

SENATE THIRD READING

SB 264 (Niello)

As Amended June 19, 2023

Majority vote

SUMMARY

Extends by five years the existing deduction for disaster losses.

Major Provisions

- 1) Extends, from taxable years beginning before January 1, 2024, to taxable years beginning before January 1, 2029, the sunset on the existing deduction for disaster losses under the Personal Income Tax Law and the Corporation Tax Law.
- 2) Makes findings and declarations in compliance with Revenue and Taxation Code Section 41.
- 3) Requires the Franchise Tax Board to annually submit the number of taxpayers allowed this bill's deduction beginning on May 1, 2025.
- 4) Repeals this bill's provisions on December 1, 2029.
- 5) Takes immediate effect as a tax levy.

COMMENTS

Automatic disaster loss relief: Prior to 2015, California taxpayers residing in disaster areas could not automatically deduct the losses resulting from a Governor-proclaimed state of emergency on their state tax return. Rather, California taxpayers could only deduct those losses resulting from a state of emergency proclaimed by the President without action by the state Legislature, and any Governor-proclaimed disaster would benefit from a loss deduction only if the Legislature chose to authorize the deduction for specific areas. Subsequently, the Legislature enacted SB 35 (Wolk), Chapter 230, Statutes of 2015, which provided modified conformity to federal law by allowing a loss deduction for disaster areas under a state of emergency as proclaimed by the Governor, thereby automatically authorizing California taxpayers a disaster loss deduction for Governor-proclaimed disasters. The existing deduction sunsets on January 1, 2024, and this bill would extend that sunset by five years.

According to the Author

California has seen numerous types of disasters in recent years ranging from wildfires, to 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 five years, allowing individuals impacted by disasters to continue receiving tax relief.

Arguments in Support

The California Farm Bureau Federation, writing in support of a previous, but substantively similar, version of this bill, states, in part:

This past winter brought historic amounts of precipitation to California, inundating the state with more water than the land and infrastructure could handle. The result from relentless

atmospheric river events has been devastating flooding across farms and ranches. Even more flooding is possible, as the state's historic snowpack begins to melt. Farmers and ranchers have taken dramatic actions to try to save their crops and livestock during these disasters, and the ability to recover some losses through the Disaster Loss Tax Deduction is an important tool to sustain the impact from disasters.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 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. The Franchise Tax Board (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.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Durazo, Eggman, Glazer, Grove, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Dodd, Gonzalez

ASM REVENUE AND TAXATION: 11-0-0

YES: Irwin, Wallis, Bains, Grayson, Pacheco, Jim Patterson, Petrie-Norris, Luz Rivas, Ta, Valencia, Zbur

ASM APPROPRIATIONS: 16-0-0

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Soria, Weber, Wilson

UPDATED

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