

## Franchise Tax Board

## ANALYSIS OF ORIGINAL BILL

Author: Ridley-Thomas Analyst: Janet Jennings Bill Number: AB 1593  
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 17, 2017  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** FTB Revise Income Tax Forms and Instruction for Use Tax Reporting

### SUMMARY

This bill would require the Franchise Tax Board (FTB) to revise the Personal Income Tax (PIT) return related to use tax reporting.

### RECOMMENDATION – NO POSITION

### REASON FOR THE BILL

The reason for the bill is to further draw attention to the use tax reporting requirements.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2018, and applicable to PIT returns required to be filed for taxable years on and after January 1, 2017.

### STATE LAW

The Board of Equalization (BOE) is responsible for collecting sales and use tax. California use tax is imposed on any person who purchases tangible personal property for use, consumption, or storage in this state where the purchase is not subject to California sales tax. Generally, use tax is owed when the purchase is made outside of California, and the property is used in California. A typical purchase subject to California use tax is a purchase shipped from an out-of-state retailer to a California consumer. The use tax rate is the same as the sales tax rate that varies depending on the county and city within California in which the taxpayer resides.

Taxpayers may report and pay use tax directly to the BOE or report and pay use tax on their California income tax return.

Individual taxpayers that have made one or more single non-business purchases of individual items of tangible personal property, each with a sales price of less than \$1,000, can report the use tax liability by using a use tax table shown in the instructions for the individual tax return or they can report the actual use tax due. In addition, utilization of the use tax table precludes the BOE from making any determinations for understatements of use tax against any person with qualified purchases who utilizes the use tax table in accordance with the accompanying instructions.

The amount of payments or credits reported on an income tax return of a person who reports use tax, are applied first to the use tax liability reported on the tax return, and then to the income taxes, penalties, or interest thereon.

## **THIS BILL**

This bill would require the returns and instructions to require the following:

- a taxpayer to enter a number on the use tax line of personal income tax returns.
- a taxpayer who entered a zero on the use tax line to check one of two boxes to validate that the taxpayer has either remitted the use tax due for the taxable year to the BOE or that the taxpayer owes no use tax.

## **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

## **TECHNICAL CONSIDERATIONS**

For clarity

on page 3, line 15, delete “and” and insert:

or

## **LEGISLATIVE HISTORY**

AB 1717 (Assembly Revenue and Taxation Committee, 2017/2018) would define an acceptable tax return as an original return. AB 1717 was introduced March 16, 2017.

AB 2758 (Assembly Revenue and Taxation Committee, Chapter 541, Statutes of 2014) modified the priority of payments to replace income tax with use tax as the first liability to be paid.

SB 86 (Committee on Budget and Fiscal Review, Chapter 14, Statutes of 2011) among other things, allows a person that meets the requirements to report the use tax liability by using a use tax table shown in the instructions for the individual tax return or by reporting the actual use tax due. In addition, this law precludes the BOE from making any determinations for understatements of use tax against any person with qualified purchases who utilizes the use tax table in accordance with the accompanying instructions.

SB 858 (Committee of Budget and Fiscal Review, Chapter 721, Statutes of 2010) among other things, reauthorized and made permanent the option for taxpayers to report use tax on their personal income or corporation tax returns.

## **OTHER STATES' INFORMATION**

Because this bill only requires modifications of the California PIT returns, a review of other states' tax information would not be relevant.

## **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**

This bill as introduced February 17, 2017, would not impact state income or franchise tax revenue. The FTB would defer to the BOE on the revenue impact to the Sales and Use Tax.

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

## **SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some may argue the bill's requirements would increase compliance with use tax reporting.

Opponents: Some may argue the requirement to enter a number and check the appropriate box, if necessary would have no impact on use tax reporting compliance.

## **LEGISLATIVE STAFF CONTACT**

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