Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

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Related Bills:	See Prior Analysis	Telephone:	845-6310	Amended Date	April 3, 2017
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SUBJECT: Security Alarm System, Surveillance System or Security Fence Deduction

SUMMARY

This bill would, under the Personal Income Tax Law, allow an income tax deduction for the purchase and installation of a security alarm system, surveillance system, or security fence.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The April 3, 2017, amendments added a sunset date and a funding mechanism for administrative costs. As a result of the amendments, one of the policy concerns included in the department's analysis of the bill as introduced December 5, 2016, has been resolved and two additional technical considerations have been identified. Except for the "This Bill," "Effective/Operative Date," and "Technical Considerations" sections the remainder of that analysis still applies. The "Implementation Considerations," "Fiscal Impact," "Economic Impact" and remaining "Policy Concerns" sections have been restated for convenience.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for costs paid or incurred on and after January 1, 2017, and before January 1, 2022.

THIS BILL

On and after January 1, 2017, and before January 1, 2022, this bill would allow a miscellaneous itemized deduction for the amount paid or incurred by a taxpayer during the taxable year, not to exceed five hundred dollars ($500), for any of the following that is purchased and installed at a qualified residence located in this state:

- A security fence
- A security alarm system
- A security surveillance system

This bill would define the following phrases:

- "Qualified residence" has the same meaning as set forth in Section 163(h)(4)(A)[1] of the Internal Revenue Code.
- "Security alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond that is installed, maintained, altered, sold on premises, monitored, serviced, or responded to by an alarm company operator[2] or an alarm agent.[3]
- "Security fence" means a barrier, railing, or other upright structure made of any material enclosing an area of ground to control or prevent unauthorized access to the front of the qualified residence.
    - "Security fence" does not include a barrier, railing, or other upright structure enclosing an area of ground to control or prevent unauthorized access to the back of the qualified residence or to mark boundaries.
- "Security surveillance system" means an assembly of any combination of video, audio, or photographic recording devices installed for purposes of surveillance or recording of activity occurring at the qualified residence.

The bill provides that it shall be operative on the effective date of any budget measure specifically appropriating funds to the Franchise Tax Board (FTB) for its costs of administering this section.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill would allow each owner of a qualified residence that is owned by multiple taxpayers a miscellaneous itemized deduction of up to $500 per taxable year. For example, a qualified residence that is owned by two qualified taxpayers (other than a couple filing a joint return)[4] could generate a deduction of up to $1,000 per year. Further, because this bill references a section in the Internal Revenue Code that defines qualified residence to include a second home, a taxpayer with two homes could be allowed a deduction of up to $1,000 each taxable year ($500 for costs attributable to each home). If this is contrary to the author's intent, the bill should be amended to specify that the deduction is limited to costs attributable to $500 per year is per property and only one property per taxpayer.

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[1] Defines a "qualified principal residence" for purposes of the mortgage interest deduction.
[2] Licensed under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of the Division 3 of the Business and Professions Code).
[3] Registered under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code).
[4] If the property owners are married and file a joint return together, they are treated as a single taxpayer.

The deduction would be limited to taxpayers that itemize their deductions and whose total miscellaneous deductions for the taxable year exceeds 2 percent of their adjusted gross income. If this is contrary to the author's intent, the bill should be amended.

Because the bill requires that the security alarm system be "purchased" in order to qualify for the deduction, no deduction would be allowed for costs to lease a security alarm system. If this is contrary to the author's intent, the bill should be amended.

The definition "security surveillance system" may be overly broad. It could be argued that the installation of any camera, whether for security purposes or not, would qualify for the deduction. If this is contrary to the author's intent, the bill should be amended to more strictly define this term.

TECHNICAL CONSIDERATIONS

The phrase "On and after January 1, 2017" is inconsistent with commonly used tax law terminology. To be consistent with how current law is structured, the following amendment is recommended:

On page 2, line 3, strike "On and" and insert "For each taxable year beginning on or"

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 (c) should be amended to read, "Notwithstanding subdivision (a), this section shall not apply for tax years where the annual budget act lacks a specific appropriation of funds to reimburse the FTB for its costs of administering this section."

For clarity of when the deduction allowed by this bill would be operative, the following amendment is recommended:

On page 3, line 1 after "(c)" strike "This" and insert: "Notwithstanding subdivision (a), this"

For clarity, the phrase "any budget measure" should be replaced with the phrase "the annual Budget Act".

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

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 54 As Amended on April 3, 2017 Assumed Enactment After June 30, 2017		
2017-18	2018-19	2019-20
- $200,000	- $200,000	- $200,000

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

Revenue Discussion

Based on available research, the purchase of equipment and materials for an alarm, fence, or surveillance system is estimated to cost between $250 and $2,500. This bill would allow a miscellaneous itemized deduction for up to $500 of the cost of specified security equipment. Using FTB data, it is estimated that 5.3 million taxpayers would claim the itemized deduction in 2017. Of those taxpayers that would itemize their deductions, it is estimated that 20 percent own a qualified residence and would qualify for the miscellaneous itemized deduction. The population of taxpayers is further reduced to 850,000 to account for those taxpayers that already have security systems in place.

Based on available research, of those 850,000 qualifying taxpayers, it is assumed that 12,000 would purchase either an alarm, fence, or surveillance system in 2017. The average cost for equipment or materials is estimated to be $325 per taxpayer, or $3.9 million. It is assumed that 75 percent of taxpayers would claim the deduction in the first year and 80 percent would claim the deduction each year thereafter. An average tax rate of 6 percent is then applied resulting in an estimated revenue loss of $175,000 in 2017.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

POLICY CONCERNS

This bill would establish a deduction for which federal law has no counterpart, thus increasing nonconformity.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

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