

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Skinner Analyst: David Scott Bill Number: AB 318

Related Bills: \_\_\_\_\_ Telephone: 845-5806 Amended Date: January 4, 2012

Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

**SUBJECT:** Conformity to Federal Holiday Due Date Extension

## SUMMARY

This bill expands the definition of a legal holiday for California income and franchise tax purposes to include those legal holidays recognized by the Internal Revenue Service (IRS) that extend the due date for federal returns, payments, and other tax related documents (e.g., Emancipation Day).

## RECOMMENDATION AND SUPPORTING ARGUMENTS

Support.

### Summary of Amendments

The January 4, 2012, amendments deleted the provisions that would have required the Franchise Tax Board (FTB) to annually compile tax expenditure information claimed on tax returns of publicly-traded companies and submit this information to the California Technology Agency (CTA). The January 4, 2012, amendments added language that would define a legal holiday for California income and franchise tax purposes to include those legal holidays recognized by the IRS for purposes of the due date for returns, payments, and other documents.

## PURPOSE OF THE BILL

The purpose of this bill is to help eliminate taxpayer confusion when the Franchise Tax Board's forms and instructions require taxpayers to use federal tax return information, but the due date for federal returns is later than the due date for California returns.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative on January 1, 2013.

Board Position:

S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
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Executive Officer

Date

Chris Beach  
for Selvi Stanislaus

1/6/12

## ANALYSIS

### FEDERAL/STATE LAW

#### Current Federal Law

The Internal Revenue Code (IRC) generally imposes upon taxpayers that file on a calendar year basis a deadline of April 15 for filing income tax returns. When April 15 falls on a Saturday, Sunday, or legal holiday, a return is considered timely filed and payments are considered timely made if filed or mailed on the next succeeding day that is not a Saturday, Sunday, or legal holiday. For federal income tax purposes, a “legal holiday” means a legal holiday in the District of Columbia. Under District of Columbia law, Emancipation Day, April 16, is a legal holiday.<sup>1</sup>

#### *Effect of Emancipation Day on Federal Filing Deadlines<sup>2</sup>*

For taxpayers nationwide, when Emancipation Day, April 16, falls on a:

- Saturday: Friday, April 15 is the observed date and the filing deadline for all tax forms and payments required to be filed or completed on or before April 15, is Monday, April 18.
- Sunday: Monday, April 17 is the observed date and the filing deadline for all tax forms and payments required to be filed or completed on or before April 15, is Tuesday, April 18.
- Monday: Monday, April 16 is the holiday and the filing deadline for all forms and payments required to be filed or completed on or before April 15, is Tuesday, April 17.

Example 1: In 2011, Emancipation Day fell on a Saturday, meaning that it was observed on Friday, April 15, 2011. The filing deadline for all tax forms and payments required to be filed or completed was on or before Monday, April 18, 2011.

Example 2: In 2012, Emancipation Day will fall on a Monday, meaning that it will be observed on Monday, April 16, 2012. The filing deadline for all tax forms and payments required to be filed or completed will be on or before Tuesday, April 17, 2012.

#### Current State Law

The actual due dates of income tax returns and payments are set by statute.<sup>3</sup>

- Calendar-year individual, fiduciary, partnership, and limited liability company income tax returns and payments are due on or before April 15 following the close of the calendar year. The due dates for fiscal-year filers are on or before the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the fiscal year.
- Calendar-year corporation returns and payments are due on or before March 15 following the close of the calendar year. Due dates for corporation fiscal-year filers are on or before the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the close of the fiscal year.
- Exempt returns are due the 15<sup>th</sup> day of the 5<sup>th</sup> full calendar month following the close of the taxable year.
- Estimated tax installments are due quarterly on the 15<sup>th</sup> day of the month.

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<sup>1</sup> IRC sections 6072 and 7503.

<sup>2</sup> Internal Revenue Bulletin 2011-10.

<sup>3</sup> California Revenue and Taxation Code (R&TC) sections 18566, 18601, 18633, 18633.5, 19026, 19136.1, 23771, 23772, and 23774.

By statute, when the last day for filing returns falls on a Saturday, Sunday, or other legal holiday, returns may be filed and payments may be made on the following day without penalty.<sup>4</sup> Similarly, when the FTB is required to mail a notice on or before a certain date, if the notice is mailed on the next business day, it will have the “same effect as if it had been performed on the day appointed.”<sup>5</sup> However, interest computations, statutes of limitation, and extension periods all begin on the actual due date even if it falls on a weekend or holiday.

The FTB is required to design tax forms so that taxpayers can copy figures from, or attach copies of, federal income tax returns to California income tax returns.<sup>6</sup>

Currently, California does not recognize Emancipation Day as a holiday.

### THIS BILL

This bill adds language to expand the definition of a legal holiday for California income and franchise tax purposes (due dates for income tax return, payments, and other related documents) to include legal holidays that are recognized by the IRS. This change gives the FTB statutory authority to change the due dates on forms and instructions where previously those changes were made administratively.

### **PROGRAM BACKGROUND**

The District of Columbia’s Emancipation Day, April 16, which falls close to the April 15 statutory due date for filing most personal income tax returns, as well as for making certain tax-related payments and elections, is not a holiday recognized in California. When Emancipation Day or another holiday that is recognized for federal, but not state, purposes falls on the due date of a tax return, related payment, or other document, a Saturday, Sunday, or Monday, California and Federal income tax returns, related payments, and other documents may have different due dates. For the April 16 Emancipation Day holiday, this will happen in 8 out of the next 19 years. This is 42 percent of the next 19 years, which makes it more than an occasional problem. Because a completed federal income tax return and other federal-related information is necessary to prepare a California income tax return and/or other documents, the FTB has announced, without direct statutory authority, that filing tax returns and related payments can be made, in the affected years, on the same date that corresponding federal tax returns and payments are required by the IRS. This may cause taxpayer confusion because state law does not provide for Emancipation Day, yet the FTB takes it into consideration in the income tax forms and instructions.

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<sup>4</sup> California Code Regs., tit. 18, section 18566, California Government Code sections 11002, 11003.

<sup>5</sup> California Government Code sections 6706-7 cf. IRC section 7503.

<sup>6</sup> R&TC section 19582.

## **OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. *Illinois, Massachusetts, Michigan, and New York* have a statutory due date of the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the year. These states administratively change the due date for filing to match the due date for federal purposes. *Texas* franchise tax returns are due on May 15 and are not affected by Emancipation Day. *Florida* corporate returns are due on the 15<sup>th</sup> day following the due date of the related federal return. Therefore, *Florida* is unaffected by Emancipation Day.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **SUPPORT/OPPOSITION**

Support: On December 1, 2011, the FTB voted 2-0 to sponsor the language included in this bill.

Opposition: None provided.

## **ARGUMENTS**

Pro: A new statute to recognize holidays recognized by the IRS would eliminate the need for the FTB to administratively change the due date in each affected year.

Con: The statutory due date for filing a return or making a payment does not change. California is allowing taxpayers to file and pay later because of a federal holiday that is not recognized in California. Taxpayers should plan accordingly and file and pay by the statutory due date.

## **LEGISLATIVE STAFF CONTACT**

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