



September 3, 2020

The Honorable Gavin Newsom
 Governor, State of California
 State Capitol
 Sacramento, CA 95814

Subject: Veto Request for SB 972 (Skinner)

Dear Governor Newsom,

The California Taxpayers Association and the signed organizations respectfully request your veto of SB 972.

This measure would require the Franchise Tax Board to breach a taxpayer's right to confidentiality by producing annual reports on corporate taxpayers with gross receipts of \$5 billion or more. The reports would include not only public companies but private employers as well. The mandated reports, which would be shared with the Legislature's two tax policy committees, would include the taxpayer's name, tax liability, and the amount and types of tax credits claimed for the taxable year. This information would be accessible to the public.

The California Taxpayers Association is a nonpartisan, nonprofit association formed to support good tax policy, oppose unnecessary taxes and promote government efficiency. Established in 1926, CalTax is the oldest and largest group representing California taxpayers.

Exposes State Finance Director and Other FTB Members to Criminal Penalties. In its analysis of the final version of SB 972, the Franchise Tax Board states:

To ensure that the FTB or any member thereof is not found guilty of a misdemeanor for providing the specified information to the Committees, the bill should be amended by inserting on page 3, line 1, “Notwithstanding Section 19542” after “(c)”.

This language was never added to the bill. As written, SB 972 does not exempt the FTB’s three members (the Finance Director, State Controller, and State Board of Equalization Chair) or staff from the restrictions contained in Revenue and Taxation Code Section 19542 barring the public disclosure of confidential taxpayer information.

Lawmakers Already Have All Relevant Information. Lawmakers already have access to the anonymized aggregate data from the FTB and do not need information on specific taxpayers to make policy decisions. The Department of Finance has been providing the Legislature with informative reports on tax expenditures since 1971, and aggregate data is far more useful for making policy decisions relating to tax credits than the information that would be disclosed by this bill. Additionally, the chairs of the tax committees are able to request additional aggregate data from FTB to help inform lawmakers.

The Required Reports Would Be Misleading. The information that would be disclosed under SB 972 may mislead those who read it. The \$5 billion threshold is based not on profits but rather on total gross receipts, which includes receipts earned outside of California, and includes money that is used to pay employees, provide benefits, pay taxes, etc. However, the tax liability in the report will be based on the taxpayer’s tax liability in the state. This difference distorts how one might view the amount of tax owed to the state.

For example, the list could have two taxpayers appear adjacent to one another on the list, where one of the taxpayers has 10 times the amount in sales in California as the other company. Therefore, one legitimately will pay much less in California tax than the other, even though they are similarly sized companies, because it had significantly more California source income. Since nothing in the report would make this distinction, many readers would get the false impression that some taxpayers underpay in state taxes.

The purpose of the bill is to evaluate tax credits, yet the reports will disclose no information that would be helpful in making this assessment. It is not possible to evaluate the effectiveness of a tax credit without context. The amount of credits claimed by a company does not explain how effective the tax credit is, how many jobs it is creating, how many other streams of tax revenue it has helped create, or how much additional investment and development it has spurred.

Any and all information necessary to evaluate tax credits is available to lawmakers under current law. The information disclosed by the reports required under this bill may result in readers becoming more confused and less informed than if they had never viewed it.

Erodes Taxpayer Trust. There is no valid reason to violate the fundamental principle of taxpayer confidentiality. Information submitted by taxpayers to tax agencies should remain confidential to encourage the self-reporting upon which California’s income tax system relies. Under this bill, an erosion of trust would occur, as the public is acutely aware that tax agencies currently must safeguard their tax information, and this bill would break that trust.

SB 972 breaches taxpayer confidentiality protections contained in the California Taxpayers’ Bill of Rights, which requires the FTB to protect the rights of all California taxpayers. These rights include the right to privacy and confidentiality, and the right to pay no more than the correct legal amount of tax owed. There is no reason to disclose private taxpayer information unless the goal is to publicly target certain taxpayers, which would be an improper application of the tax code.

California Employment. The COVID-19 pandemic is having a devastating impact on California workers, and the number of unemployment insurance claims has shattered the previous record high. Now more than ever, California needs to look for ways to improve its business climate so jobs can be preserved, and Californians can go back to work when the pandemic is over. By violating business taxpayers' rights and creating a disincentive for using tax credits designed to increase job-creation, this legislation goes in the opposite direction.

For the foregoing reasons, CalTax and the listed organizations respectfully urge your veto of SB 972.

Sincerely,



Robert Gutierrez
CalTax President and Chief Executive Officer

California Taxpayers Association
Alliance for Automotive Innovation
Bay Area Council
Biocom
Calaveras County Taxpayers Association
California Bankers Association
California Business Properties Association
California Business Roundtable
California Cable & Telecommunications Association
California Chamber of Commerce
California Life Sciences Association
California Manufacturers & Technology Association
California Retailers Association
Cellular Telecommunications and Internet Association
CompTIA
Council on State Taxation
Family Business Association of California
Internet Association
Kern County Taxpayers Association
Orange County Taxpayers Association
Resource Recovery Coalition of California
San Gabriel Valley Economic Partnership
Santa Maria Valley Chamber of Commerce
Securities Industry and Financial Markets Association
Silicon Valley Leadership Group
Solano County Taxpayers Association
Sutter County Taxpayers Association
TechNet
Western States Petroleum Association

cc: Ronda Paschal, Deputy Legislative Secretary, Office of Governor Gavin Newsom

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