



Summary Analysis of Amended Bill

Author: Committee on
Governance and Finance

Sponsor:

Bill Number: SB 1508

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Amended: July 2, 2018

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Related Bills: See Prior Analysis

Subject: Voluntary Disclosure Program

Summary

This bill would, under the Administration of Franchise and Income Tax Laws (AFITL), modify the provisions of the existing Voluntary Disclosure Program (VDP).

Recommendation – No position.

Summary of Amendments

The July 2, 2018, amendments added language to include foreign limited partnerships (foreign LPs) and foreign limited liability partnerships (foreign LLPs) as qualified entities, modified the date by which qualified entities must apply for the VDP, and modified the operative date. As a result of the amendments, the implementation considerations provided in the department's analysis of the bill as introduced March 21, 2018, have been resolved. Except for the "Effective/Operative Date," "This Bill," and "Implementation Considerations" sections, the remainder of that analysis still applies. The "Fiscal Impact" and "Support/Opposition" sections have been updated to reflect current information and the "Economic Impact" section has been restated for convenience.

Effective/Operative Date

This bill would be effective on January 1, 2019, and specifically operative for voluntary disclosure agreements entered into on or after January 1, 2019.

This Bill

This bill would, under the AFITL, for agreements entered into on or after January 1, 2019, modify the definition of "qualified entities" to participate in the VDP to include foreign corporations, foreign limited liability companies (foreign LLCs), foreign LLPs and foreign LPs that have registered with the Secretary of State within six months of the date the application for VDP has been filed with the Franchise Tax Board (FTB).

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.

Fiscal Impact

Staff estimates startup and on-going annual costs of approximately \$100,000 beginning in fiscal year 2019-2020 to administer the provisions of this bill.

Economic Impact

Revenue Estimate

Estimating the amount of penalty relief granted for the failure to file a return would depend on the number of out-of-state qualified entities with non-resident members and the amount of the penalty relief granted by the FTB. Because it is difficult to predict the frequency and the value of future applications, the revenue impact is unknown.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Support/Opposition¹

Support: California Society of Enrolled Agents (Sponsor) and California Taxpayers Association.

Opposition: None provided.

Policy Concerns

This bill would provide a tax benefit for certain foreign entities that would be unavailable to similarly situated California-based business entities. Thus, this bill would provide differing treatment based on out-of-state formation of an entity and classification of the entity.

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¹ As provided in the Assembly Revenue and Taxation Committee analysis dated June 22, 2018.