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1995 Revenue and Taxation Chaptered Bill Report

Assembly Committee on Revenue and Taxation

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CALIFORNIA LEGISLATURE

1995

**Revenue and Taxation
Chaptered Bill Report**



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JUANITA M. MCDONALD
CHAIRWOMAN
Assembly Committee on Revenue and Taxation

ASSEMBLYMAN
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JIM LITES
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January 17, 1996

Dear Colleague:

The Assembly Revenue and Taxation Committee, in the last session, 1995, was very active with 173 bills referred to the Committee for consideration, and 128 bills presented for hearing. Many important tax policy issues were heard by the Committee, some with significant revenue implications for the state. These implications became vital to the Committee's deliberations since California appeared to be experiencing a mild economic recovery. Job losses were leveling off and economists were forecasting modest growth of approximately two percent. However, the Legislative Analyst projected a \$1.9 billion deficit for the state General Fund for the 1995-96 fiscal year.

The Committee began the year with a fiscal overview from the Legislative Analyst's Office regarding the condition of the state budget and the salient issues in California tax policy. One of the issues facing the Legislature was the scheduled roll-back of the two upper personal income tax brackets of 10% and 11%. In addition the Governor proposed an across the board tax reduction of 15%, implemented over three years. Other issues which came before the Committee included economic development incentive areas, commonly known as enterprise zones, extension of the new Manufacturer's Investment Tax Credit to industries other than high technology companies, tax incentives designed to create jobs to compensate in part for federal cutbacks in the aerospace industry and tax incentives to enhance California's competitiveness in the air transportation industry.

As Chairwoman, I elected to hold a special hearing on Governor Wilson's tax reduction proposal in order to provide the public with as much information as possible. The hearing for AB 1369 (Brulte) was televised live throughout the state, and included a segment where viewers called in via a toll-free number to convey their opinions directly to the author of the bill and Committee members. The hearing was conducted in a fair and even-handed manner and allowed all viewpoints to be expressed.

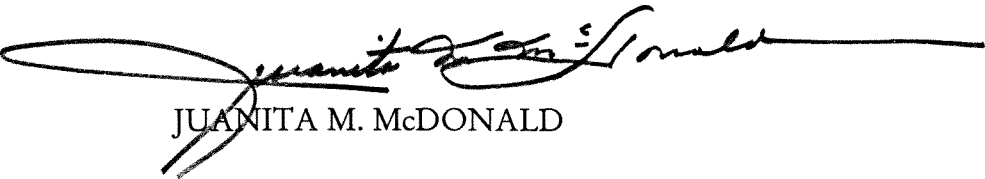
During the course of the year, various tax policy issues surfaced which led the Chairwoman to call for further study during the legislative interim. These issues included the impact on state revenues of tax relief for natural disaster victims, the increase in legislation to place voluntary contributions on the tax form (commonly referred to as check-offs), the structure of the state tax system, and enterprise zones. During the fall of 1995, all of these issues were addressed at special hearings of the Committee.

The Committee found that while natural disasters impacted state General Fund, disaster losses were not distinguished from other deductible losses, and disaster losses did not appear to overburden the state General Fund. With regard to check-offs, the Franchise Tax Board presented the Committee with several options for accommodating the increasing numbers of check-offs, but indicated the space constraints on the tax form may necessitate design alternatives. The tax structure hearing was precipitated in part by the ongoing discussions at the federal level regarding establishment of a flat tax. The Committee explored the different types of flat tax proposals being discussed at the federal level, and heard from experts on the potential impact of a flat tax on California, particularly in the municipal bond and real estate industries. The final hearing was held at California State University, Long Beach and addressed the current condition of the enterprise zone program. The Committee heard from the State Auditor General, who released an audit of the program in November of 1995. The Committee also found the input of local municipal enterprise zone administrators to be very insightful regarding local efforts to market enterprise zone tax incentives.

For each special hearing, including the hearing on the Governor's tax reduction proposal, a background paper was prepared by the Committee staff to introduce the topic and highlight current issues. Copies of these background papers can be obtained by contacting the Committee.

