



Summary Analysis of Amended Bill

Author: Portantino

Sponsor:

Bill Number: SB 349

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Amended: April 24, 2019

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Related Bills: See Prior Analysis

Subject: Minimum Franchise Tax/Reduce for Corporations

Summary

This bill would, under the Corporation Tax Law (CTL), modify the minimum franchise tax for corporations having less than \$15 million in gross receipts and, under the Personal Income Tax Law (PITL), retain the \$800 minimum annual tax.

Recommendation – No position.

Summary of Amendments

The April 24, 2019, amendments resolved one of the previously identified implementation concerns. Except for the “This Bill” and the “Implementation Considerations” sections, the remainder of the department’s analysis of the bill as introduced February 19, 2019, still applies. The “Economic Impact,” “Fiscal Impact,” and “Policy Concern” sections have been restated for convenience.

This Bill

For taxable years beginning on or after January 1, 2020, this bill would modify the minimum franchise tax imposed on corporations, based on gross receipts during the taxable year, as shown below and recast the cross references in the annual tax provisions to retain the \$800 minimum for entities subject to the annual tax. The minimum franchise tax would be determined as follows:

<u>Gross receipts less than \$2,500,000</u>	<u>Gross receipts of \$2,500,000 or more but less than \$7,500,000</u>	<u>Gross receipts of \$7,500,000 or more but less than \$15,000,000</u>	<u>Gross receipts of \$15,000,000 or more</u>
\$200	\$400	\$600	\$800

Implementation Considerations

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

Because the bill fails to specify otherwise, corporations otherwise eligible for a reduced minimum franchise tax whose measured tax based on net income exceeds the reduced minimum franchise tax amount would be required to pay the larger measured tax amount. If this is contrary to the author's intent, then this bill should be amended to specify that the reduced minimum franchise tax is controlling.

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 result in the following revenue loss:

Estimated Revenue Impact of SB 349 as Introduced February 19, 2019
Assumed Enactment after June 30, 2019

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	-\$120
2020-2021	-\$320
2021-2022	-\$340

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

This bill would specify that the amount of minimum franchise tax would be determined in accordance with the taxpayer's "gross receipts." Based on data from the Franchise Tax Board for tax years 2013-2016, it is estimated that in taxable year 2020 approximately 580,000 corporations would be impacted by the changes to the amount of the minimum franchise tax as proposed in this bill.

The estimated revenue loss from the proposed changes to the minimum franchise tax for C and S corporations would be approximately \$315 million in the 2020 taxable year. This consists of minimum franchise tax that would no longer be paid, offset by measured tax. C and S corporate taxpayers must pay the measured tax only if it is more than the minimum franchise tax.

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

Policy Concerns

This bill would provide a tax benefit for corporations under the CTL that would be unavailable to other business entities under the PITL, such as limited partnerships, limited liability companies not classified as corporations, limited liability partnerships, charitable organizations, regulated investment companies, real estate investment trusts, real estate mortgage investment conduits, financial asset securitization investment trusts, and qualified Subchapter S subsidiaries. Thus, this bill would provide differing treatment based solely on classification.

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