

Author: Steinorth Analyst: Jessica Deitchman Bill Number: AB 54  
Related Bills: See Legislative History Telephone: 845-6310 Introduced Date: December 5, 2016  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Security Alarm System, Surveillance System or Security Fence Deduction

**SUMMARY**

This bill would, under the Personal Income Tax Law, allow a miscellaneous itemized deduction for the purchase and installation of a security alarm system, surveillance system, or security fence at a qualified residence in California.

**RECOMMENDATION – NO POSITION**

**REASON FOR THE BILL**

This reason for the bill is to encourage Californians to install security equipment at their residences by offering a miscellaneous itemized deduction to offset the cost of the purchase and installation of this equipment.

**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.

**FEDERAL/STATE LAW**

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Certain other expenses for the production of income and certain employee business expenses are considered miscellaneous itemized deductions and only the portion that exceeds 2 percent of adjusted gross income may be deducted. Also, itemized deductions may be further limited for high-income taxpayers.

This bill would allow a deduction for personal expenses that are generally not deductible.

Current state and federal laws allow taxpayers to include certain expenditures in connection with a personal residence either as an adjustment in the basis of their property, or as a depreciable item. Because some of the expenses would be allowable as a capital expenditure<sup>1</sup> under current law, state and federal law lack a deduction comparable to the one this bill would create.

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<sup>1</sup> Under Internal Revenue Code section 263.

## THIS BILL

On and after January 1, 2017, 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)<sup>2</sup> 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<sup>3</sup> or an alarm agent.<sup>4</sup>
- “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.

## 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.

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<sup>2</sup> Defines a “qualified principal residence” for purposes of the mortgage interest deduction.

<sup>3</sup> Licensed under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of the Division 3 of the Business and Professions Code).

<sup>4</sup> Registered under the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code).

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)<sup>5</sup> could generate a deduction of up to \$1,000 per year. Further, because this bill references a section in the IRC 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.

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 technically flawed as an event cannot occur both "on and after." To be consistent with how current law is structured, the following amendment is recommended:

On page 2, line 1, strike "On and" and insert "For each taxable year beginning on or"

### **LEGISLATIVE HISTORY**

Research of California legislation found no legislation similar to the provisions of this bill.

### **OTHER STATES' INFORMATION**

Review of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable tax deduction. These states were selected and reviewed due to their similarities to California's economy, business entity types, and tax laws.

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<sup>5</sup> If the property owners are married and file a joint return together, they are treated as a single taxpayer.

## **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 Introduced on December 5, 2016 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 would cost approximately 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 Franchise Tax Board 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 amount 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 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.

## **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may argue that this bill would provide financial assistance to taxpayers that need to install security equipment in their home and help them feel safer in their home.

Opponents: Some may argue that providing a tax benefit limited to security equipment only for a primary residence may be overly narrow and inadvertently exclude other properties that would benefit from security equipment.

## **POLICY CONCERNS**

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of a tax benefit by the Legislature.

This bill would establish a deduction for which federal law has no counterpart, thus increasing nonconformity. Recasting this deduction as a credit would eliminate this concern.

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

## **LEGISLATIVE STAFF CONTACT**

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