances reportable to this state" as including both business and non-business receipts.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Department Director Position:	Agency Secretary Position:	**GOVERNOR'S OFFICE USE**
____ S ____ O ____ SA ____ OUA __X_ N ____ NP ____ NA ____ NAR ________ PENDING	____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO ____________	Position Approved ____ Position Disapproved ____ Position Noted ____
Department Director Gerald H. Goldberg 1/7/97	Agency Secretary Date	By: Date:

The reduced minimum franchise tax does not apply to any corporation if 50% or more of its stock is owned by another corporation. In addition, it does not apply to certain entities such as limited partnerships, limited liability companies, limited liability partnerships, and charitable corporations that are required to pay the minimum franchise tax as a result of failure to file a periodic report with the Attorney General.

The corporation pays an additional tax of $200 on the due date of its first return, without regard to extension, if for the corporation's first income year its gross receipts exceed $1 million or its tax liability exceeds $800.

This bill would reduce the minimum franchise tax to $300 for a qualified new corporation as defined by existing law. The reduced minimum franchise tax would apply to income years beginning on or after January 1, 1998.

This bill would require a qualified new corporation to pay an additional tax of $500 on the due date of its first return, without regard to extension, if for the corporation's first income year its gross receipts exceed $1 million or its measured tax liability exceeds $800.

Implementation Considerations

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

Technical Considerations

A reduced prepaid minimum franchise tax is provided for qualified new corporations with gross receipts, less returns and allowances, of less than $1 million. The corporation is required to pay an additional tax of $200 if its gross receipts exceed $1 million. The two amounts do not specify the result for a corporation with gross receipts of exactly $1 million. Amendment 1 would change the first amount to $1 million or less.

The reduced prepaid minimum franchise tax does not apply to any corporation if 50% or more of its stock is owned by another corporation. However, new corporations usually do not issue stock until after incorporation. Amendment 2 would clarify that the reduced commencing tax does not apply if 50% or more of its stock is, or will be upon the initial issuance of stock, owned by another corporation.

FISCAL IMPACT

Departmental Costs

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

Tax Revenue Estimate

Revenue losses from this bill are as follows:

Estimated Revenue Impact of AB 27 Effective for Income Years Beginning January 1, 1998 ($in Millions)			
1997-8	1998-9	1999-0	2000-1
($8)	($12)	($9)	($9)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

Revenue losses would depend on the number of new corporations with income and gross receipts, less returns and allowances reportable to the state, of less than $1 million.

The above estimates were based on a sample of bank and corporation tax returns, expanded to reflect the universe, and are consistent with prior analyses of minimum tax proposals. The number of new incorporations projected for 1998 is 55,000, with nearly 30,000 qualifying under this bill.

POSITION

Neutral.

The staff's position is determined by administrative considerations and does not take into account revenue impact on the state. However, this issue is discussed in the analysis.

Roger Lackey
845-3627
Doug Bramhall

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 27
As Introduced December 2, 1996

AMENDMENT 1

On page 2, amend line 30 as follows:

state, of ~~less than~~ one million dollars ($1,000,000) or less and a tax

AMENDMENT 2

On page 3, strikeout lines 8 to 9, inclusive, and insert:

which will be a subsidiary of another corporation upon the issuance of its stock. For purposes of this subdivision, "subsidiary" means a corporation which is owned 50% or more by another corporation.