Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Obernolte, et al.	Analyst:	Davi Milam	Bill Number:	AB 1171
Related Bills:	See Prior Analysis	Telephone:	845-2551	Amended Date	April 24, 2017
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SUBJECT: Extension of Time for Filing Return Shall Not Be More Than 7 Months

SUMMARY

This bill would, under the Administration of Franchise and Income Tax Laws, modify the extension of time to file certain returns.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The April 24, 2017, amendments limited the seven-month extension to file to partnerships, modified the operative date, and added legislative intent language.

The amendments resolved the implementation considerations discussed in the department's analysis of the bill as introduced February 17, 2017. As a result of the amendments, the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Fiscal Impact," and "Economic Impact" sections have been revised. The remainder of the department's analysis of the bill as introduced February 17, 2017, still applies. The "Policy Concerns" section has been restated for convenience.

EFFECTIVE/OPERATIVE DATE

As an urgency matter, this bill would be effective immediately upon enactment, and specifically operative for returns required to be filed for taxable years beginning on or after January 1, 2017.

THIS BILL

This bill would extend from six months to seven months the maximum number of months that the Franchise Tax Board (FTB) may grant as an automatic extension of time for filing partnership returns required to be filed under Revenue and Taxation Code (R&TC) sections 18633 or 18633.5 for taxable years beginning on or after January 1, 2017.

Under the terms of this bill, the FTB would be authorized to allow an additional month to file for partnerships, resulting in a possible extended due date of October 15th instead of September 15th, which would mirror the current federal and California extended due date for calendar-year C corporations.

The bill also would include legislative findings and declarations that the FTB would presume reasonable cause and not willful neglect in the case of any partnership that meets both of the following:

- The partnership return for taxable year 2016 is filed by the extended due date under former law (October 15, 2017, for calendar-year partnerships, or by the 15th day of the tenth month following the close of the taxable year of the partnership in the case of fiscal-year filers), and
- The partnership requests relief, in the form and manner specified by the FTB, from the imposition of either or both the delinquent filing penalty under R&TC section 19131, and failure of a partnership to comply with filing requirements penalty under R&TC section 19172. The Legislature intends that this relief be implemented in a streamlined manner.

IMPLEMENTATION CONSIDERATIONS

Implementation would require system changes, education and outreach, and changes to forms and instructions.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill as amended on April 24, 2017, providing a seven month extension for partnerships, would not impact state income tax or franchise tax liabilities but may have an impact on the timing of payments received with returns filed by the extended due date.

The amount of penalty relief granted for failure of partnerships to comply with filing requirements under R&TC section 19172 would be dependent upon the number of partners who are in partnerships that do not file by the September 15, 2017, extended due date. Because it is difficult to predict the number of partners in partnerships that would be assessed this penalty and request relief, the revenue loss is unknown.

The amount of penalty relief granted for the delinquent filing penalty under R&TC section 19131 would be dependent upon the amount of unpaid LLC fees for LLCs classified as partnerships that do not file by the September 15, 2017, extended due date. Because it is difficult to predict the partnerships that would be assessed this penalty and request relief, the revenue impact is uncertain. Based on FTB filing and payment data, it is estimated that there could be a revenue loss that, if filing and payment patterns remain consistent, could be up to $5 million in penalty relief for the 2016 taxable year. To the extent that filing and payment behavior change, the revenue loss could be less.

The revenue estimate is determined using current law. Up until last year, the extended due date for calendar-year partnerships was October 15. Thus, had the proposal been adopted last year, partnerships filing by October 15 would not have had a delinquent filing penalty.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

POLICY CONCERNS

Newly enacted legislation, AB 1775 (Obernolte, Chapter 348, Statutes of 2016), mirrored recent federal legislation that accelerated by one month the original return filing deadline for partnerships so that the deadline preceded the due dates of their individual and corporate investors. The intent of the federal changes to the respective due dates was to allow both individual and C corporation taxpayers to have the information from pass-through entities in order to accurately prepare their respective returns. Adopting the extension, as proposed by this bill, could be considered to be contrary to the intent of that legislation.

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