SCS Agency
Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Davis	Analyst:	Kristina E. North	Bill Number:	AB 417
Related Bills:	See legislative history	Telephone:	845-6978	Amended Date:	01/05/98
		Attorney:	Doug Bramhall	Sponsor:	

SUBJECT: AMT Depreciation Technical/Technical To Delete Repeal Language in Credits

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _________.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _________.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO ________________________.

_____ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED ____________ STILL APPLIES.

__X__ OTHER - See comments below.

SUMMARY OF BILL

Under the Bank and Corporation Tax Law (B&CTL), this bill would make a technical correction to the alternative minimum tax (AMT) provisions to refer to the depreciation provisions under the B&CTL rather than those under the Internal Revenue Code (IRC).

Under the Personal Income Tax Law (PITL) and the B&CTL, this bill would make nonsubstantive technical changes to various credits by eliminating redundant language regarding the carryover of repealed or inoperative credits.

SUMMARY OF AMENDMENT

The January 5, 1998, amendment removed language allowing "top tier" corporate taxpayers to elect to include all the income and apportionment factors of the members of a commonly controlled group in a combined report, regardless of whether the group members are unitary.

The January 5, 1998, amendment added the language discussed in this analysis.

The background, specific findings and policy considerations for each of these provisions will be discussed separately.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Department Director Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
__X__ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR ________ PENDING	____ S ____ O ____ SA ____ OUA ____ N ____ NP ____ NA ____ NAR DEFER TO ____________	Position Approved ____ Position Disapproved ____ Position Noted ____
Department/Legislative Director Date Gerald H. Goldberg 2/9/98	Agency Secretary Date	By: Date:

EFFECTIVE DATE

This bill would be effective for taxable or income years beginning on or after January 1, 1999.

ALTERNATIVE MINIMUM TAX DEPRECIATION

BACKGROUND

In 1987, California enacted legislation that established AMT in lieu of the previous tax on preference income. The California legislation substantially conformed state law to the AMT provisions adopted at the federal level as part of the Tax Reform Act of 1986. The AMT at both the federal and state levels was established to ensure that no taxpayers with substantial economic income could avoid all tax liability by using exclusions, deductions, and credits (tax preference items).

SPECIFIC FINDINGS

Existing state and federal laws generally allow as a depreciation deduction a reasonable allowance for the exhaustion, wear, tear, and obsolescence of property used in a trade or business or property held for the production of income.

Existing federal law uses the Modified Accelerated Cost Recovery System (MACRS) for property placed in service after 1986. Under MACRS, the depreciation deduction is computed using the “applicable depreciation method,” the “applicable recovery period,” and the “applicable convention.” MACRS provides three applicable depreciation methods: 200% declining balance, 150% declining balance, and straight-line. The applicable recovery period ranges from three to 50 years, depending on the type of property. The applicable convention requires that property placed in service be treated as being placed in service on the mid-point of either the taxable year (half-year convention), the month (mid-month convention), or the quarter (mid-quarter convention).

Existing federal law provides an alternative depreciation system (ADS), which provides generally longer recovery periods than the standard MACRS and requires the straight-line depreciation method. Six types of property are subject to ADS.

Existing federal law requires that taxpayers subject to AMT compute depreciation differently for AMT than for regular tax. For most depreciable real property and property depreciated under the straight-line method for purposes of the regular tax, AMT depreciation is computed under ADS. For all other property, AMT depreciation is computed under ADS except that the 150% declining balance method is substituted for straight-line depreciation (switching to straight-line in the year necessary to maximize the allowance). This 150% declining balance method is not allowed if the straight-line method was used for regular tax purposes. This restriction prevents the possibility of AMT depreciation being greater than regular tax depreciation.

Existing state law provides that, with respect to reading state law that is conformed to federal law, due account be made for differences in federal and state terminology, effective dates, substitutions of income for taxable year, and other obvious differences. **Existing state law** also provides that any reference to a specific provision of the IRC shall include any modifications of that provision.

Existing state PITL generally conforms to the federal MACRS, uniform capitalization rules, and to the federal AMT depreciation rules.

Existing state B&CTL does not conform to the federal MACRS or ADS. Instead, property must be depreciated over its estimated useful life, which is the period over which the asset reasonably may be expected to be useful in the trade or business. Taxpayers may elect to use the useful life specified under the federal class life Asset Depreciation Range system (ADR). ADR groups assets into more than 100 classes and assigns an asset guideline period, or useful life, to each class.

Existing B&CTL conforms to the federal AMT depreciation. The B&CTL provisions, by conformity, refer to depreciation computed under IRC sections 167 and 168 for for regular tax purposes. Since regular tax computations under the B&CTL do not utilize the federal depreciation rules of IRC Sections 167 and 168, the California rules are inconsistent with the depreciation rules for corporations for regular tax purposes.

This bill would replace the references to federal law for California AMT purposes with references to the depreciation provisions under the B&CTL.

Policy Consideration

Clarifying references aids the administration of the law by alleviating any potential confusion that may otherwise occur.

DELETE REDUNDANT EXISTING CREDIT REPEAL LANGUAGE

LEGISLATIVE HISTORY

AB 802 (Ch. 1352, Stats. 1989)

SPECIFIC FINDINGS

The Revenue and Taxation Code (R&TC) provides general rules which apply to all income and franchise tax credits, unless the individual credit provisions specify otherwise. These general rules include the rule that any remaining credit carryover allowed by a section that has been repealed or made inoperative may be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

The general rules were first enacted in 1989 to simplify the administration of tax credits by eliminating the need for each credit to provide for the treatment of excess credit carryover. Seven personal income tax credits and seven bank and corporation tax credits contain carryover language (where the underlying credit statute has been repealed) that is unnecessary and duplicative of the general provision.

This bill would delete redundant repeal language in existing credits.

Policy Considerations

This bill would eliminate redundant language making the law easier to administer and reducing any potential confusion that may otherwise occur.

Implementation Considerations

This bill would not impact the department's programs or operations.

FISCAL IMPACT

Departmental Costs

This bill would not impact the department's costs.

Tax Revenue Estimate

This bill would not impact state income tax revenue.

BOARD POSITION

Support.

The Franchise Tax Board voted to support this language at its meeting of November 17, 1997.