

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 30, 2009
POSITION: Oppose

BILL NUMBER: AB 1546
AUTHOR: Assembly Revenue and Taxation
RELATED BILLS: Ch. 1, 2008 (X1 SB 28), Ch. 15, 2009 (X4 AB 17)

BILL SUMMARY: Limited Partnerships: Revival: Fees

This bill would do the following:

1. Require a cancelled domestic limited partnership (LP) that wishes to be revived to pay all outstanding fees, and file all missing tax returns for the period of cancelation, and requires a fee for expedited revival.
2. Modify the estimated payment percentages required for taxpayers using the annualized income method to be consistent with the fixed quarterly percentages enacted in the 2008 Budget trailer bill.
3. Make nonsubstantive changes to clean-up and clarify recently enacted budget provisions pertaining to wage withholding, the dependent exemption credit, the underpayment of estimated tax penalty, and referencing the apportionment factor.

FISCAL SUMMARY

According to the Franchise Tax Board (FTB) the provisions of this bill authorizing LPs to expedite revival applications, and FTB to charge a fee for those revivals, would result in increased fee revenue of approximately \$1,000 per year.

The FTB's analysis notes that the provisions to modify the estimated payment percentages would result in revenue accelerations. However, that assessment was based on provisions that will expire after the 2009 tax year and thus, are not relevant. According to FTB staff, amendments are being drafted to rectify the estimated payment modification provisions in this version.

COMMENTS

Finance opposes this bill for the following reason:

According to staff at the FTB, the language in this version that modifies the annualized method was intended as clean-up language for the 2008 Budget trailer bill provisions and drafted prior to enactment of the 2009 Budget trailer bill provisions. As currently drafted, this modification would have the effect of deleting the 2009 Budget trailer bill provisions. Finance is opposed until a cleaned-up version is in print.

Note: The revival provisions for LPs would make the requirements consistent with those of corporations, and this bill also includes several technical and clarifying clean-up provisions.

Analyst/Principal (0724) R. Lawrence	Date	Program Budget Manager Mark Hill	Date
---	------	-------------------------------------	------

Department Deputy Director	Date
----------------------------	------

Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

Assembly Revenue and Taxation

June 30, 2009

AB 1546

ANALYSIS

A. Programmatic Analysis

(1) Limited partnership revival

Existing law provides that a domestic limited partnership (LP) formed on or after January 1, 2008, is subject to the provisions of the Uniform Limited Partnerships Act (ULPA) of 2008. When dissolving, ULPA requires an LP to file a certificate of cancellation with the Secretary of State. A domestic LP filing the certificate may decide later to revive its active status and apply for a certificate of revival.

This bill would require a canceled LP seeking to revive its active status to remit outstanding fees and file missing tax returns with the Franchise Tax Board (FTB), and would allow FTB to charge up to a \$100 service fee for LPs seeking expedited revival confirmation requests. The measure also authorizes FTB, after January 1, 2011, to establish the amount of the expedited service fee by regulation, and in an amount sufficient to reimburse FTB for the costs of providing the expedited services.

(2) Modifications to 2008 Budget trailer bill estimated payment percentages

Under current law taxpayers can use one of the following two methods to calculate their estimated tax payments:

1. Quarterly fixed percentages, which pursuant to Chapter 1 of the Statutes of 2008, the 2008 Budget trailer bill, are 30 percent each with the first two estimated payments and 20 percent each for the last two estimated payments for the 2009 tax year. Pursuant to Chapter 15 of the Statutes of 2009, the 2009 Budget trailer bill, the first quarterly estimated payment percentage will remain at 30 percent, the second quarter will increase from 30 percent to 40 percent, the third estimated payment will be eliminated, and the fourth quarter will increase from 20 percent to 30 percent beginning with the 2010 tax year.
2. "Annualized Income Installment Method," which allows taxpayers to match their tax payments to the period when the income was earned.

This bill, as currently drafted, would modify the percentages used to determine estimated payments under the annualized income installment method to be consistent with the quarterly fixed percentages in the 2008 Budget trailer bill. **This modification would have the effect of deleting the provisions of the 2009 Budget trailer bill. The FTB has indicated that amendments are being drafted to correct this inadvertent error.**

This bill would also make the following technical corrections:

- Dependent Exemption Credit—Clarifies that it would cease to be operative on or after January 1, 2011, unless the Director of Finance notifies the FTB of the election in 2009 in which case it would cease to be operative on January 1, 2013.
- Wage Withholding—Substitutes the phrase "applicable percentage for the phrase "an equal part."
- Underpayment and Estimated Tax Penalty—Corrects cross-referencing errors.
- Apportionment Factor—Clarifies that the single sales factor election may be made on or after January 1, 2011, and makes the appropriate cross-references.

B. Fiscal Analysis

Assembly Revenue and Taxation

June 30, 2009

AB 1546

According to the FTB the provisions of this bill authorizing LPs to expedite revival applications, and FTB to charge a fee for those revivals, would result in increased fee revenue of approximately \$1,000 per year.

The FTB's analysis notes that the provisions to modify the estimated payment percentages would result in revenue accelerations. However, that assessment was based on provisions that will expire after the 2009 tax year and thus, are not relevant. According to FTB staff, amendments are being drafted to rectify the estimated payment modification provisions in this version.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						Fund Code	
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
1730/FTB	SO	No		-----	No/Minor Fiscal Impact	-----			0001
1147/Pers Inc Tax	RV	No		-----	See Fiscal Analysis	-----			0001
1104/Corp Tax	RV	Yes		-----	See Fiscal Analysis	-----			0001