SENATE RULES COMMITTEE
Office of Senate Floor Analyses
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CONSENT

Bill No: SB 264
Author: Niello (R)
Amended: 5/4/23
Vote: 21- Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/3/23
AYES: Caballero, Seyarto, Dahle, Durazo, Glazer, Skinner, Wiener
NO VOTE RECORDED: Blakespear

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Income taxes: deduction: disaster losses

SOURCE: Author

DIGEST: This bill extends the sunset on the ability for taxpayers to deduct disaster losses until the 2028 taxable year.

ANALYSIS:

Existing law:

1) Allows various income tax credits, deductions, exemptions, and exclusions.

2) Does not automatically conform to changes in federal tax law, except for specific retirement provisions; instead, the Legislature must affirmatively conform to federal changes.

3) Allows, in conformity with federal law, taxpayers to elect to claim a loss sustained from a disaster, either in the year the loss occurs or in the year preceding the loss (SB 35, Wolk, Chapter 230, Statutes of 2015).

4) Permits the deduction under both the Personal Income and Corporation Taxes.

5) Specifies that for state tax purposes, the disaster must occur in any city, county, or city and county in this state that is proclaimed by the Governor to be in a state of emergency

6) Provides that any loss claimed as a deduction cannot be compensated for by insurance or otherwise.

7) Allows taxpayers to claim the loss notwithstanding any tax filing deadline extension, or suspension of net operating losses for the taxable year where the taxpayer claims the deduction, with one exception, and updates the cross reference for the exception.

8) Sunsets its provisions after the 2023 taxable year, and repeals the section on December 1, 2024.

This bill:

1) Extends the sunset on California's conformity to federal disaster loss treatment in the Personal Income and Corporation Tax Laws until the 2028 taxable year, and its repeal date until December 1, 2029.

2) Contains legislative findings and declarations to comply with Section 41 of the Revenue and Taxation Code.

Background

There have been many Governor-proclaimed disasters in recent years. Over the past few months, the Governor has proclaimed the following disasters:

- April 2023 – severe winter storms in the counties of Contra Costa, Riverside, San Diego, and Yolo

- February/March 2023 – severe winter storms in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Sacramento, San Benito, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Sonoma, Stanislaus, Trinity, Tulare, Tuolumne, and Yuba

- December 2022/January 2022 – severe winter storms in all counties

- December 2022 – earthquake in Humboldt county
- September 2022 – tropical storm in the counties of Imperial, Inyo, Los Angeles, Riverside, and San Bernardino

SB 264 would extend California's conformity with federal law to allow taxpayers to claim disaster loss deductions resulting from future disasters in either the current or previous taxable year, thereby allowing taxpayers file an amended return claiming the loss, and receive an immediate tax refund.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 5/17/23)

California Farm Bureau Federation

OPPOSITION: (Verified 5/17/23)

None received

ARGUMENTS IN SUPPORT: According to the author, "California has seen numerous types of disasters in recent years ranging from wildfires, winter flooding and earthquakes. Current law has helped provide tax relief automatically when the Governor or President proclaims a state of emergency but will expire next year. SB 264 extends the sunset date for the Disaster Loss Tax Deduction for 5 years, allowing individuals impacted by disasters to continue receiving tax relief."

Prepared by: Jessica Deitchman & Colin Grinnell / GOV. & F. / (916) 651-4119
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