

# REVISED ANALYSIS

## Franchise Tax Board

Author: Scott Analyst: Marion Mann DeJong Bill Number: AB 1467

Related Bills: See Legislative History Telephone: 845-6979 Original Date: 02-26-1999

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Water's-Edge/FTB Follow IRS Profit Split Rules For Audit

- REVENUE ESTIMATE CHANGED.
- FURTHER CONCERNS IDENTIFIED.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 25 1999, STILL APPLIES.
- OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that the Franchise Tax Board (FTB) would be presumed to have followed rules, regulations and procedures for transfer-pricing audits when corporations in a water's-edge group elect to use the profit split method under Section 936 of the Internal Revenue Code. In addition, it would be presumed that the allocation of combined taxable income under the profit split method clearly reflects the income of the members of the water's-edge group and clearly reflects the income of the electing corporation.

### SUMMARY OF REVISION

The Effective Date, Tax Revenue Estimate and Tax Revenue Discussion contained in the department's analysis of the bill as introduced February 26, 1999, are being revised to change the operative date to January 1, 2001, since this bill is a two-year bill, and to reflect new data arising from ongoing tax audits. Except for these changes, the remainder of the department's prior analysis still applies.

### EFFECTIVE DATE

This bill would become effective on January 1, 2001, but the bill does not specify the manner in which it is to be applied.

### Tax Revenue Estimate

Estimates for this bill are being revised based on new data arising from ongoing tax audits. Estimated revenue losses are being increased from (\$4), (\$8), and (\$7) million for 1999-00, 2000-01, and 2001-02 to the following:

Estimated Revenue Impact of AB 1467 As Introduced 2/26/99 [\$ In Millions]		
2000-01	2001-02	2002-03
-\$21	-\$23	-\$27

Board Position:	Legislative Director	Date
<input type="checkbox"/> S	Johnnie Lou Rosas	01/18/00
<input checked="" type="checkbox"/> NA		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input type="checkbox"/> PENDING		

Estimates assume the bill would be effective January 1, 2001, and would apply to all years for which the statute of limitation is still open.

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

The tax differential between following Section 482 transfer-pricing rules and Section 936 profit splitting rules would determine the revenue impact of this bill. Revised estimates were derived using the same methodology as for the original estimate.