SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Assembly Rev. & Tax. Comm. Analyst: Jeani Brent Bill Number: AB 2809

Related Bills: See Legislative History Telephone: 845-3410 Introduced Date: 03/24/98

Attorney: Doug Bramhall Sponsor: Franchise Tax Board

SUBJECT: Economic Development Areas NOL Separate Code Sections/LARZ NOL Sunset Date Technical Change

SUMMARY

This bill, sponsored by the Franchise Tax Board, would correct a chaptering error by reinstating the December 1, 1998, sunset date of the Los Angeles Revitalization Zone (LARZ) net operating loss (NOL) as enacted by AB 18 (Stats. 1993, Ch. 18). Additionally, to prevent potential future chaptering problems with the various economic development area NOL provisions, this bill would place each economic development area NOL provision into a separate code section, rather than in a subdivision of the same code section.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1998.

LEGISLATIVE HISTORY

AB 18 (Stats. 1993, Ch. 18), AB 693 (Stats. 1993, Ch. 1216); AB 38 (Stats. 1992, Ch. 17x)

PROGRAM HISTORY/BACKGROUND

Assembly Bill 38 (Stats. 1992, Ch. 17x), which enacted the LARZ and its tax incentives, provided sunset dates for all the tax incentives of January 1, 1998. To ensure that the tax incentive statutes remained on the books for all 1997 fiscal years, clean-up legislation (AB 18, Stats. 1993, Ch. 18), enacted in May 1993, changed the sunset dates for the tax incentives to December 1, 1998. However, later that year, AB 693 (Stats. 1993, Ch. 1216), which enacted the LAMBRA provisions, unintentionally chaptered out the change to the sunset date for the LARZ NOL. This chaptering out occurred because NOL provisions for all economic development areas are contained as subdivisions of the same code section. When AB 693 added another paragraph for LAMBRAs, it did not contain the same changes to the LARZ subdivision as were contained in AB 18 earlier that year. Instead, it reenacted the provisions of the LARZ subdivision that had been

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Board Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
_X_ S ____ O ____ SA ____ OUA ____ 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 4/7/98	Agency Secretary Date	By: Date:

amended by AB 18. Until recently, this problem went unnoticed. All other LARZ tax incentive provisions contain the December 1, 1998, sunset date because each is contained in a separate code section and neither AB 693, nor any other bill passed that year, contained changes to those sections. Thus, the LARZ NOL is the only LARZ tax incentive provision with a January 1, 1998, sunset date.

SPECIFIC FINDINGS

Under the Government Code, existing state law provides for the designation of five types of economic development areas (EDAs): enterprise zones, the Los Angeles Revitalization Zone (LARZ), Local Agency Military Base Recovery Areas (LAMBRA), Targeted Tax Area (TTA), and Manufacturing Enhancement Areas (MEA). Using specified criteria, the Trade and Commerce Agency (TCA) designates EDAs based on applications (maps in the case of the LARZ) received from the governing bodies. Enterprise zones are designated for 15 years, and TCA has designated each of the 39 enterprise zones authorized under existing law. The LARZ was designated in 1992 and is binding for five years. Five LAMBRA designations are authorized, one from each of the five regions (as specified) of the state. Currently, TCA has designated two of the five LAMBRAs authorized under existing law, and the other three areas have received conditional designation. Each LAMBRA designation is binding for eight years. The TTA designation is binding for 15 years, beginning January 1, 1998. Two MEAs are authorized and the designation is binding for 15 years, beginning January 1, 1998.

Under the Revenue and Taxation Code, existing state law provides special tax incentives for taxpayers conducting business activities within EDAs. These incentives include a sales or use tax credit, hiring credit, business expense deduction, and special net operating loss (NOL) treatment. Two additional incentives are a net interest deduction for businesses that make loans to businesses within the economic development areas (not available for LAMBRAs, TTA, or MEA) and a tax credit only for employees working in an enterprise zone. Businesses that operate in MEAs are eligible only for a hiring credit.

The special net operating loss treatment allows a business located in an economic development area to elect to carry over 100% of the economic development area net operating losses (NOLs) to deduct from economic development area income of future years. The election must be made on the original return for the year of the loss. The NOL carryover is determined by computing the business loss that results from business activity in the economic development area.

Under the Revenue and Taxation Code, existing state law provides that a “fiscal year” is any accounting period of 12 months that ends on the last day of any month other than December. Any accounting period ending in December is a “calendar year.”

This bill would correct a chaptering error by reinstating the December 1, 1998, sunset date of the LARZ net operating loss as enacted by AB 18 (Stats. 1993, Ch. 18). Additionally, to prevent future chaptering problems with the various economic development area NOL provisions, this bill would place each economic development area NOL provision into a separate code section, rather than in a subdivision of the same code section.

Policy Considerations

Reinstating the LARZ NOL December 1, 1998, sunset date would clarify that the statute remains operative for all 1997 fiscal year taxpayers.

Placing each EDA NOL provision into a separate code section would prevent potential future chaptering problems.

Implementation Considerations

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

FISCAL IMPACT

Departmental Costs

No departmental costs are associated with this bill.

Tax Revenue Estimate

This bill would not impact the state's income tax revenue.

BOARD POSITION

Support.

The Franchise Tax Board voted at its November 17, 1997, meeting to sponsor the language in this bill.