

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 264 (Niello) – As Amended June 19, 2023

Policy Committee: Revenue and Taxation

Vote: 11 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill extends, for five years, the deduction under the Personal Income Tax Law and Corporation Tax Law for disaster losses.

This bill also declares the purpose of extending the tax deduction and requires, by May 1, 2025, and annually thereafter, the Franchise Tax Board (FTB) to submit specified performance indicator data to the Legislature.

FISCAL EFFECT:

- 1) General Fund (GF) revenue loss of approximately \$6,000 per disaster, based on historical data. For reference, the Governor issued 19 emergency proclamations in 2021 related to multi-county drought, fires, heat waves, high winds, and winter storms, as well as a pipeline spill. However, as the frequency and severity of disasters continue to increase in California, there will likely be a corresponding increase in GF revenue loss. To the extent there are more than 25 relevant disasters in a year, GF revenue loss could exceed \$150,000 that year.

As Comment 2 discusses in greater detail below, GF revenue loss stems from affected taxpayers electing to claim a disaster loss and amend their prior year tax returns instead of waiting to claim a casualty loss when filing their current year tax returns. FTB assumes a taxpayer would choose the loss reporting option most beneficial to their financial situation.

- 2) Minor and absorbable costs to FTB to continue administering the deduction and report specified data to the Legislature.

COMMENTS:

- 1) **Purpose.** The author notes “California has seen numerous types of disasters in recent years ranging from wildfires, winter flooding and earthquakes.” The author intends this bill to extend, for five years, the sunset date on current law set to expire next year that “has helped provide tax relief automatically when the Governor or President proclaims a state of emergency.” This bill is supported by the California Farm Bureau Federation.
- 2) **Casualty and Disaster Losses.** A casualty loss occurs when property is lost or damaged due to an earthquake, fire, flood, or similar event that is sudden, unexpected, or unusual. A taxpayer generally qualifies for a casualty loss deduction under federal and state law when insurance or other reimbursements do not cover the property damage amount. The casualty loss deduction can be claimed in the taxable year the loss occurs.

Existing state law allows, for taxable years beginning before January 1, 2024, a casualty loss to be taken as a disaster loss when the loss is sustained in an area the President or Governor declares a state of emergency and because of the declared disaster. The taxpayer may elect to claim the disaster loss in either the year the loss occurs, similar to a casualty loss, or the year preceding the loss by filing an amended return for the prior year. If the deduction reduces prior year tax liability, FTB can issue a more immediate tax refund, thus providing the taxpayer with cash relief to help rebuild. This bill extends the disaster loss deduction's sunset date for five additional years through taxable years beginning before January 1, 2029.

Analysis Prepared by: Irene Ho / APPR. / (916) 319-2081