

ANALYSIS OF AMENDED BILL

Author: Ting Analyst: Janet Jennings Bill Number: AB 1040
 Related Bills: _____ Telephone: 845-3495 Amended Date: July 6, 2015
 _____ Attorney: Bruce Langston Sponsor _____

SUBJECT:	Change of Ownership in Real Property Information on Return
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SUMMARY

This bill would make changes to the provisions requiring the Franchise Tax Board (FTB) to include a question on specific state tax returns regarding any change in property ownership.

This bill would also modify provisions of the Property Tax Law. This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

RECOMMENDATION

No position.

Summary of Amendments

The July 6, 2015, amendments removed provisions of the bill related to the FTB’s federal conformity report, and replaced them with the provisions discussed in this analysis. As a result of the amendments, the department’s analysis of the bill as introduced February 26, 2015, no longer applies.

REASON FOR THE BILL

The reason for the bill is to identify a change of ownership for commercial property to ensure fair and equitable tax treatment occurs when reassessment of property values for real property is required.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for changes in ownership of real property that occur on or after January 1, 2016.

STATE LAW

For purposes of determining whether there has been a change in the ownership of California real property for property tax purposes, current state law requires the FTB to place the following question (or a question substantially similar) on the tax return for partnerships, banks, and corporations, with the exception of tax-exempt organizations:

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

Board Position:	Executive Officer	Date
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If an entity answers “yes,” the FTB is required to furnish the name and address of the entity and the name and addresses of the stock, partnership, or limited liability company ownership interest transferees to the State Board of Equalization (BOE).

THIS BILL

This bill would require the FTB to include a question on returns for partnerships, banks, and corporations, except for tax-exempt organizations. The question would be required to be substantially similar to the following:

If the corporation (or partnership or limited liability company) owns real property in California, has more than ___ percent of the direct or indirect ownership interests in that legal entity been sold or transferred (1) in a single transaction, or (2) amongst persons described in Section 267(b) of Title 26 of the United States Code, or (3) in multiple transactions (other than those occurring on an established securities market) within a 36-month period? (See instructions.)

The FTB would be required to provide to the BOE the name and address of each entity that answers “yes” to this question along with the names and addresses of the stock, partnership, or limited liability company ownership interest transferees.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require the department to capture additional information and transfer this information to the BOE. In addition, the proposed question to be added on returns lacks a specific percent; therefore, the department would be unable to implement this provision.

TECHNICAL CONSIDERATIONS

On page 6, line 24, strikeout “a question” and insert:

questions

LEGISLATIVE HISTORY

SB 259 (Bates, 2015) this bill is substantially similar to AB 1040. SB 259 is currently in the Senate Appropriations Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida and Illinois lack questions about changing ownership interests during the tax year. *Massachusetts and Minnesota* require taxpayers to file a business activity questionnaire that includes questions about changing ownership interests during the tax year. *New York* corporations must report a change in ownership during the three years prior to filing a corporate tax return.

FISCAL IMPACT

This bill would impact the department's printing, processing, and programming costs. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some could argue the additional information provided to the BOE would assist the BOE in determining a change of ownership assuring the correct amount of property tax is assessed.

Opponents: Some could argue the additional questions on the tax returns would make the returns more complex and burdensome to taxpayers.

LEGISLATIVE STAFF CONTACT

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