

(Without Reference to File)

CONCURRENCE IN SENATE AMENDMENTS

AB 85 (Committee on Budget)

As Amended June 10, 2020

2/3 vote. Budget Bill Appropriation Takes Effect Immediately

**SUMMARY:**

This is the Revenues trailer bill for the 2020-21. It contains the necessary changes related to the 2020 Budget Act.

**Major Provisions**

*Used Car Dealer Sales Tax*

- 1) Requires any licensed car dealers, other than new vehicle dealers, to collect and remit to the Department of Motor Vehicles (DMV) applicable sales tax, measured by the sales price of the vehicle with the registration fee. This requirement would be effective January 1, 2021.
- 2) Requires used vehicle dealers to remit applicable sales tax along with the Report of Sale (ROS) and registration fees to DMV within 30 days from the date of sale.
- 3) Requires DMV to withhold registration of vehicles purchased from used motor vehicle dealers until the dealer pays to DMV sales tax measured by the sales price together with any penalty.
- 4) Imposes upon a used vehicle dealer a penalty for failure to timely remit sales tax if that dealer is subject to the DMV penalty for failure to make a timely application for registration.
- 5) Requires used vehicle dealers to continue to file sales tax returns with CDTFA and impose interest and penalties for sales tax not timely paid.

*Net Operating Loss Suspension*

- 6) Suspends the use of net operating loss (NOL) deductions for taxpayers with business income in excess of \$1 million for 2020, 2021, and 2022. Applies the suspension to both personal income tax and corporation tax taxpayers.
- 7) Extends the carryover period for up to three years, as specified, for any net operating loss for which a deduction is denied pursuant to the changes made by this bill.

*Limit Tax Credits*

- 8) Limits the use of business incentive tax credits to offset no more than \$5 million in tax liability for 2020, 2021, and 2022. Makes this suspension applicable to both personal income tax and corporation tax taxpayers.

- 9) Provides that the amount of any credit otherwise allowable that is not allowed due to the application of this bill, will remain a credit carryover amount and provides that the carryover period will be increased by the number of taxable years the credit or any portion thereof was not allowed.
- 10) Makes similar/conforming changes to the Sales and Use Tax Law in relation to the Film and Television Tax Credit and laws governing the gross premium tax on insurers.
- 11) Exempts the Low Income Housing Tax Credit from the \$5 million limit.

*Minimum Franchise Tax First Year Exemption*

- 12) Provides that every limited partnership, limited liability partnership and limited liability company that files, registers or organizes to do business in the state, is exempted from payment of the annual tax of \$800 in its first taxable year.
- 13) Applies for taxable years beginning on or after January 1, 2021 and expires on January 1, 2024.

*Menstrual Hygiene and Diaper Sales and Use Tax Exemption*

- 14) Extends the sales and use tax exemption for the sale of, or the storage, use, or other consumption of, diapers for infants, toddlers, and children, and menstrual hygiene products from January 1, 2022 to July 1, 2023.

*Film and Television Tax Credit Carryforward*

- 15) Aligns the carryforward period in 2.0 Program from 6 years to 9 years consistent with the 3.0 program.

*Individual Shared Responsibility*

- 16) Requires the non-coverage penalty to be collected along with other interest-bearing debt.
- 17) Limits the future maximum monthly penalty for a responsible individual with an applicable household size of 5 or more individuals to the current maximum monthly penalty for a responsible individual with an applicable household size of 5 individuals.
- 18) Corrects drafting errors in the original bill regarding definitions of and references to “responsible individual” and “applicable household member.”
- 19) Authorizes the FTB to adopt regulations to implement the Individual Shared Responsibility Penalty.

*Advanced Strategic Aircraft Credit*

20) Provides that for taxable years, beginning on or after January 1, 2020, to January 1, 2026, the Advanced Strategic Aircraft Credit could be used to reduce the alternative minimum tax.

**The Senate Amendments:**

See above.

**COMMENTS:**

This bill is a budget trailer bill within the overall 2020-21 budget package to implement actions related to revenues.

**According to the Author:**

None.

**Arguments in Support:**

None on file.

**Arguments in Opposition:**

None on file.

**FISCAL COMMENTS:**

The provisions of this bill result in a net General Fund benefit of approximately \$4.4 billion for the 2020-21 fiscal year, including:

- 1) \$12 million from the Used Car Dealer Sales Tax Remittance provisions.
- 2) \$50 million decrease from the Minimum Franchise Tax First Year Exemption
- 3) \$1.8 billion from the Net Operating Loss Suspension
- 4) \$2 billion from the Tax Credit Limits
- 5) \$611 million from the interaction between the Tax Credit Limit provisions and the Net Operating Loss Suspension provisions.

**VOTES:**

**ASSEMBLY FLOOR: 54-13-13**

**YES:** Aguiar-Curry, Bauer-Kahan, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chu, Cooper, Daly, Eggman, Frazier, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Limón, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

**NO:** Bigelow, Brough, Dahle, Flora, Fong, Gallagher, Kiley, Mathis, Melendez, Obernolte, Patterson, Voepel, Waldron

**ABS, ABST OR NV:** Arambula, Berman, Chen, Chiu, Choi, Cooley, Cunningham, Diep, Eduardo Garcia, Lackey, Levine, Low, Mayes

**UPDATED:**

VERSION: June 10, 2020

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