The balance of this report contains a list and brief description of the 45 bills heard by the Assembly Revenue and Taxation Committee and ultimately signed into law by the Governor. Should you have any questions regarding this report or Committee actions during 1995, please contact the Committee staff at (916) 322-3730.

Warm Regards,



JUANITA M. McDONALD

AB 3/Chapter 536 (Baca)

Extends the disabled veterans property tax exemption for disabled veterans through the year 2000. Totally disabled veterans may claim an exemption of \$100,000. Totally disabled veterans with a household income of less than \$24,000 may claim an exemption of \$150,000.

AB 251/Chapter 290 (V. Brown)

Expanded the definition of nonprofit organizations exempted from imposition of sales and use tax on tangible personal property. The definition now includes handcrafted items or items of an artistic nature and design, created or made by either individuals with developmental disabilities or children with severe emotional disturbances. The price of each item increased from \$10.00 to \$20.00.

AB 315/Chapter 399 (McDonald)

Defines special use properties and how these properties will be assessed for property tax purposes. The county assessor shall not add a valuation component for entrepreneurial profit (E.P.) unless evidence for the presence of E.P. exists. Defines E.P. and "total cost" utilized to assess special use properties.

AB 511/Chapter 32 (Harvey)

Authorizes the county assessors to assess inter-county pipeline lands and rights-of-way under the same ownership as a single parcel. Provides that the assessed values and revenues attributable to such a single parcel be allocated in the same manner as state assessed revenues.

AB 694/Chapter 620 (Harvey)

Provides an exemption from the sales and use tax for medicines and drugs administered to animal life as an additive to feed and drinking water. The primary purpose for such additives is for the prevention and control of disease of food or non-food animals sold in the regular course of business.

AB 849/Chapter 92 (Vasconcellos)

Makes appropriations from various funds in augmentation of the 1994-1995 Budget Act to fund contingencies or emergencies in the current year as requested by the Administration.

AB 946/Chapter 189 (Caldera)

Authorizes counties, upon approval of the Board of Supervisors, to sell tax certificates for delinquent property taxes for no less than the delinquent amount.

AB 1011/Chapter 222 (Weggeland)

Authorizes a pilot program for the Franchise Tax Board to issue "Order to Withhold" (OTW's) by electronic technology and that financial institutions may participate in the pilot program on a voluntary basis. OTW's may be issued for tax or child support delinquencies.

AB 1426/Chapter 220 (Pringle)

Modifies how property taxes will be assessed on private railroad cars by simplifying the methodology of measuring the fair market value.

AB 1620/Chapter 164 (McDonald)

Allows counties to increase the number of assessment appeals boards and increases the value of assessed property for which an appeal for reduction may be heard by a hearing officer. Also allows the assessor to correct an erroneous entry on the property tax roll resulting from a failure to account for a decline in the taxable value of real property within one year of the entry.

AB 1666/Chapter 647 (Takasugi)

Exempts from the sales and use tax food products currently taxed under the 80/80 rule. The seller must be able to segregate and tabulate food items in the cash register at the same time of sale. Decreases the liability of a taxpayer who has the ability to segregate food items.

AB 1671/Chapter 980 (Takasugi)

Provides an exemption from the sale and use tax for balloon catheters, including intra-aortic balloon pump catheters and percutaneous transluminal coronary angioplasty catheters. The intent is to clarify that certain balloon catheters are medical devices and should not be subject to the sales and use tax.

AB 1X/Chapter 3 (V. Brown)

Provides relief to localities whose property tax revenue was reduced as a result of reassessment of properties damaged or destroyed by floods and storms in any county declared to be in a state of disaster by the Governor in 1995. Specifically this bill will reimburse counties, cities and special districts, but not "basic aid" school districts, for lost property tax revenues. A process for certifying the amount of loss and a time frame for payment amounts certified is specified.

