

Author: Baker, et al. Analyst: Janet Jennings Bill Number: AB 1257  
Related Bills: See Prior Telephone: 845-3495 Amended Date April 17, 2017  
Analysis Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** FTB Debt Collection Payment Priority Make Restitution Payments to Victims of Crimes First Priority for Collection

## **SUMMARY**

This bill would modify the priority of payment application for amounts collected by the Franchise Tax Board (FTB).

## **RECOMMENDATION – NO POSITION**

## **SUMMARY OF AMENDMENTS**

The April 17, 2017, amendments added an author and several coauthors, recast the provision modifying the priority of payments, delayed the operative date, and added a stay on the statute of limitations for collection of tax. These amendments resolved the implementation concerns as discussed in the department's analysis of the bill as introduced on February 17, 2017, and added a new technical consideration. Except for the "Effective and Operative Date," "This Bill," "Technical Considerations," and "Economic Impact" sections, the remainder of the department's analysis of the bill as introduced on February 17, 2017, still applies. The "Fiscal Impact" and "Policy Concerns" sections are restated for convenience.

## **EFFECTIVE/OPERATIVE DATE**

This bill would be effective January 1, 2018, and would be operative for amounts collected by the FTB on or after January 1, 2020.

## **THIS BILL**

This bill would, beginning on and after January 1, 2020, modify the priority of payment application in the event a debtor has more than one debt being collected by the FTB and the amount collected is insufficient to satisfy the total amount owed, as follows:

1. Restitution payments to victims of crimes referred for collection to the FTB's Court Ordered Debt (COD) program.
2. Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable for Non Admitted Insurance Taxes, Personal Income Taxes, or Corporation Income Taxes.
3. Payment of delinquent vehicle license fees.
4. Payment of any amounts due (except restitution orders) referred for collection under the COD Collection.
5. Payment of tax debts due to the Internal Revenue Service or other states.

Voluntary payments made expressly for Non Admitted Insurance Tax, Personal Income Tax, or Corporation Income Tax debts owed by a taxpayer would be applied as the taxpayer designates.

Additionally, the bill would stay the statute of limitations for the collection of tax due during the period an outstanding restitution amount exists.

### **TECHNICAL CONSIDERATIONS**

The bill's specified operative date language is silent as to the taxable years the bill would affect. For clarity and ease of administration, subdivision (j) should be amended to read, "Notwithstanding subdivision (a), this section shall not apply for taxable years where the annual budget act lacks a specific appropriation of funds to reimburse the FTB for its costs of administering this section with respect to that taxable year." First priority of payment application from tax liability to court ordered restitution payments to victims of crimes.

### **FISCAL IMPACT**

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

### **ECONOMIC IMPACT**

#### **Revenue Estimate**

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1257 As Amended April 17, 2017 Assumed Enactment After June 30, 2017		
2017-18	2018-19	2019-20
\$0	\$0	- \$30,000

Because this bill provides a stay on the statute of limitations for the collection of tax due while an outstanding restitution amount exists, an offsetting revenue gain may occur after 2021.

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

#### **Revenue Discussion**

Because victim's restitution would be collected before tax debt, this would delay collections on accounts where taxpayers also have an unpaid tax liability. Although the FTB collects victim's restitution debts referred under the department's court ordered debt program, detail on account balances is unavailable.

Using the FTB data, it is assumed that beginning in 2020, taxpayers ordered to pay victim's restitution would also have accrued an estimated \$760,000 in unpaid tax liability each year. Using historical collection data, it is assumed the department would collect 30 percent, or \$230,000, of the tax liability owed in the first 6 years. Prioritizing victim's restitution before tax liability, would delay the collection of approximately \$55,000 of tax debt in 2020, \$140,000 in 2021, and \$180,000 in 2022. It is assumed that 15 percent of the cases would be collected in full within the first 5 years and subsequent payments on these cases would be applied to unpaid tax liability. The tax year estimate is converted to fiscal years, rounded to arrive at the amounts reflected in the above table.

Because of the delay in collection, the FTB may be unable to make up the lost revenue and over time, the revenue loss would be likely to continue to grow.

### **SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

### **POLICY CONCERNS**

This bill would shift the department's collections priority from taxes to delinquent restitution orders which is inconsistent with the department's core mission of assisting taxpayers in filing timely and accurate tax returns, and paying the correct amount of tax to fund services important to Californians.

### **LEGISLATIVE STAFF CONTACT**

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