



Analysis of Amended Bill

Author: Hertzberg

Sponsor:

Bill Number: SB 993

Analyst: Janet Jennings

Phone: (916) 845-3495

Amended: May 9, 2018

Attorney: Bruce Langston

Related Bills: See Legislative
History

Subject: California Department of Tax & Fee Administration in Consultation with FTB Adopt Regulations to Implement Excise Service

Summary

This bill would recast the Sales and Use Tax provisions of the Revenue and Taxation Code (R&TC) as administered by the California Department of Tax and Fee Administration (CDTFA) and require the CDTFA to consult with the Franchise Tax Board (FTB), in the development of related regulations.

Recommendation – No position.

Summary of Amendments

The May 9, 2018, amendments removed the bill's provisions that would have, under the Sales and Use Tax Law, imposed a sales tax on the purchases of services by businesses in the state and replaced them with provisions that would modify the existing rate structure of the sales and use tax and impose an excise tax on services, as specified.

This analysis only address the provisions that impacts the FTB. This is the department's first analysis of the bill.

Reason for the Bill

The reason for the bill is to expand the tax base by imposing a tax on the purchase of services by a qualified businesses and to reduce the sales and use tax rate.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and operative as specified.

State Law

R&TC sections 25120 through 25136, and the regulations adopted pursuant thereto, prescribe rules for the assignment of income within and without this state which are generally applicable to all taxpayers. R&TC section 25137 and the associated regulations, provide that alternative methods of income assignment can be used in appropriate circumstances.

This Bill

This bill would modify the Sales and Use Tax Law administered by the CDTFA to reduce the existing sales and use tax applicable to purchases of tangible personal property and impose an excise tax on the receipt of a benefit of services within the state that is purchased by a qualified business from any retailer.

The CDTFA, in consultation with the FTB, would be required to adopt regulations to implement the taxes including the establishment of an apportionment methodology with respect to the receipt of the benefit of a service by a qualified business of a service that is engaged in business in this state and outside this state or is a part of an affiliated group of businesses, as defined, that are engaged in business in this state and outside this state.

Implementation Considerations

Implementing this bill would not significantly impact the department's programs and operations.

Legislative History

SB 337 (Bates & Nguyen, 2017/2018) would among other items, require the Department of Finance, in consultation with the FTB, to estimate annually the revenue impact from state taxes relating to enactment of a federal corporation repatriation statute. SB 337 failed passage from the Senate Governance and Finance Committee

Other States' Information

Since this bill requires the CDTFA in consultation with the FTB to adopt regulations, a comparison to other states income tax laws 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.

Economic Impact

This bill would not impact the state's income tax revenue.

Support/Opposition

Support: None provided.

Opposition: None provided.

Arguments

Proponents: Some could argue that the FTB's expertise in multistate taxation would be beneficial in drafting regulations to support the excise tax created by this bill.

Opponents: Some could argue that requiring the CDTFA to consult with the FTB is unnecessary, because consultation could be accomplished absent such requirement.

Legislative Staff Contact

Janet Jennings
Legislative Analyst, FTB
(916) 845-3495
janet.jennings@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov