

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ting Analyst: Scott McFarlane Bill Number: AB 154
 Related Bills: See Prior Analysis Telephone: 845-6075 Amended Date: May 20, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Conformity Act of 2015
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SUMMARY

This bill would enact two conformity provisions:

1. Provision one would change California’s general “specified date” of conformity to federal income tax laws from January 1, 2009, to January 1, 2015, for taxable years beginning on or after January 1, 2015, and thereby generally conform to the numerous changes that were made to federal income tax laws during that six-year period, except as otherwise provided.
2. Provision two would generally conform to the federal net operating loss (NOL) rules that allow corporations expecting an NOL carryback to extend the time for payment of taxes for the preceding taxable year.

Summary Revenue Estimate	2015-16	2016-17	2017-18
Provision 1	\$15,170,000	\$16,020,000	\$17,220,000
Provision 2	-\$12,000,000	-\$8,000,000	-\$3,000,000
Total Revenue Estimate	\$3,170,000	\$8,020,000	\$14,220,000

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 20, 2015, amendments made changes to provision one that would:

1. Not conform to Section 16 of the Worker, Homeownership, and Business Assistance Tax Act of 2009 (Public Law 111-92), Increase in Penalty for Failure to File a Partnership or S Corporation Return;
2. Conform to Section 9008 of the Patient Protection and Affordable Care Act (Public Law 111-148), Denial of Deduction for Annual Fee on Branded Prescription Pharmaceutical Manufacturers and Importers; and
3. Not conform to Section 119 of the Tax Increase Prevention Act of 2014 (Title I of Division A of Public Law 113-295), Extension of Work Opportunity Credit.

The May 20, 2015, amendments also made various technical changes.

As a result of the amendments, the “This Provision” and “Economic Impact” sections of the department’s analysis of provision one as amended March 26, 2015, are revised, as provided below, and the “Federal/State Law” section of provision one is restated for convenience. The remainder of the department’s analysis of this bill as amended March 26, 2015, still applies.

Board Position: _____ S _____ NA _____ X _____ NP _____ SA _____ O _____ NAR _____ N _____ OUA _____	Legislative Director Gail Hall	Date 5/27/15
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Provision 1 – Changing the Specified Date of Conformity to the Internal Revenue Code

FEDERAL/STATE LAW

See the Franchise Tax Board's (FTB's) annual reports titled "[Summary of Federal Income Tax Changes – 2009](#)," "[Summary of Federal Income Tax Changes – 2010](#)," "[Summary of Federal Income Tax Changes – 2012](#)," "[Summary of Federal Income Tax Changes – 2013](#)," and "[Summary of Federal Income Tax Changes – 2014](#)."

(Note that there is no link to the "Summary of Federal Income Tax Changes – 2011" because there are no applicable conformity changes from that year.)

THIS PROVISION

This provision would change the California Revenue and Taxation Code's (R&TC's) general "specified date" of conformity to the Internal Revenue Code (IRC) from January 1, 2009, to January 1, 2015, for taxable years beginning on or after January 1, 2015. Changing the specified date would mean that the R&TC would conform to IRC changes made from January 1, 2009, through December 31, 2014, to IRC sections that have been previously incorporated by reference. In other words, California tax laws would conform to the changes made to federal tax laws during that six-year period to the extent California conforms to those laws by reference, except as otherwise provided.

This provision would also make numerous changes either to specifically not conform to or to modify certain provisions of the IRC. In addition, technical changes would be made to update cross references and to modify or eliminate current-law conformity language that relates to federal law changes made after January 1, 2009, and before to January 1, 2015.

This provision would additionally provide that it is the intent of the Legislature to confirm the validity and ongoing effect of Senate Bill 401 (Wolk, Chapter 14 of the Statutes of 2010).

The following tables list:

- The federal act sections that impact provisions of the Personal Income Tax Law (PITL), the Administration of Franchise and Income Tax Laws (AFITL), and the Corporation Tax Law (CTL);
- The beginning page number in the FTB's annual report where that provision is discussed; and
- The change under this provision -- whether AB 154 would conform or not conform to that federal change. (Note that conformity decisions that would require modification are listed in the conform column.)

These tables contain only items for which a conformity decision is necessary. For certain federal provisions, California law automatically conforms to federal law changes, and those provisions are not listed or discussed in this analysis. Additionally, federal provisions that are not applicable to the PITL, the AFITL, or the CTL are not listed or discussed in this analysis.

2009 Conformity Decisions

American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5)				
Act Section	Provision	FTB's 2009 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
1262	Treatment of Certain Ownership Changes for Purposes of Limitations on Net Operating Loss Carryforwards and Certain Built-in Losses	107		X

Worker, Homeowner, and Business Assistance Act of 2009 (WHBAA) (Public Law 111-92)				
Act Section	Provision	FTB's 2009 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
14	Exclusion from Gross Income of Qualified Military Base Realignment and Closure Fringe	208	X	
16	Increase in Penalty for Failure to File a Partnership or S Corporation Return	214		X
17	Certain Tax Returns Preparers Required to File Returns Electronically	217		X

2010 Conformity Decisions

Hiring Incentives to Restore Employment (HIRE) Act (Public Law 111-147)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
511	Disclosure of Information with Respect to Foreign Financial Assets	72	X	

Patient Protection and Affordable Care Act (Public Law 111-148)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
9004	Increase in Additional Tax on Distributions from Archer MSAs Not Used for Qualified Medical Expenses	176	X	
9008	Denial of Deduction for Annual Fee on Branded Prescription Pharmaceutical Manufacturers and Importers	191	X	
9013	Modification of Itemized Deduction for Medical Expenses	203		X

Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
1601	Certain Swaps, etc., not Treated as Section 1256 Contracts	308	X	

State Fiscal Relief and Other Provisions; Revenue Offsets (Public Law 111-226)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
215	Special Rule with Respect to Certain Redemptions by Foreign Subsidiaries	336	X	

Small Business Jobs Act of 2010 (Public Law 111-240)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
2041	Limitation on Penalty for Failure to Disclose Reportable Transactions Based on Resulting Tax Benefits	368	X	
2043	Removal of Cellular Telephones and Similar Telecommunications Equipment from Listed Property	374	X	
2102	Increase in Information Return Penalties	380	X	
2113	Special Rules for Annuities Received from Only a Portion of a Contract	397	X	

2012 Conformity Decisions

FAA Modernization and Reform Act of 2012 (Public Law 112-95, Title XI)				
Act Section	Provision	FTB's 2012 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
1108	Modification of Control Definition for Purposes of Section 249	16	X	

Moving Ahead for Progress in the 21st Century Act (MAP-21) (Public Law 112-141)				
Act Section	Provision	FTB's 2010 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
40241 - 40242	Transfers of Excess Pension Assets	39	X	

2013 Conformity Decisions

American Taxpayer Relief Act of 2012 (ATRA) (Public Law 112-240)				
Act Section	Provision	FTB's 2013 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
301	Extension and Modification of Research Credit <i>Modifications to Acquisitions, Dispositions, and Aggregation of Expenditures</i>	70	X	

2014 Conformity Decisions

Tribal General Welfare Act of 2014 (Public Law 113-168)				
Act Section	Provision	FTB's 2014 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
2 - 4	Indian General Welfare Benefits	16	X	

Tax Increase Prevention Act of 2014 (Title I of Division A of Public Law 113-295)				
Act Section	Provision	FTB's 2014 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
119	Extension of Work Opportunity Credit	96		X

Tax Technical Corrections Act of 2014 (Title II of Division A of Public Law 113-295)				
Act Section	Provision	FTB's 2014 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
202 - 221	Various Technical and Clerical Corrections, Removal of Deadwood	188	X	

The Achieving a Better Life Experience Act of 2014 (Division B of Public Law 113-295)				
Act Section	Provision	FTB's 2014 Annual Report Page Number	Decision	
			<i>Conform</i>	<i>Not Conform</i>
102	Qualified ABLE Programs	212		X
105	Investment Direction Rule for 529 Plans	218	X	
208	Inflation Adjustment for Certain Civil Penalties under the Internal Revenue Code of 1986	222		X

ECONOMIC IMPACT

Based on data and assumptions discussed below, the revenue impact from this provision would be as shown in the following tables. Each year has its own subtotal, and total summaries of all years are provided at the end. This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this provision.

