



Bill Analysis

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Bill Number: SB 972

SUBJECT

Franchise Tax Board (FTB) Annual Report of Corporate Taxpayer Information

SUMMARY

This bill would, under the Administration of Franchise and Income Tax Laws, require the FTB to annually report on its website specified tax return information of certain taxpayers subject to the Corporation Tax Law (CTL).

REASON FOR THE BILL

The reason for this bill is to provide tax return information of certain large corporate taxpayers to the Assembly Committee on Revenue and Taxation and the Senate Committee on Governance and Finance (Committees) by May 1, 2021, and to be updated annually by May 1, thereafter.

ANALYSIS

This bill would require the FTB by April 1, 2021, and by each April 1 thereafter to compile a list of taxpayers subject to the CTL with gross receipts greater than or equal to \$5 billion dollars, as measured by gross receipts less returns and allowances, for the taxable year reported on a return filed during the previous calendar year. The list must include:

- Name and tax liability of each taxpayer.
- Taxable year for which the return is filed.
- Total gross receipts for that taxable year.
- Amount and types of credits claimed for that taxable year.

The determination to include on the list a taxpayer that is included in a combined report would be made based on the combined reporting group's gross receipts, less returns and allowances.

For purposes of the list, this bill would define the following terms:

- “Credits claimed” would mean the amount of credits allowed under the CTL that are applied on the return for the taxable year used to offset the tax liability,
- “Tax liability” would mean the amount of tax owed, in a taxable year, as a result of the taxes imposed under the CTL, and excluding overpayments, estimated tax payments, withholdings, and any other amounts paid, and
- “Gross receipts” would be defined by reference to Revenue and Taxation Code (R&TC) section 25120.

The bill would require the FTB to provide the Committees by May 1, 2021, and by each May 1 thereafter in a list that includes:

- The taxpayer’s name listed on the tax return.
- The amount of the taxpayer’s tax liability for the taxable year reported on a return in the previous calendar year.
- The total amount and types of credits the taxpayer claimed for the taxable year reported on a return in the previous calendar year.

Effective/Operative Date

Assuming enactment by September 30, 2020, this bill would be effective and operative January 1, 2021.

Federal/State Law

Federal Law

Current Federal law lacks a reporting requirement similar to the reporting this bill would require.

Generally, the FTB is prohibited under both federal law and an interagency agreement with the Internal Revenue Service (IRS) from disclosing taxpayer information that the FTB receives from the IRS.

State Law

Under current state law the FTB is required to publish twice a year a list of the 500 largest state income tax delinquencies in excess of \$100,000, and update the list when names are removed.

Under current state tax law, the FTB is prohibited from disclosing any confidential taxpayer information unless an exception to the general disclosure law specifically authorizes the disclosure. Included in these exceptions is R&TC section 19546, relating to disclosure to legislative committees.

Current state law lacks a reporting requirement similar to the reporting this bill would require.

Implementation Considerations

None noted.

Technical Considerations

None noted.

LEGISLATIVE HISTORY

SB 1395 (Moorlach, 2017/2018) would have required the FTB to provide a report to the Legislature by November 1, 2019, and each November 1 thereafter, that includes the total amount of specified credits allowed under the Personal Income Tax Law and CTL for the previous taxable year. Unlike this bill, SB 1395 did not require this information to be posted to an internet website.

AB 1424 (Perea, Chapter 455, Statutes of 2011) among other things, expanded the FTB's top debtor list from 250 to 500 taxpayers, requires the FTB to update the Top 500 tax debtor list at least twice each year, include on the list the type and status of any occupational or professional license held by a tax debtor on the list and provide for the suspension of a tax debtor's occupational or professional license as specified, and allow the FTB to return a tax debtor's name to the list if the tax debtor fails to comply with the terms of the resolution that resulted in the removal of that name from the list.

ABX8 8 (Committee on Budget, 2009/2010), ABX3 19 (Evans, 2009/2010), SBX8 8 (Committee on Budget, 2009/2010), SBX 3 17 (Ducheny, 2009/2010), AB 484 (Eng, 2009/2010), and AB 1925 (Eng, 2007/2008) all would have provided occupational and professional license suspension for tax debtors, but none would have limited the authority to those appearing on the Top 250 tax debtor list. ABX8 8 failed passage out of the Assembly. ABX3 19 passed the Legislature but was withdrawn from enrollment. SBX8 8 failed passage out of the Senate and SBX3 17 was vetoed by Governor Schwarzenegger on June 30, 2009. In his veto message, Governor Schwarzenegger stated "I have been very clear that the Legislature must solve the entire deficit, must make the hard decisions now, and must not push the problem off to tomorrow. This bill and its companion measure, SB X3 16, do not meet any of those criteria." AB 484 and AB 1925 failed passage out of the Senate Revenue and Taxation Committee.

AB 1418 (Horton, Chapter 716, Statutes of 2006) required the FTB to compile and make publicly available an annual list that identifies the largest 250 tax delinquencies that exceed \$100,000 and for which a Notice of State Tax Lien has been filed with a county recorder's office.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs are expected to be minor.

ECONOMIC IMPACT

Revenue Estimate

This bill would not impact state income or franchise tax revenues.

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 not impact the state's income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	August 30, 2020	28	11
Assembly Floor	August, 26, 2020	42	20
Senate Floor	June 22, 2020	25	12

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