

SUMMARY ANALYSIS OF AMENDED BILL

Author: Gatto Analyst: Diane Deatherage Bill Number: AB 2490
Related Bills: None Telephone: 845-4783 Amended Date: May 16, 2016
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Exempt Corporations/Adds Certain Mutual Fund Investment Management Companies

SUMMARY

Under the Corporation Tax Law, this bill would exempt certain mutual fund investment management companies from tax.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 16, 2016, amendments added a repeal date, made a technical change, and modified provisions of the bill relating to certain mutual fund investment management companies as discussed in this analysis.

These amendments created one technical consideration.

Except for the "Effective/Operative Date," "This Bill," and "Support/Opposition" sections, the remainder of the department's analysis of the bill as amended on April 11, 2016, and April 26, 2016, still applies. The "Implementation Considerations," "Fiscal Impact," "Economic Impact," and "Policy Concerns" sections are restated for convenience.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2016.

THIS BILL

This bill would exempt from corporate income and franchise taxes, except unrelated business income tax, a mutual fund investment management company wholly owned by one or more regulated investment companies (RICs) and providing management services to the one or more RICs at cost.

The Franchise Tax Board (FTB) could promulgate regulations as necessary or appropriate to carry out the purposes of this bill's exemption.

The bill would be repealed by its own terms on January 1, 2022.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill uses a phrase that is undefined, i.e., "mutual fund investment management company." The absence of a definition to clarify this phrase could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

The bill is silent on information return filing requirements and therefore a RIC that qualifies for tax exemption would have no filing requirement, which would be difficult for the department to administer compliance and enforcement. If this is contrary to the author's intent, the bill should be amended.

TECHNICAL CONSIDERATIONS

This bill lacks specific operative date language generally included in statutes providing an exemption from tax. For clarity, internal harmony within the Revenue and Taxation Code, and to insure that calendar and fiscal year taxpayers are treated similarly, the bill should be amended to specify the taxable years that would be exempt from the franchise and income tax.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Because this bill would impact less than three taxpayers, providing a revenue estimate would violate the FTB's taxpayer confidentiality rules; therefore, no revenue estimate is provided.

SUPPORT/OPPOSITION¹

Support: None provided.

Opposition: California Tax Reform Association.

¹ Assembly Revenue and Taxation Committee analysis, dated May 5, 2016.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

This bill would provide a tax benefit for mutual fund investment management companies that have a specific structure that would not be provided to other investment management companies.

LEGISLATIVE STAFF CONTACT

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