AB 3X/Chapter 4 (Firestone)

Provides relief to localities whose property tax revenue were reduced as a result of reassessment of properties damaged or destroyed by floods and storms in any county

declared to be in a state of disaster by the Governor in 1995. Specifically, this bill will reimburse counties, cities and special districts, but not "basic aid" school districts, for lost property tax revenues. A process or certifying the amount of loss and a time frame for payment amounts certified is specified.

AB 12X/Chapter 10 (Brewer)

Extends the time period in which counties may submit claims to the state for property tax lost due to property tax re-assessments following disasters in the 1993-94 fiscal year. The time is extended until December 31, 1995.

AJR 22/Chapter 89 (Morrissey)

Memorializes the President and Congress to enact legislation which would eliminate the two tier taxation of social security income and instead prevent the taxing of such income until a taxpayer's personal income exceeds \$34,000 or \$44,000 if married. The measure also urges indexing the income limits to inflation.

SB 3/Chapter 316 (Thompson)

Exempts from sales tax tangible personal property sold by Veterans of Foreign Wars organizations when proceeds are used to assist disabled veterans, and the dependents, widows or orphans of veterans. It also finds and declares the "Buddy Poppy" program to be one of the most effective fund-raisers for disabled veterans.

SB 13/Chapter 2 (Beverly)

Provides clarifying and technical changes to the Limited Liability Corporation (LLC) law. A LLC may be assessed a penalty for failure to file a tax return. Waives the interest penalty if the LLC fails to pay the annual franchise tax prior to January 3, 1995. Specifies how to determine the total income of a LLC for the purpose of determining the income-based fee to be assessed.

SB 53/Chapter 687 (Craven)

Extends the time period in which an intermediate owner may hold the mobile home park before it is transferred to the owners association or to the individual tenants. The time period is extended from 18 to 36 months. In disaster areas the time period is extended to 76 months. Such parks must have been initially transferred on or after October 1, 1991, and before October 31, 1991. Extensions applicable to mobile homes located within a disaster area is effective commencing with the 1995-1996 fiscal year. Also provides guidelines for reappraisal of mobile home park if specified conditions are not satisfied.

SB 209/Chapter 206 (Solis)

Provides that the California Firefighters Memorial Fund does not have to meet the \$250,000 annual threshold required for income tax return "check-off" programs unless the sunset date is repealed.

SB 298/Chapter 475 (Campbell)

Eliminates the withholding requirement on compensation paid to non-resident directors of California corporations for director services. Requires a taxpayer paying wages, salaries, fees or other compensation to a non-resident director to file an information return with the Franchise Tax Board.

SB 311/Chapter 240 (O'Connell)

Exempts from the sales and use tax meals delivered by a non-profit, home delivery meal provider to home-bound elderly or disabled persons.

SB 327/Chapter 499 (Campbell)

Provides that the March 1st lien date for which property assessed for tax purposes by the county assessor be changed to January 1st commencing January 1, 1997, and changes other related statutory dates.

SB 531/Chapter 696 (Kelley)

Exempts persons who sell only tax-exempt animal feed from the requirement to obtain a seller's permit. In the case of any seller of hay who is also a grower of hay, the exemption will only apply to growers who are either a grower who produces hay for sale only to beef cattle feed-lots or dairies, or a grower who sells exclusively through a farmer-owned cooperative.

SB 534/Chapter 496 (Hughes)

Clarifies that the welfare exemption is applicable to taxes levied to service voter approved indebtedness. It also makes changes pertaining to properties that qualify for the welfare exception by requiring tax-defaulted property to be sold at the higher of 50% of the fair market value, or the total amount necessary to redeem costs, as defined. The bill provides an exception to this provision where no acceptable bids have been received. The assessor must determine the fair market value of the property within one year immediately preceding the date of the public auction. The county may be reimbursed for the cost of such sales.

SB 612/Chapter 495 (Lewis)

Provides that there is no remedy against the state for the imposition of an unconstitutional local tax. Establishes provisions for the transfer of funds collected for reimbursement to the claimant and for distribution of proceeds.