2009 Conformity Revenue Tables

Worker, Homeowner, and Business Assistance Act of 2009 (WHBAA) (Public Law 111-92)				
Act Section	Provision	2015-16	2016-17	2017-18
14	Exclusion from Gross Income of Qualified Military Base Realignment and Closure Fringe	- \$70,000	- \$40,000	- \$40,000
2009 Conformity Provisions		2015-16	2016-17	2017-18
Totals		- \$70,000	- \$40,000	- \$40,000

2010 Conformity Revenue Tables

Hiring Incentives to Restore Employment (HIRE) Act (Public Law 111-147)				
Act Section	Provision	2015-16	2016-17	2017-18
511	Disclosure of Information with Respect to Foreign Financial Assets	\$600,000	\$800,000	\$900,000

Patient Protection and Affordable Care Act (Public Law 111-148)				
Act Section	Provision	2015-16	2016-17	2017-18
9004	Increase in Additional Tax on Distributions from Archer MSAs Not Used for Qualified Medical Expenses	\$380,000	\$700,000	\$900,000
9008	Denial of Deduction for Annual Fee on Branded Prescription Pharmaceutical Manufacturers and Importers	\$10,000,000	\$11,000,000	\$11,000,000

Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203)				
Act Section	Provision	2015-16	2016-17	2017-18
1601	Certain Swaps, etc., not Treated as Section 1256 Contracts	\$0	\$0	\$0

State Fiscal Relief and Other Provisions; Revenue Offsets (Public Law 111-226)				
Act Section	Provision	2015-16	2016-17	2017-18
215	Special Rule with Respect to Certain Redemptions by Foreign Subsidiaries	\$500,000	\$500,000	\$400,000

Small Business Jobs Act of 2010 (Public Law 111-240)				
Act Section	Provision	2015-16	2016-17	2017-18
2041	Limitation on Penalty for Failure to Disclose Reportable Transactions Based on Resulting Tax Benefits	- \$250,000	- \$250,000	- \$250,000
2043	Removal of Cellular Telephones and Similar Telecommunications Equipment from Listed Property	- \$1,800,000	- \$1,500,000	- \$1,600,000
2102	Increase in Information Return Penalties	\$10,000	\$10,000	\$10,000
2113	Special Rules for Annuities Received from Only a Portion of a Contract	\$5,800,000	\$4,800,000	\$5,900,000

2010 Conformity Provisions	2015-16	2016-17	2017-18
Totals	\$15,240,000	\$16,060,000	\$17,260,000

2012 Conformity Revenue Tables

FAA Modernization and Reform Act of 2012 (Public Law 112-95, Title XI)				
Act Section	Provision	2015-16	2016-17	2017-18
1108	Modification of Control Definition for Purposes of Section 249	\$0	\$0	\$0

Moving Ahead for Progress in the 21st Century Act (MAP-21) (Public Law 112-141)				
Act Section	Provision	2015-16	2016-17	2017-18
40241 - 40242	Transfers of Excess Pension Assets	Negligible	Negligible	Negligible

2012 Conformity Provisions	2015-16	2016-17	2017-18
Totals	Negligible	Negligible	Negligible

2013 Conformity Revenue Tables

American Taxpayer Relief Act of 2012 (ATRA) (Public Law 112-240)				
Act Section	Provision	2015-16	2016-17	2017-18
301	Extension and Modification of Research Credit <i>Modifications to Acquisitions, Dispositions, and Aggregation of Expenditures</i>	Negligible	Negligible	Negligible

2013 Conformity Provisions	2015-16	2016-17	2017-18
Totals	Negligible	Negligible	Negligible

2014 Conformity Revenue Tables

Tax Technical Corrections Act of 2014 (Title II of Division A of Public Law 113-295)				
Act Section	Provision	2015-16	2016-17	2017-18
202 - 221	Various Technical and Clerical Corrections, Removal of Deadwood	\$0	\$0	\$0

The Achieving a Better Life Experience Act of 2014 (Division B of Public Law 113-295)				
Act Section	Provision	2015-16	2016-17	2017-18
105	Investment Direction Rule for 529 Plans	Negligible	Negligible	Negligible

2014 Conformity Provisions	2015-16	2016-17	2017-18
Totals	Negligible	Negligible	Negligible

Total Revenue Impact of Provision 1	2015-16	2016-17	2017-18
2009 Totals	- \$70,000	- \$40,000	- \$40,000
2010 Totals	\$15,240,000	\$16,060,000	\$17,260,000
2012 Totals	Negligible	Negligible	Negligible
2013 Totals	Negligible	Negligible	Negligible
2014 Totals	Negligible	Negligible	Negligible
Grand Totals	\$15,170,000	\$16,020,000	\$17,220,000

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