Franchise Tax Board

REVISED ANALYSIS

Author:	Benoit	Analyst:	Anne Mazur	Bill Number:	AB 2962
Related Bills:	See Prior Bill Analysis	Telephone:	845-5404	Amended Dates:	March 30, 2006 May 26, 2006
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SUBJECT: Withholding on California Real Estate Limited to Gain on Sale

X REVENUE ESTIMATE UPDATED.

_____ FURTHER CONCERNS IDENTIFIED.

X REMAINDER OF PREVIOUS ANALYSES OF BILL AS AMENDED March 30, 2006 and May 26, 2006, STILL APPLY.

_____ OTHER – See comments below.

SUMMARY OF BILL

This bill would allow sellers of California real estate to choose between rates of withholding.

SUMMARY OF REVISION

The summary of economic impact contained in the department's analyses of the bill as amended March 30, 2006, and May 26, 2006, is being revised to reflect newly available data for taxable year 2004.

Except for this change, the remainder of the department's analyses of the bill as amended March 30, 2006, and May 26, 2006, still apply.

POSITION

Support. On December 1, 2004, the Franchise Tax Board voted 2-0, with the Director of Finance abstaining, to sponsor the language included in this bill.

ECONOMIC IMPACT

Cash-flow Estimate

This bill would result in the following cash-flow impact:

Board Position:			Legislative Director	Date
X S	NA	NP		
SA	O	NAR	Brian Putler	6/26/06
N	OUA	PENDING		

Estimated Cash-Flow* Impact of AB 2962 Effective for tax years beginning on or after 1/1/2007 Assumed enactment after 6/30/2006 ($ in Millions)			
	2006/2007	2007/2008	2008/2009
Withhold at 3⅓ % of Sales Price or 9.3% on Gains	– $70	+ $5	none

*Ultimate tax liabilities are not affected, only the timing of payments.

This estimate does not consider the possible changes in employment, personal income, or gross state product that would result from this bill.

Cash-Flow Estimate Discussion

This bill is expected to affect only the timing of payments, not ultimate tax liabilities.

The current 3⅓ % withholding requirement is expected to result in $1.5 billion in withholding in the 2007 calendar year. This withholding is projected to drop by 10% in 2008. Simulations using the department's 2004 capital gains sample indicate that allowing taxpayers the 9.3%-of-gains option would reduce the 2007 withholding by about 30%, or $460 million. Because it is assumed that half of this withholding takes place in the first half of the 2007 calendar year, only $230 million ($460 x 50%) would have a potential impact on the 2006/07 fiscal year cash flow. The cash-flow estimate is further reduced for the following reasons:

- Taxpayer has already adjusted estimated tax payments for current law (40%)
- Taxpayer has already adjusted wage withholding for current law (15%)
- Taxpayer decides not to make the election even though it would reduce his withholding (15%)

For the first two bullets, it is assumed some taxpayers will have decreased their estimated tax payments or wage withholding to adjust for the real estate withholding at the current rate of 3⅓ % of the sales price. It is further assumed these taxpayers, therefore, would not make the election for the reduced real estate withholding based on gain on sale. For the third bullet, it is assumed that some taxpayers would choose, for other reasons, not to make the election.

The resulting estimated impact for fiscal year 2006/2007 is a cash-flow loss of $70 million. This would largely be a one-time event. The cash-flow loss would reverse in the subsequent year, but would be somewhat offset by a smaller cash-flow loss for sales in that year – real estate withholding is forecasted to drop 10% from 2007 to 2008 – resulting in a cash-flow gain for 2007/2008 of $5 million. The term "cash-flow loss" means that while ultimate tax liabilities would not be changed, the timing of tax payments through withholding relative to current law by this bill would be impacted.

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