Makes provisions for claimants refunds in the case of Hoogasian Flowers, Inc. v. State Board of Equalization. In the case of legal action filed challenging the constitutionality of the tax, the local jurisdiction shall place proceeds from the tax into an escrow account pending a final determination of the legal action.

SB 633/Chapter 845 (Kopp)

Expands the definition of tax returns to include those filed electronically. Creates new penalties and crimes for persons who advise or file for an income tax refund which they are not entitled to receive. The signature on the refund warrant is considered valid evidence of these charges.

SB 657/Chapter 498 (Maddy)

Makes various changes to property tax statutes as follows:

- 1) Requires the Board of Equalization to certify a county as an eligible to receive its costs of administering the supplemental roll and gives the requirements for certification.
- 2) Imposes restrictions on what kind of possessory interest may be assessed and defines possessory interests.
- 3) Provides that the assessor has the burden of proof in cases where a taxpayer is appealing an escape assessment, except, when the taxpayer fails to provide necessary information.
- 4) Sets out the requirements for payment of escape assessments.
- 5) Reflects recent case law specifying that intangible assets and rights are not subject to taxation. Provides that intangible assets and rights may not enhance or be reflected in the value of real property interests that are so conveyed, except that those interests may be assessed and valued by assuming the presence of intangible assets and rights that are necessary to put these real property interests to beneficial or productive uses.
- 6) Sets out the requirements for disclosure of assessor records. Requires the assessor provide the taxpayer with written findings of audits.
- 7) Excludes a holder of a possessory interest in property owned by a state or local government entity from filing a preliminary change in ownership report and requires the

relevant governmental entity that owns the fee interest to file the required report.

- 8) Makes changes to the assessment appeals process and clarifies that the change in interest calculation was not meant to be retroactive.

SB 712/Chapter 494 (Senate Revenue & Taxation Committee)

Makes two technical corrections to the "small cities" Enterprise Zone statute and Los Angeles Revitalization Zone statutes, as well as other non-substantive, technical changes.

SB 716/Chapter 527 (Senate Revenue & Taxation Committee)

Makes a series of technical and administrative changes to property tax administration provisions.

SB 717/Chapter 895 (Thompson)

- 1) Authorizes the City of Fort Bragg to levy a transactions and use tax at a rate of either 0.25 or 0.50% subject to approval by the majority vote of all members of the city council and by a two-thirds vote of the qualified voters in the city. Requires that funds collected be used for the repair, replacement, construction, or reconstruction of the city's streets and road systems. This provision of the bill will sunset on January 1, 2002.
- 2) Authorizes the Board of Supervisors of San Joaquin County to levy a transactions and use tax at a rate of .125% subject to approval by the majority vote of all members of the board of supervisors and by a two-thirds vote of the qualified voters in the county. Requires that funds collected be used for county-wide library programs and operations. Specifies that the transactions and use tax may not be in effect for more than 10 years.

SB 718/Chapter 555 (Senate Revenue & Taxation Committee)

Makes a series of technical and administrative changes to tax statutes administered by the Board of Equalization.

SB 720/Chapter 69 (Senate Revenue & Taxation Committee)

Conforms to federal law so that liens become effective in accordance to federal bankruptcy statutes.

SB 721/Chapter 65 (Senate Revenue & Taxation Committee)

Increases the income level at which an individual must file a tax return and provides that the income level thresholds be indexed annually for inflation beginning in 1996.

SB 722/Chapter 497 (Senate Revenue & Taxation Committee)

Makes technical changes and clarifies that the general non-reassessment policy (for the acquisition of a less-than 50% interest) would apply to "the purchase or transfer of ownership interest in a partnership with regard to whether it is a continuing or a dissolved partnership." Reverses the Zapara decision. The reversal is applicable to transfers taking place in 1996 and thereafter.

SB 724/Chapter 962 (Lockyer)

Prohibits any local government from imposing any tax, fee or charge on the sale of any tradable securities, such as stocks and bonds. Makes technical changes to AB 946.

SB 821/Chapter 491 (Hurtt)

Requires local assessors to annually re-appraise property whose value (pursuant to Proposition 8) has been reduced below the Proposition 13 adjusted base-year value. Annual reappraisals would continue, at current market value, until the value again reached the Proposition 13 adjusted base-year value.

SB 887/Chapter 491 (Hughes)

Defines "substantial unintended noncompliance." This provision applies to taxpayers who claimed relief on or before December 31, 1994. Eliminates the requirement that Mexican and Canadian affiliates of U.S. based multinational corporations be included in the water's edge election.

SB 923/Chapter 204 (Mello)

Authorizes redevelopment agencies, with an affirmative vote of the governing bodies of both the city and the county in which the redevelopment agency is located, to rebate property tax revenues.

SB 991/Chapter 933 (Kopp)

This bill:

- 1) Sets out the requirements for a party to a civil action, in which the primary issue is the value of real property, to review, inspect and copy those materials that are available under current law to the assessee.
- 2) Requires that insurance companies file a one-time statement prior to July 1, 1996, that identifies all real property in the county that is held on January 1, 1996, in separate accounts, and describes the details of any transfers of real property interest in those separate accounts that occurred on or after January 1, 1985, and before January 1, 1996. Imposes a \$1,000 penalty for failure to file by July 1, 1996. This section of the bill becomes inoperative on January 1, 1997, and is repealed effective January 1, 1998.

- 3) Provides that each person who owns, controls, manages or possesses real property that is held in a separate account by an insurance company to file an annual signed property statement including information pertaining to the separate accounts and transfers of real property interest.
- 4) Provides that life insurance companies who complete a real property transaction requiring the Insurance Commissioner's approval to file a copy of the application with the assessor. These provisions sunset January 1, 1997.

SB 1105/Chapter 889 (Leslie)

Authorizes the City of Truckee to levy a transactions and use tax at a rate of 0.5% subject to approval by the majority vote of all members of the city council and by a two-thirds vote of the qualified voters in the city. Requires that funds collected be used for the repair, replacement, construction, or reconstruction of the town's streets and road systems.

SB 1131/Chapter 34 (Costa)

Makes the following changes to diesel fuel tax law:

- 1) Allows until July 1, 1997 the postponement of payment of the excise tax by a wholesaler to a supplier until five days before the supplier is required to remit the tax to the state.
- 2) Allows the United States and its instrumentalities to use dyed (untaxed) diesel fuel on the highway and purchase dyed diesel fuel at the refinery.
- 3) Allows until July 1, 1997 a supplier to claim a bad debt deduction for the excise tax paid on amounts found to be un-collectable.

SB 1153/Chapter 486 (O'Connell)

Creates the Drug Abuse Resistance Education (D.A.R.E.) Fund designation on the state tax return. Requires that if by September 1 of any calendar year the Franchise Tax Board determines contributions to the fund have not reached at least \$250,000 for that year, the check-off designation be removed from the tax return for the subsequent year. This bill sunsets January 1, 1999.

Requires that the check-off designation for DARE be removed from the tax return for the subsequent year, if the Franchise Tax Board determines that contributions to the fund have not reached at least 250,000 by September 1 of any calendar year.

SB 1158/Chapter 487 (Johannessen)

Creates the California Military Museum Fund (CMMF) check-off on the state tax return. Requires that if by September 1, of any calendar year the Franchise Tax Board determines contributions to the fund have not reached at least \$250,000 for that year, the check-off designation to be removed from the tax return for the subsequent year. The check-off sunsets January 1, 2000.

SBX1 2/Chapter 5 (Thompson)

Provides the state shall reimburse each county, for which a state of disaster was declared, the estimated loss of property tax revenue lost as a result of the storms and floods of 1995. The estimated loss of revenue shall not include tax revenue reductions to school districts and county offices of education. Makes provisions for taxpayers who suffered losses as a result of the 1995 storms and floods.