

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 15, 2010
POSITION: Oppose

BILL NUMBER: AB 2556
AUTHOR: J. Fuller
RELATED BILLS: AB 2375

BILL SUMMARY: State Board of Equalization: Waiver: Foreign Purchases

Existing law imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The use tax is imposed on the purchaser, and unless that purchaser pays the use tax to a retailer registered to collect the California use tax, the purchaser is liable for the tax, unless the use of that property is specifically exempted or excluded from tax. The use tax is the same rate as the sales tax.

Generally, a use tax liability occurs when a California consumer or business purchases tangible items for their own use from an out-of-state retailer or foreign retailer that is not registered with the Board of Equalization (BOE) to collect the California use tax. Generally, when a person is late in payment of their use tax obligations, the law imposes a 10 percent penalty, plus simple monthly interest, currently at the rate of seven percent per year.

Current law gives BOE authority to abate taxpayer penalties under specified conditions, but is unclear as to BOE's authority to grant relief from the payment of accrued interest on past due use tax obligations.

This bill would authorize BOE, meeting as a public body, to relieve all or part of the interest imposed on a person when use tax is remitted to BOE within 90 days of BOE notifying the person of a nonpayment of use tax, when that notification is made as a result of BOE obtaining information with respect to the liability from the United States Customs Service. The bill would limit BOE's authority to provide relief to those persons whose gross receipts from business operations are less than \$250,000, or if the person has no business operations, whose gross adjusted income is less than \$250,000.

FISCAL SUMMARY

For fiscal year 2008-09, BOE sent nearly 7,000 notices and returns to California purchasers who were identified through the Customs data as having made taxable purchases from foreign countries. In response, the Board received back over 5,600 returns with payments of over \$11 million in use tax, over \$1 million in interest, and over \$500,000 in penalty. BOE does not have information on the adjusted gross income of these persons, nor do they know whether the purchasers have gross receipts from business operations of \$250,000 or more.

Using an average interest payment of \$179 per return (\$1 million/5,600), and assuming half of these purchasers would not qualify for relief due to the income thresholds, and that half of those that would qualify, would actually request and be granted relief, a total state and local interest revenue loss could amount to about \$250,600 (\$179 x 2,800/2), of which \$162,000 would be General Fund.

Administration of this bill would require one to two positions at a cost to BOE of \$75,000 -\$150,000

Analyst/Principal Date Program Budget Manager Date
(0762) C. Hill Mark Hill

Department Deputy Director Date

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

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

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COMMENTS

Finance opposes this bill for the following reasons:

- This bill could result in a \$250,000 annual revenue loss and costs of \$75,000 - \$150,000 to the state during a period of fiscal hardship.
- This bill is unnecessary. The rationale for granting relief only to that subset of taxpayers failing to pay use tax on items brought through U.S. Customs is unclear.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA	(Dollars in Thousands)								
	CO	PROP	2009-2010		2010-2011		2011-2012			
RV	98	FC	FC	FC	FC	FC	FC	FC		
0860/Equalization	SO	No	--	C	\$237 - 312	C	\$237 - 312	C	0001	
0950/St Treasurer	SO	No	--	C	\$7	C	\$7	C	3059	
5195/St-Lcl Realn	SO	No	--	C	\$15	C	\$15	C	0330	
2740/DMV	SO	No	--	C	\$15	C	\$15	C	3149	
5195/St-Lcl Realn	SO	No	--	C	\$29	C	\$29	C	0331	
<u>Fund Code</u>	<u>Title</u>									
0001	General Fund									
0330	Local Revenue Fund									
0331	Sales Tax Account, Local Revenue Fund									
3059	Fiscal Recovery Fund									
3149	Local Safety and Protection Account, TTF									