



Bill Analysis

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Sponsor:

Bill Number: AB 1253

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Amended: July 27, 2020

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Related Bills: See Legislative
History

SUBJECT

Additional Tax on High Income

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) impose an additional tax on taxable income in excess of an adjusted one-million-dollar amount.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The July 27, 2020, amendments removed the bill's provisions that would have modified the Public Resources Code and replaced them with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to increase general fund revenue.

ANALYSIS

AB 1253 would, under the PITL, for tax years beginning on or after January 1, 2020, impose an additional tax on individuals, estates, trusts, or common trust funds calculated as follows:

- 1 percent on the amount of the taxpayer's taxable income that is greater than the adjusted one-million-dollar (\$1,000,000) amount, as defined below, and less than or equal to the adjusted two-million-dollar (\$2,000,000) amount.
- 3 percent on the amount of the taxpayer's taxable income that is greater than the adjusted two-million-dollar (\$2,000,000) amount and less than or equal to the adjusted five-million-dollar (\$5,000,000) amount.
- 3.5 percent on the amount of the taxpayer's taxable income that is greater than the adjusted five-million-dollar (\$5,000,000) amount.

The additional tax would be treated as if imposed under Section 17041, specifically including, but not limited to, the taxation of part year and non-residents pursuant to 17041(b) and estates, trusts, or common trust funds pursuant to 17041(e) with the following exceptions:

- The calculation of the additional tax for a joint or surviving spouse return would be the same as for a single filer because Section 17045 would not apply.
- The additional tax would apply without adjustments to the income thresholds, as specified in Section 17041 for each filing status.

As a result of these exceptions, the calculation of the additional tax would be the same for all taxpayers without regard to filing status.

The adjusted amounts referred to above would be indexed by the Franchise Tax Board (FTB) for inflation pursuant to 17041(h) for each taxable year beginning on and after January 1, 2021.

The following definitions would apply: for purposes of the additional tax:

- "Adjusted one-million-dollar (\$1,000,000) amount" means the amount equal to one million one hundred eighty-one thousand four hundred eighty-four dollars (\$1,181,484) that is recomputed by the FTB as provided in subdivision (h) of Section 17041 for taxable years beginning on and after January 1, 2020, and before January 1, 2021.
- "Adjusted two-million-dollar (\$2,000,000) amount" means the amount equal to two times the adjusted one-million-dollar (\$1,000,000) amount.
- "Adjusted five-million-dollar (\$5,000,000) amount" means the amount equal to five million nine hundred seven thousand four hundred twenty dollars (\$5,907,420) that is recomputed by the FTB as provided in subdivision (h) of Section 17041 for taxable years beginning on and after January 1, 2020, and before January 1, 2021.

The additional tax would be imposed in addition to any other taxes imposed under Part 10 of the Revenue and Taxation Code (R&TC) or the California Constitution, including the existing Mental Health Services Tax.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2020.

Federal/State Law

Federal Law

There is no provision comparable in Federal law to the additional tax this bill would impose.

State Law

State tax law imposes nine different rates under the PITL:

- Six permanent rates ranging from 1 percent to 9.3 percent, and
- Three temporary rates – 10.3 percent, 11.3 percent, and 12.3 percent.

Each tax rate applies to different ranges of income, known as “tax brackets.” Current state law requires the FTB to adjust the tax brackets each year based on the change in the California Consumer Price Index (CCPI).

Current state law also imposes an additional 1 percent Mental Health Services Tax (MHST) on the portion of a PITL taxpayer’s taxable income that exceeds \$1 million. The MHST tax may not be reduced by any credits and the taxable income threshold of \$1 million is not subject to indexing. The MHST is subject to estimated tax payment requirements, interest, penalty, and other tax administration rules applicable to taxes imposed under the PITL.

Generally, taxpayers are required to make estimate payments if the amount of taxes withheld or otherwise available for a taxable year is less than the amount due. Penalties are imposed if a taxpayer underpays estimate taxes. R&TC section 19136(g)(1) prohibits the imposition of a penalty for the underpayment of estimated payments if an underpayment was created or increased by any provision of law that is chaptered during and operative for the tax year of the underpayment.

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.

If this bill is enacted in late September 2020, the department would have developed the forms and instructions, and programming and system changes for the 2020 taxable year. Implementing this bill’s provisions could potentially require a temporary shift of from other workloads to meet the timeframes outlined in this bill. Staff notes that implementing a single additional rate is less complex than implementing the bill’s three-tier structure.

Technical Considerations

The phrase “beginning on and after” should be replaced with the phrase “beginning on or after”.

Policy Concerns

This bill does not have a sunset date, which is generally provided to allow periodic review of the effectiveness of income tax law changes by the Legislature.

LEGISLATIVE HISTORY

Proposition 55 (November 2016) extended the operative period of the three higher Personal Income Tax rates established by Proposition 30 to include taxable years beginning on or after January 1, 2019, and before January 1, 2031.

Proposition 30 (November 2012) amended the California Constitution to temporarily add three personal income tax rates (10.3 percent, 11.3 percent, and 12.3 percent) for taxable years beginning on or after January 1, 2012, and before January 1, 2019.

Proposition 38 (November 2012) would have among other things, increased personal income tax rates on annual earnings based on a sliding scale, as specified.

Proposition 38 failed to pass.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would require the development of new forms and instructions or worksheets to calculate and report the additional tax and programming and systems changes to process the additional tax. The department will absorb the costs to implement this bill by shifting work that is not time or sensitive mission critical.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue gain:

Estimated Revenue Impact of AB 1253 as Amended on July 27, 2020
Assumed Enactment after September 30, 2020

(\$ in Millions)

Fiscal Year	Revenue
2020-2021	+\$6,500
2021-2022	+\$4,000
2022-2023	+\$4,500

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.

Revenue Discussion

Based on output from the FTB's Personal Income Tax micro-simulation model and data filed with the FTB, it is estimated the tax rate increases would result in a revenue gain of \$4.5 billion in the 2020 taxable year. The increase in tax would impact less than 1 percent of income tax filers, including non-residents.

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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

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