

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 18, 2010
POSITION: Oppose

BILL NUMBER: AB 2126
AUTHOR: M. Garrick
RELATED BILLS: AB 2671 (2009-10),
AB 327 (2009-10),
AB 2178 (2007-08)

BILL SUMMARY: Minimum Franchise Tax: Corps, LLCs, LLPs, LPs

Under this bill a new corporation, limited partnership, limited liability partnership, and limited liability company, that is a small business which commences business on or after January 1, 2011, and before January 1, 2016, would not be subject to the minimum franchise tax (MFT) in the first taxable year, and would pay a MFT of \$100 annually (instead of the current \$800) for nine years thereafter.

FISCAL SUMMARY

Preliminary estimates from the Franchise Tax Board (FTB) indicate that the revenue losses associated with this measure, assuming enactment after June 30, 2010, would be \$11 million, in 2010-11, \$60 million in 2011-12, and \$90 million in 2012-13.

According to the FTB, the additional costs to the department to implement these provisions are currently being identified and will be available when the FTB's analysis is completed.

COMMENTS

Finance opposes this measure because it would result in a major annual General Fund revenue loss when the state continues to struggle through a time of fiscal crisis.

Analyst/Principal (0724) R. Lawrence	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
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BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

AUTHOR

AMENDMENT DATE

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ANALYSIS

A. Programmatic Analysis

Under current law, the basic tax rate for corporations is 8.84 percent of net income. Current law also imposes a minimum franchise tax (MFT) of \$800 that must be paid only if the computed tax liability (8.84 percent times net income) is less than \$800 for that tax year. New corporations are exempt from paying the MFT during their first year of business.

The MFT is not an income tax but instead a tax to ensure that all corporations, whether they are profitable or not, pay at least a minimum amount for the privilege of doing business in this state. The MFT has been \$800 since 1990.

Limited partnerships, limited liability companies, and limited liability partnerships are also subject to the MFT but are not exempt from paying the MFT during their first year of business.

This bill would exempt a new corporation, limited partnership, limited liability partnership, and limited liability company that is a small business, and which commences business on or after January 1, 2011, and before January 1, 2016, from the MFT in the first taxable year, and reduce the MFT from \$800 to \$100 annually for nine years thereafter.

A "small business" would mean any taxpayer that in the previous taxable year had gross receipts less returns and allowances reportable to the state of \$1,000,000 or less.

"Gross Receipts" would mean the gross amounts realized—the sum of money and the fair market value of the other property or services received—in transactions, as specified.

This bill would take effect immediately as a tax levy, and specifies that it would apply to small businesses that commence business operations on or after January 1, 2011, and before January 1, 2016.

B. Fiscal Analysis

Preliminary estimates from the FTB indicate that the revenue losses associated with this measure, assuming enactment after June 30, 2010, would be \$11 million, in 2010-11, \$60 million in 2011-12, and \$90 million in 2012-13. Losses would be incurred for years following 2012-13 since the exemption and preferential MFT provisions would apply to businesses that commence operations before January 1, 2016.

According to the FTB, the additional costs to the department to implement these provisions are currently being identified and will be available when the FTB's analysis is completed.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP	FC	2010-2011	FC	2011-2012	FC	2012-2013		
	RV	98	FC							
1104/Corp Tax	RV	No	U	-\$11,000	U	-\$60,000	U	-\$90,000	0001	
1730/FTB	SO	No				See Fiscal Summary			0001	

