

FRANCHISE TAX BOARD SPONSORED LEGISLATION

AB 1530 (Skinner) FTB Order Of Restitution For Collections (LP10-5)

This bill would provide the FTB express authority to collect orders of restitution awarded to the FTB in criminal proceedings in the same manner and with the same priority as tax liabilities.

AB 2177 (Beall) Allow Electronic Communication To Taxpayers To Inform Of Tax Change Or Obligation (LP10-1) ENACTED, 8/13/10

This law change is necessary for implementation of the department's EDR project. It authorizes the FTB to draft regulations to allow the department, upon request of a taxpayer or their authorized representative, to send an electronic notification, such as an email, stating that a notice, statement, bill, or other communication has been posted to or updated on the taxpayer's account. The notification will guide the taxpayer or authorized representative to log into the taxpayer's secure folder on the FTB's internet Web site.

SB 1065 (Walters) Innocent Spouse Law Conformity (LP10-6) ENROLLED, 8/18/10

This bill would reenact and make permanent the statutory requirement that the FTB grant innocent spouse relief when the IRS has granted relief under the same facts and circumstances. The bill would correct an inconsistency and make technical changes to the existing innocent spouse statutes as well.

SB 1492 (Sen. Revenue and Taxation Committee) Voluntary Disclosure Agreements (LP10-7) ENROLLED, 8/13/10

This bill would amend current law to do the following:

- Allow taxpayers to file the current year tax return as late as the extended due date,
- Eliminate the underpayment of estimated tax penalty when imposed because the Voluntary Disclosure Agreement (VDA) is signed after the quarterly tax payment due date, and
- Allow VDA applicants requesting an Installment Payment Arrangement (IPA) additional time to satisfy the VDA if the IPA request is denied after the VDA period ends.

SIGNIFICANT LEGISLATION

AB 1215 (De La Torre) and AB 2008 (Arambula) FTB & BOE Exempt From Furloughs

These bills would exempt employees of the FTB from furloughs ordered by any state agency, board, or commission. In addition, these bills would prohibit any state agency, board, or commission from directly or indirectly implementing or assisting in implementing a furlough of FTB employees.

AB 1506 (Anderson) State Agencies Accept Registered Warrants Issued For Payment Of Any State Obligation

This bill would require a state agency to accept a registered warrant for payment of any state obligation. As an urgency measure, this bill would become operative immediately and specifically inoperative on July 1, 2012, and as of January 1, 2013, would be repealed. This bill would not impact the FTB because, notwithstanding any other provision of law, Government Code section 17280.1 specifically requires the department to accept registered warrants as payment for tax liabilities.

AB 2676 (Bass) FTB Revise Income Tax Forms To Enable A Person To Report & Pay Use Tax

This bill would allow taxpayers to continue the election to file and pay use tax on their personal income tax return. The bill is different from prior law in that it contains no sunset provision.

CONFORMITY

SB 401 (Wolk, Stats. 2010, Ch. 14,) Conformity Act of 2010 Enacted, 4/12/10

SB 401 is the Conformity Act of 2010 that changes California's specified date of conformity to federal income tax law from January 1, 2005, to January 1, 2009, for taxable years beginning on or after January 1, 2010, and thereby, in general, conforms to the numerous changes that were made to federal income tax law

during that four-year period. In addition, SB 401 conforms to the February 17, 2009, federal income exclusion for energy grants provided in lieu of federal energy tax credits.

Annual Conformity Report

On or before the 10th of January of each year, the FTB is required by statute to submit to the Legislature a report on all changes to the Internal Revenue Code (IRC) enacted to law in the prior year. To the extent possible, the report (herein referred to as the “conformity report”) includes an estimate of the revenue effect of conforming California law to each of those changes. If changes to the IRC are enacted after September 15th of any year, the due date of the conformity report is extended to 120 days after the enactment of such changes.

To write the report, each IRC change is analyzed by FTB staff to determine whether the change impacts the California Revenue and Taxation Code.

- If so, the conformity report will include a background section of federal law prior to the change, an explanation of the law change, an explanation of relevant California law, and a revenue estimate. The revenue impact generally depends on whether legislation is enacted to conform to the IRC change; however, some IRC changes result in an automatic revenue impact to the state.
- If not, a brief summary of the change is provided along with the state agency responsible for determining the change’s impact on California law.

The Summary of Federal Income Tax Changes – 2009 was completed by FTB staff and released to the public on April 8, 2010. No conformity bill has been introduced at this time to conform California law to the 2009 federal changes.

2010 Special Conformity Report on Federal Health Care Acts

Congress passed and the President signed into law comprehensive health care reform legislation in March, 2010. Almost all individuals not covered by Medicaid, Medicare, or employer-provided plans that offer qualified coverage will be required to obtain health care coverage or pay penalties. Lower-income individuals, as well as some middle-class families, will receive a credit or voucher to help pay for health insurance, which can be used at one of the American Health Benefits Exchanges that are required to be established by every state. Employers electing not to offer qualifying coverage will be subject to an additional tax to help finance the health care coverage for their employees. Exceptions will be made for small businesses.

Health care tax incentives for individuals include income exclusions for (1) benefits provided to adult dependents, (2) benefits provided to Indian tribal members, (3) health-care related student loan forgiveness, and (4) employer-provided adoption assistance. Small-business tax incentives include (1) an exclusion from income for therapeutic discovery project grants, (2) an expansion to the types of non-taxable coverage small businesses may offer, and (3) a credit for employee health insurance. In addition, new limitations are imposed on flexible spending arrangements (FSAs) and medical/health savings accounts (MSAs/HSAs), the threshold for the deduction of eligible unreimbursed medical expenses is increased from 7.5 percent to 10 percent of AGI starting in 2013, certain health-care taxes are made nondeductible, and economic substance is codified.

Because some of the health care IRC changes take effect in 2010, the FTB issued a 161-page report on June 7, 2010, summarizing the IRC changes made by the federal health care acts, so that the Legislature would have time to consider conforming to the health-care IRC changes during the current Legislative session.

AB 1178 (Portantino) Health Care Conformity

AB 1178, as amended August 16, 2010, would conform California law to many of the tax provisions of the March, 2010, federal health care acts.

AB 1178 would conform to the income exclusions for individuals, the expansion to the types of non-taxable coverage small business may offer, the small business therapeutic-discovery-project-grant income exclusion, the new limitations on FSAs and MSAs, the non-deductibility of certain health-care taxes, and would provide that any transaction the IRS determines lacks economic substance would be deemed to lack economic substance for California purposes.