



Bill Analysis

Author: Bates

Sponsor:

Bill Number: SB 706

Related Bills: See Legislative
History

Introduced: February 19, 2021

SUBJECT

Property Tax Change in Ownership in Legal Entities

SUMMARY

Under the Revenue and Taxation Code (RTC), this bill would make changes to the provisions of the RTC, requiring, among other things, the Franchise Tax Board (FTB) to include a question on specified state tax returns regarding a change in ownership of a "legal entity" that owns real property in California, as specified.

This analysis only addresses the provisions that would impact the department.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to ease the commercial reassessment process.

ANALYSIS

This bill would require the FTB to include an additional question on returns for partnerships, limited liability companies (LLC), and corporations, except for tax-exempt organizations. The additional question would be required to be substantially similar to the following:

If the corporation (or partnership or LLC) owns real property in California, has 90 percent or more of the direct or indirect ownership interests in that legal entity been sold or transferred (1) in a single transaction, or (2) amongst persons described in Section 267(b) of Title 26 of the United States Code, or (3) in multiple transactions (other than those occurring on an established securities market) within a 36-month period? (See instructions.)

Introduced February 19, 2021

The FTB would be required to provide to the Board of Equalization (BOE) the name and address of each entity that answers “yes” to this question along with the names and addresses of the stock, partnership, or LLC ownership interest transferees.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment and operative on or after January 1, 2022.

Federal/State Law

Federal Law

No provision comparable in federal law.

State Law

For purposes of determining whether there has been a change in the ownership of California real property for property tax purposes, current state law requires the FTB to place the following question (or a question substantially similar) on the tax return for partnerships, and corporations, with the exception of tax-exempt organizations:

If the corporation (or partnership or LLC) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or LLC capital and partnership or LLC profits) (1) been transferred by the corporation (or partnership or LLC) since March 1, 1975, or (2) been acquired by another legal entity or person during the year?

If an entity answers “yes,” the FTB is required to furnish the name and address of the entity and the name and addresses of the stock, partnership, or LLC ownership interest transferees to the BOE.

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 of 2021, the department would have developed the forms and instructions for returns filed in 2022 for the 2021 taxable year. Thus, the department may incur additional costs to develop alternative forms and instructions in the short time frame necessary to ensure they are available for taxpayers to comply with the reporting requirement.

Introduced February 19, 2021

Technical Considerations

For consistency of terminology, the following changes are recommended:

- On page 6, line 18, the phrase "a question" should be changed to "questions."

Policy Considerations

None noted.

LEGISLATIVE HISTORY

SB 1319 (Bates, 2019/2020) similar to this bill, would have made changes to the provisions of the RTC, requiring, the FTB to include a question on specified state tax returns regarding any change in ownership of a "legal entity" that owns real property in California. SB 1319 did not pass out of the Senate Governance and Finance Committee.

SB 1237 (Bates, 2017/2018) similar to this bill, would have made changes to the provisions of the RTC requiring the FTB to include a question on specified state tax returns regarding any change in property ownership. SB 1237 did not pass out of the Senate Governance and Finance Committee.

AB 1040 (Ting, 2015/2016) would have required the FTB to include a question on specified tax forms regarding changes in property ownership, and report specified information to the BOE. AB 1040 did not pass by the constitutional deadline.

SB 259 (Bates, 2015/2016) would have required the FTB to include a question on specified tax forms regarding changes in property ownership that occurred on or after January 1, 2016, and report specified information to the BOE. SB 259 did not pass by the constitutional deadline.

AB 2372 (Ammiano & Bocanegra, 2013/2014) would have required the FTB to include a question on specified tax forms regarding changes in property ownership that occurred on or after January 1, 2015, and report specified information to the BOE. AB 2372 did not pass by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

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.

Introduced February 19, 2021

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced February 19, 2021, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov