



Summary Analysis of Amended Bill

Author: McGuire

Sponsor:

Bill Number: SB 344

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Amended: April 22, 2019

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Related Bills: See Prior Analysis

Subject: Office of Tax Appeals: Establish Alternative to Appear Before a Tax Appeals Panel

Summary

This bill would, under the Government Code, require the Office of Tax Appeals (OTA) to establish a process for appellants to select an alternative to appearing before a tax appeals panel.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

Recommendation – No position.

Summary of Amendments

The April 22, 2019, amendments clarified disputes eligible for the alternative process, and added a sunset date. As a result of the amendments, a new implementation concern has been identified.

With the exception of the "Effective/Operative Date," "This Bill," and "Implementation Considerations" sections, the remainder of the department's analysis of the bill as amended March 26, 2019, still applies. The "Fiscal Impact" and "Economic Impact" sections have been restated for convenience.

Effective/Operative Date

This bill would become effective and operative January 1, 2020.

This Bill

This bill would require the OTA to establish a process for an appellant to opt to appear before one Administrative Law Judge (ALJ) rather than a tax appeals panel if one of the following criteria applies:

- The appeal arises from a tax imposed pursuant to the Personal Income Tax Law and the disputed amount, including penalties and fees, is less than five thousand dollars.
- The appeal arises from a tax or fee administered by the California Department of Tax and Fee Administration and both of the following are satisfied:
 - The appellant's gross receipts are less than twenty million dollars.
 - The total amount in dispute, including penalties and fees is less than fifty thousand dollars.

Decisions reached under this process would be specifically excluded from having precedential effect.

This bill would remain in effect until January 1, 2030, and be repealed as of that date.

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.

Because the bill fails to specify procedures for rehearing, a hearing before one ALJ would be available for the initial OTA hearing as well as any rehearing that meet the specified thresholds. It is also unclear whether a panel or one ALJ would decide whether a rehearing would be granted. If it is the author's intent for rehearing to be heard or granted by a tax appeal panel, the language should be amended.

Because the bill lacks a reference to fees, disputes of the fee imposed on Limited Liability Companies (LLCs) would be ineligible for hearing before a single ALJ. If this is contrary to the author's intent, this bill should be amended.

Additionally, taxpayers subject to the Corporation Tax Law, many of which are Partnerships, Limited Partnerships, and LLCs, would be ineligible for hearing before a single ALJ. If this is contrary to the author's intent, the bill should be amended.

Assuming the process makes no changes to procedural aspects of an appeal, for example timelines for filing briefs, implementing this bill would not significantly impact the department's programs and operations.

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

Revenue Estimate

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

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