

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Ridley-Thomas	AB1593

SUBJECT: FTB Revise Income Tax Forms and Instructions for Use Tax Reporting

SUMMARY

This bill would require the Franchise Tax Board (FTB), modify the reporting requirements for use tax.

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 Personal Income Tax (PIT) returns required to be filed for taxable years on and after January 1, 2017.

STATE LAW

The California Department of Tax & Fee Administration (CDTFA)¹ 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 CDTFA 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.

¹ AB 102, Chapter 16, Statutes of 2017, will transfer this responsibility to the Department of Tax and Fee Administration effective July 1, 2017.

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.

THIS BILL

This bill would require the individual income tax returns and instructions to require the following:

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

LEGISLATIVE HISTORY

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 CDTFA 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

Staff estimates costs of \$60,000 in fiscal year 2017/18, and on-going costs of \$30,000, to develop, program, and test revisions to existing systems for this bill. The department will pursue a budget change proposal 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 CDTFA on the revenue impact to the Sales and Use Tax.

POLICY CONCERNS

The FTB would implement this bill's provisions by applying the requirements to electronically filed returns by rejecting an electronically filed return that fails to enter a number or check one of the two boxes as required. Therefore, paper tax filers could be treated differently than electronic filers.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

VOTES

	Date	Yes	No
Senate Floor	09/06/17	28	12
Assembly Floor	05/31/17	53	23

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