SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Hurtt | Analyst: Jeani Brent | Bill Number: SB 1992

Related Bills: See Legislative History | Telephone: 845-3410 | Introduced Date: 02/20/98

Attorney: Doug Bramhall | Sponsor:

SUBJECT: Exclusion/Late State Agency Payments to Vendors or Contractors/Budget Delay

SUMMARY

This bill would provide that vendors and contractors who contract with the state would not be required to include in gross income any payments that are not timely made by the state because the State Budget was not enacted.

EFFECTIVE DATE

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

LEGISLATIVE HISTORY

ACA 2, ACA 25, ACA 26, ACA 29, SCA 16 (1997-1998).

SPECIFIC FINDINGS

Existing state law, under the Public Contract Code, provides specific rules by which state agencies may enter into contracts with vendors and contractors. This code provides specific rules regarding how and when payments to vendors and contractors must be made and rules requiring the payment of interest if payments to contractors are not timely made.

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation, business income, gains from property, dividends, rents, interest, and royalties, unless it is specifically exempt.

Existing federal and state laws provide that certain types of income are excluded from the general gross income, such as amounts received from certain death benefits, gifts and inheritances, compensation for injuries and sickness, qualified scholarships, educational assistance programs, and foster care payments.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Board Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR ___X_____ PENDING	____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO ____________	Position Approved ____ Position Disapproved ____ Position Noted ____
Department Director Date Gerald H. Goldberg 3/12/98	Agency Secretary Date	By: Date

E**xisting state law** imposes tax on the income earned by individuals, estates, and trusts. Tax is imposed on the entire taxable income of residents of California and upon the taxable income of nonresidents derived from sources within California. The tax for individuals is computed on a graduated scale, at rates ranging from 1% to 9.3%. Corporations, certain partnerships, and other similar entities pay a tax for the privilege of doing business in California. The corporation franchise tax is not imposed on, but is measured by, income. The franchise tax rate is generally 8.84% for corporations.

SB 1992 would provide that vendors and contractors who contract with the state would not be required to include in gross income any payments that are not timely made by the state because the State Budget was not enacted. The vendor or contractor must have contracted with the state prior to July 1 of the year in which the payment was not timely paid and the payment must be due the vendor or contractor for performance in whole or in part of the contract.

Implementation Considerations

This bill leaves unclear whether the exclusion applies only to the amount of the payment as provided in a contract or also to the amount of interest to which the contractor or vendor becomes entitled because of the late payment under the Public Contracts Code.

This bill does not provide any mechanism by which the department could verify which payments to vendors or contractors were not made timely and, thus, qualify for the exclusion provided under this bill. The bill should be amended to include a requirement that any state agency that makes untimely payments because of a late State Budget Act provide an annual listing to the department of the taxpayers who received late payments.

Some taxpayers may use an accrual method of accounting for tax purposes. For those taxpayers, if the payment occurs in the fiscal year other than that in which the payment accrued, an amended return would need to be filed to exclude the income.

Technical Considerations

This bill would add two code section numbers (17134 and 24306) that are already used in existing law.

FISCAL IMPACT

Departmental Costs

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

Tax Revenue Estimate

The general order of magnitude of revenue losses from this bill are shown in the following table:

General Order of Magnitude Revenue Losses of SB 1992 Taxable Years Beginning on and After January 1, 1998 Enactment Assumed After June 30, 1998 $ Millions		
1998-9	1999-0	2000-1
($25)	($25)	($25)

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

Revenue Discussion

The revenue impact for this bill would be determined by the interaction of amounts excluded due to the Legislature's failure to pass the Budget Act and the taxable income of affected taxpayers.

This estimate assumes a budget delay of not more than one month. If the budget were delayed more than one month, costs would increase proportionately. If all agency payments due in July were delayed, then affected contractors could exclude those amounts from income for state tax purposes. According to staff of the State Department of General Services, agency contracts for goods and services amount to about $5 billion annually. Data describing the amount of payments by month are not available. Assuming that July payments amount to one-twelfth of the total, or about $400 million, the tax revenue loss would amount to about $25 million after accounting for apportioning companies and loss companies. If the July payments were delayed each year, the resulting losses would be those shown in the table above.

BOARD POSITION

Pending.