



Bill Analysis

Author: Jackson, et al.

Sponsor:

Bill Number: AB 855

Related Bills: See Legislative
History

Introduced: February 14, 2023

SUBJECT

Amounts Referred for Collection- Interest Rate Change

SUMMARY

Under the Administration of Franchise and Income Tax Law (AFITL), this bill would change the interest rate of accrual for specified amounts referred to the Franchise Tax Board (FTB) for collection.

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

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to reduce the interest rate of accrual for certain fees referred to the FTB for collection.

ANALYSIS

This bill would, under the AFITL, decrease the interest rate of accrual to a rate not to exceed 1% annually for the following amounts that are referred to the FTB for collection by the juvenile or superior court of the State of California, the Department of Corrections and Rehabilitation, a county, the state, or the State Bar:

- Fines
- Monetary sanctions
- State or local penalties
- Bail

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- Forfeitures
- Restitution fines
- Restitution orders
- Any other amounts imposed by a juvenile or superior court of the State of California or the Supreme Court of the State of California upon a person or any other entity
- Any payment from the State Bar of California's Client Security Fund that is part of a final determination from the Client Security Fund

Effective/Operative Date

This bill would be effective and operative January 1, 2024.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

Current state law authorizes the FTB to use administrative collection tools to collect delinquent tax and nontax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

Fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, or any other amount imposed by a superior, juvenile, or the California Supreme Court, or a California government entity, totaling no less than \$100 and delinquent for 90 days or more, can be referred by the courts, the State Bar, or the government entity to the FTB for collection.

Amounts referred for collection accrue interest at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521 of the AFITL (currently 5%). Amounts paid within 15 days after the date of a mailed notice that includes interest do not accrue additional interest for the period after the date the notice is issued.

Implementation Considerations

The department has identified the following implementation considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

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Implementing this bill would require changes to existing information and processing systems, as well as to notices. Due to system constraints, currently the FTB does not have the capability to charge interest rates below the standard interest rate on taxes.

The bill specifies that interest shall accrue at "a rate not exceeding 1%" however it is silent on if or when the rate would be less than 1%. To implement this bill, FTB would need to know the interest rate to apply or the standards to apply to determine if the rate would ever be lower than 1 percent.

This bill would be effective and operative on January 1, 2024. However, the bill does not clarify whether the new interest rate would apply only to debts referred to FTB after that date or also to debts that have been referred to FTB prior to that date for collection. This bill should be amended to clarify whether the new interest rate would apply to debts currently collected by FTB.

Technical Considerations

None noted.

Policy Considerations

This bill would allow individuals involved in criminal activity who have been ordered to pay restitution, to pay less in interest than compliant taxpayers who are paying their tax balances. If this is contrary to the authors intent, this bill should be amended.

LEGISLATIVE HISTORY

SB 516 (Skinner, 2023/2024) amongst other provisions would, under the AFITL, make changes to the allotted time a juvenile or superior court, county, state, or the State Bar may refer amounts for collection to the FTB for collection. SB 516 has been referred to the Senate Committee on Governance and Finance.

AB 176 (Committee on Budget, Chapter 256, Statutes of 2021), amongst other provisions, under the RTC, limited the amount of disposable earnings subject to collection to a specified amount for an order or levy issued on or after January 1, 2022, for debts related to court-ordered debt or vehicle registration collections. It also excluded an amount for minimum basic standard of care, as specified. Furthermore, restitution orders and restitution fines are excluded from these thresholds.

AB 3362 (Committee on Judiciary, Chapter 360, Statutes of 2020), under the AFITL, allowed the FTB to collect monetary sanctions and costs related to the State Bar of California's Client Security Fund reimbursement provisions.

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AB 3249 (Committee on Judiciary, Chapter 659, Statutes of 2018) allowed amounts imposed by the Supreme Court of the State of California for certain amounts due to the State Bar as a debt type that can be referred to the FTB Court Ordered Debt collection program.

SB 144 (Mitchell, et al., 2019/2020) would have, under the Business and Professions Code, Government Code, Vehicle Code, Penal Code, and Welfare and Institutions Code, among other changes, eliminated a number of administrative fees and costs imposed on a person related to involvement in the criminal justice system and would have specified that the unpaid balance of specified fees or costs eliminated by these provisions are unenforceable and uncollectable. SB 144 did not pass out of the Assembly before the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined, but staff anticipates costs could be significant.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced February 14, 2023, does not change the computation of franchise or income tax.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

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LEGISLATIVE CONTACT

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