

LEGISLATION PRESENTED FOR BOARD POSITION
June 15, 2005

Item No.	Bill Number	Author	Pg	Staff Recom	Comments
1	AB 115	Klehs	1	Sup.	Conformity Act of 2005
2	AB 241	Harman	5	Neutral.	Corporation & Other Business Entity Mergers/Certificate of Satisfaction
3	AB 298	Berg	5	Neutral	Extend The Long-Term Caregiver Credit Six More Years.
4	AB 777	Nunez	6	Neutral	California Film Commission To Conduct Analysis Of Impact Of Runaway Production On California Film Industry
5	SB 58	Murray	7	Neutral	Motion Picture Production Refundable Credit/Claim For Sales Or Use Tax Refund In Lieu Of Credit

(1) AB 115 (Klehs)

As Amended May 27, 2005

SUBJECT: Conformity Act of 2005

DIGEST: This bill would do the following:

- Change California's specified date of conformity to federal income tax law from January 1, 2001, to January 1, 2005, and thereby, in general, conform to many of the numerous changes made in federal income tax law during that four-year period.
- Make numerous changes to specifically not conform to or modify certain items in the IRC.
- Waive any penalty for underpayment of estimated tax for the 2005 taxable year resulting from the changes made by this bill.

This bill would be effective and operative as follows:

- The provisions, in general, would apply to taxable years beginning on or after January 1, 2005.
- The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) termination date provisions would apply to taxable years beginning before January 1, 2011.
- The federal health savings account (HSA) provisions would be retroactive and apply to taxable years beginning after December 31, 2003, with amended returns allowed.

COMMENTS: Conforming to federal tax law is generally desirable because it is less confusing for the taxpayer. With conformity, the taxpayer is required to know only one set of rules and maintain only one set of books. Conformity eases the administration of the law for the Franchise Tax Board (FTB) by utilizing many federal forms, instructions, and regulations. Whenever possible the department uses federal information to verify that taxpayers pay the proper amount of tax. This eliminates the need for the taxpayer to submit the same information to both the IRS and the department.

REVENUE IMPACT:

Conformity to Provisions Changed in Federal Law Before 2004
 Applies to Taxable Years Beginning On Or After January 1, 2005, Except as Noted
 Conformity to the Working Families Tax Relief Act (WFTRA) of 2004 (PL 108-311)

Federal Act Section	Description	(In millions)		
		2005-06	2006-07	2007-08
412	Economic Growth and Tax Relief Act of 2001 (PL 107-16) - Student Loan Interest	\$0	-\$8	-\$15
404	Job Creation and Workers Assistance Act of 2002 (P.L. 107-147) Expansion of the exclusion from income for qualified foster care payments	-\$4	-\$3	-\$3
1201	Medicare Prescription Drug, Improvement, And Modernization Act of 2003 (P.L. 108-173) - Health Savings Accounts-- Applies to taxable years beginning after December 31, 2003, with amended returns allowed	-\$29	-\$18	-\$23

And The American Jobs Creation Act (AJCA) (PL 108-357)
 Applies to Taxable Years Beginning On Or After January 1, 2005

Federal Act Section	Provisions	(In millions)		
		2005-06	2006-07	2007-08
WFTRA 201-208	Uniform definition of child, etc.	-\$10	-\$7	-\$7
320	Disclosures relating to terrorist activities	-	-	-
322	Extension of expiring provisions-Availability of medical savings accounts	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
401-408	Technical amendments	-	-	-
AJCA 231	Members of family treated as 1 shareholder	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
232	Increase in number of eligible shareholders to 100	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
233	Expansion of bank S corporation eligible shareholders to include IRAs	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
234	Disregard of unexercised powers of appointment in determining potential current beneficiaries of Electing Small Business Trusts (ESBT)	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
235	Transfer of suspended losses incident to divorce, etc.	b/	b/	b/
236	Use of passive activity loss and at-risk amounts by qualified subchapter S trust income beneficiaries	b/	b/	b/
237	Exclusion of investment securities income from passive income test for bank S corporations.	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
238	Relief from inadvertently invalid qualified subchapter S subsidiary elections and terminations	b/	b/	b/
239	Information returns for qualified subchapter S subsidiaries	b/	b/	b/
240	Repayment of loans for qualifying employer securities	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
243	Improvements related to real estate investment trusts	b/	b/	b/
247	Modification of unrelated business income limitation on investment in certain small business investment companies	b/	b/	b/
311	Special rules for livestock sold on account of weather-related conditions	-\$1	-\$1	f/
312	Payment of dividends on stock of cooperatives without reducing patronage dividends	b/	b/	b/
315	Capital gain treatment under Section 631(b) to apply to outright sales by landowners	b/	b/	b/
318	Certain expenses of rural letter carriers	b/	b/	b/
320	Exclusion for payments to individuals under National Health Service Corps loan repayment program and certain State loan repayment programs	b/	b/	b/

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321	Modification of safe harbor rules for timber Real Estate Investment Trusts (REITs)	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
322	Expensing of certain reforestation expenditures	-\$1	-\$1	f/
331	Net income from publicly traded partnerships treated as qualifying income of regulated investment companies	b/	b/	b/
335	Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling	b/	b/	b/
338	Expensing of capital costs incurred in complying with Environmental Protection Agency sulfur regulations; revenue same as AB 810 (Parra) as introduced [2]	d/	b/	a/
339	Credit for production of low sulfur diesel fuel; Revenue same as AB 810 (Parra) as introduced [2]	d/	-\$1	-\$1
702	Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income	b/	b/	b/
703	Civil rights tax relief	-\$1	-\$1	-\$1
704	Modification of class life for certain track facilities	-\$1	-\$1	-\$1
706	Certain Alaska natural gas pipeline property treated as 7-year property	\$0	\$0	\$0
708	Method of accounting for naval shipbuilders	-\$4	-\$7	-\$6
709	Modification of minimum cost requirement for transfer of excess pension assets	Baseline loss [1]	Baseline loss [1]	Baseline loss [1]
811-820	Provisions relating to reportable transactions and tax shelters	Baseline gain [1]	Baseline gain [1]	Baseline gain [1]
831	Treatment of stripped interests in bond and preferred stock funds, etc.	e/	e/	c/
833	Disallowance of certain partnership loss transfers	e/ +Baseline gain [1]	e/ +Baseline gain [1]	e/ +Baseline gain [1]
834	No reduction of basis under Section 734 in stock held by partnership in corporate partner	e/	e/	e/
835	Repeal of special rules for Financial Assets Securitization Investment Trusts (FASITs)	a/	a/	a/
836	Limitation on transfer or importation of built-in losses	e/ +Baseline gain [1]	\$1 +Baseline gain [1]	\$1 +Baseline gain [1]
838	Denial of deduction for interest on underpayments attributable to nondisclosed reportable transactions	a/	a/	a/
839	Clarification of rules for payment of estimated tax for certain deemed asset sales	\$2	\$1	-
840	Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale	\$1	\$1	\$1
841	Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons	\$2	\$3	\$1
842	Deposits made to suspend running of interest on potential underpayments	-\$2	d/	d/
843	Partial payment of tax liability in installment agreements	\$1	c/	f/
845	Expanded disallowance of deduction for interest on convertible debt	\$3	\$3	\$3

847-849	Reform of tax treatment of certain leasing arrangements	\$3 +Baseline gain [1]	\$4 +Baseline gain [1]	\$5 +Baseline gain [1]
882	Treatment of charitable contributions of patents and similar property	e/	e/	e/
883	Increased reporting for noncash charitable contributions	a/	a/	a/
884	Donations of motor vehicles, boats, and airplanes	\$7	\$8	\$8
885	Treatment of nonqualified deferred compensation plans	Baseline gain [1]	Baseline gain [1]	Baseline gain [1]
886	Extension of amortization of intangibles to sports franchises	\$3	\$3	\$1
888	Modification of straddle rules	\$1	\$1	\$1
896	Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest	\$2	\$1	\$1
897	Denial of installment sale treatment for all readily tradable debt	\$2	\$1	e/
898	Modification of treatment of transfers to creditors in divisive reorganizations	e/	e/	e/
899	Clarification of definition of nonqualified preferred stock	c/	c/	c/
902	Consistent amortization of periods for intangibles	\$5	\$15	\$15
903	Freeze of provisions regarding suspension of interest where Secretary fails to contact taxpayer [2]	\$2	\$2	\$1
905	Treatment of sale of stock acquired pursuant to exercise of stock options to comply with conflict-of-interest requirements	Baseline gain [1]	Baseline gain [1]	Baseline gain [1]
907	Limitation of employer deduction for certain entertainment expenses	\$6	\$6	\$7
	TOTAL (excluding baseline estimates and footnoted estimates)	-\$13	\$2	-\$12

[1] For baseline estimates see revenue impact discussion in the individual sections.

[2] Estimates based on State data. Otherwise, all estimates are based on Federal pro-rations.

- a/ Insignificant gains of less than \$150,000
- b/ Insignificant losses of less than \$150,000
- c/ Negligible gains of less than \$250,000
- d/ Negligible losses of less than \$250,000
- e/ Minor gains of less than \$500,000
- f/ Minor losses of less than \$500,000

Staff Recommendation: Support

Status: Senate Rules Committee, awaiting assignment

(2) AB 241 (Harman)

As Amended March 30, 2005

SUBJECT: Corporation & Other Business Entity Mergers/Certificate of Satisfaction

DIGEST: This bill would eliminate the requirement that FTB certify that the franchise and income tax obligations of a disappearing entity in a merger have been satisfied, and instead, would require the surviving entity to assume the tax obligations of the disappearing entity upon the merger.

This bill would be effective January 1, 2006, and would apply to certificates of mergers filed by the Secretary of State (SOS) after that date.

COMMENTS: Currently, the disappearing entity in a merger is required to request and obtain a certificate of satisfaction from FTB before the merger is completed. The certificate of satisfaction is usually granted when the surviving entity assumes responsibility for the tax obligations of the disappearing entity. The time needed to issue the certificate delays some mergers. This bill would eliminate the certificate of satisfaction requirement by placing in statute the requirement that the surviving entity assume the tax obligations of the disappearing entity.

The purpose of the bill is to reduce the administrative complexity of merger transactions and eliminate delays in completing such transactions. The Business Law Section of the State Bar of California is the sponsor of this bill.

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

Staff Recommendation: Neutral

Status: Senate Banking, Finance and Insurance Committee

(3) AB 298 (Berg)

As Amended March 29, 2005

SUBJECT: Extend The Long-Term Caregiver Credit Six Additional Years

DIGEST: Existing state law allows a long-term caregiver credit. The credit was available for the 2000 to 2004 taxable years. This bill would extend the existing long-term caregiver credit for taxable years beginning on or after January 1, 2005, and before January 1, 2011.

The credit is \$500 for each qualifying individual certified to be in need of long-term care. A qualifying individual may be the taxpayer, spouse of the taxpayer, or qualified dependent, as defined. Unused credits cannot be carried over to future years. The credit is limited to eligible caregivers with adjusted gross income of less than \$100,000. The credit would be repealed December 1, 2011.

This bill would be effective and operative January 1, 2005.

COMMENTS: None.

REVENUE IMPACT:

Estimated Revenue Impact of AB 298 Effective On Or After January 1, 2005 Enactment Assumed After June 30, 2005 (\$ Millions)		
2005-6	2006-7	2007-8
- \$3	- \$3	- \$3

Staff Recommendation: Neutral

Status: Senate Rules Committee, awaiting assignment

(4) AB 777 (Nunez)

As Amended April 14, 2005

SUBJECT: California Film Commission To Conduct Analysis Of Impact Of Runaway Production On California Film Industry

DIGEST: This bill would require a statewide analysis to determine the economic impact of runaway production on the California economy. The California Film Commission, in collaboration with the Business, Transportation and Housing Agency, the Department of Labor and Workforce Development, and FTB, would conduct the analysis. A report would be due to the legislature by March 1, 2006.

The analysis would be required to include the following:

- Number and quality of production-related jobs.
- Number of films produced within the state.
- Gross impact of runaway film production on the economy of California.
- Description of economic incentives that other states and countries are providing to the film industry.

COMMENTS: FTB does not collect or maintain employment and production data of the nature contemplated in this bill. Accordingly, the provisions of this bill would not impact the department.

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

Staff Recommendation: Neutral

Status: Senate Rules Committee, awaiting assignment

(5) SB 58 (Murray)

As Amended April 18, 2005

SUBJECT: Motion Picture Production Refundable Credit/Claim For Sales Or Use Tax Refund In Lieu Of Credit

DIGEST: This bill would create a refundable income and franchise tax credit to discourage the practice of producing and filming motion pictures outside the state, a practice known as “runaway production.” The credit would equal 15% of wages paid to qualified individuals or amounts paid to purchase or lease tangible personal property used in the production of a motion picture in California that is completed or placed in service during the taxable year. Only wages paid for services performed or qualified property purchased or leased on or after January 1, 2006, would qualify for the credit.

For each qualified motion picture, the maximum amount of credit allowed would be \$5 million. The total aggregate amount of credits would be subject to allocation in any calendar year by the California Film Commission (Commission), but the bill has left the amount that may be allocated blank. In lieu of claiming the income or franchise tax credit, a person may make an irrevocable election to claim either a refund or credit against a liability for sales or use tax.

COMMENTS: The bill does not specify a repeal date for the credit provided by this bill. This bill, however, would require a report to the Legislature by December 31, 2010, on the effectiveness of the credit. Credit provisions are typically enacted with built-in repeal dates, at which time they may be reviewed and legislatively extended if the situation warrants.

REVENUE IMPACT: This bill would result in the loss of state income tax revenue in the amount of the total aggregate amount of credits subject to allocation in any calendar year. The bill has left the amount that may be allocated blank, and therefore, the estimated amount of revenue loss cannot be determined at this time.

Staff Recommendation: Neutral

Status: Senate Revenue and Taxation Committee