



August 15, 2012

Senate Floor Alert

TO: All Members, California State Senate

FROM: California Bankers Association
 BIOCOM
 California Chamber of Commerce
 California Grocers Association
 California Healthcare Institute
 California Manufacturers & Technology Association
 California Retailers Association
 California Taxpayers Association
 Capital Area Transportation Authority
 Council on State Taxation
 Personal Insurance Federation of California
 Securities Industry & Financial Markets Association
 Silicon Valley Leadership Group
 TechAmerica
 TechNet
 The California Railroad Industry

RE: Opposition to Assembly Bill 2439 (Eng): Disclosure of Taxpayer Information

The trade associations listed above strongly **OPPOSE** Assembly Bill 2439 (Eng), which requires the Franchise Tax Board (FTB) to identify and disclose on their website the confidential taxpayer information of the 1,500 largest publicly traded corporate taxpayers subject to tax in California; specifically, the FTB is required to determine and disclose each of these company's "tax liability" and their choice of apportionment method. The stated purpose of this disclosure is to assist in the "analysis and scrutiny" of California's recent switch in corporate income tax apportionment methods to elective single-sales factor.

Information will be Misleading

This measure requires the FTB to disclose the tax liability of a specific taxpayer. As a single data point, this information is meaningless to any *objective* evaluation of single-sales factor. Many factors weigh into a taxpayer's final tax liability including current or accumulated losses, credits, acquisitions, disputes, subsequent court decisions, audits, amended returns, etc. For many large multi-state taxpayers, their final

liability for a specific year may not be resolved for years after their return is actually filed. As a result, no meaningful evaluation of single-sales factor is possible based on the disclosure of individual corporate tax liabilities.

Disclosure of Individual Taxpayer Information Does Not Serve Public Policy Analysis

Whether single-sales factor, or any other state tax policy, its efficacy has nothing to do with the tax return information of any individual taxpayer. The disclosure of individual taxpayer information serves only as a tool to facilitate misleading and uninformed public harassment of individual taxpayers. If the Legislature desires an objective and fair analysis on the benefits or costs of single-sales factor apportionment, or any other state tax policy, they have expert resources in the FTB and Legislative Analyst's Office who have access to the broad array of data that can provide policy makers with meaningful analysis and evaluate the entire spectrum of taxpayers that may influence whether a tax policy is good or bad for the state as a whole. There is simply no need for disclosure of individual taxpayer information to facilitate a fair and objective analysis of any state tax policy.

Other States do NOT Permit Disclosure of Confidential Taxpayer Information

Proponents of AB 2439 have inaccurately claimed that other states already provide similar disclosure of confidential taxpayer information.

- Arkansas and West Virginia only permit disclosure of the names of taxpayers who receive certain credits, rebates or discounts and the amount of those claimed credits. There is no disclosure of overall tax liability.
- Massachusetts, while disclosing taxable income, tax paid and other information regarding tax liability, expunges all identifying taxpayer information.
- Wisconsin, while allowing individual residents to obtain information regarding the amount of tax paid or payable by any other taxpayer, requires the requester to agree not to divulge, publish or disseminate any information obtained.

In 2000, the United States Congress Joint Committee on Taxation completed an exhaustive review of taxpayer confidentiality. The committee concluded:

Taxpayers have a justifiable expectation of privacy in the extensive information they furnish under penalty of fine or imprisonment....Our tax system is based on voluntary compliance. Many observers believe that the degree of voluntary compliance is directly affected by the degree of confidentiality given the information that is provided to the IRS.

If returns and return information were publicly available, it would invite a variety of intrusions into a taxpayer's privacy. Business competitors could use the information to gain economic advantage....A lack of confidentiality could also facilitate the use of return information for political gain.

We encourage lawmakers to pursue a fair and objective evaluation of California's state tax policies. The information necessary to conduct such analysis already exists within state agencies and such analysis does not require the breach of taxpayer confidentiality. Should an actual need arise for the Legislature to examine individual returns, a committee of either house of the Legislature may do so (R&T Sec. 19546). However, in doing so, the Legislature itself saw fit to protect the confidentiality of this information by making any public dissemination of taxpayer-specific data a misdemeanor.

No fair and objective analysis can be achieved based solely on the disclosure of the "tax liability" of any individual corporate taxpayer. This measure therefore serves no real purpose in furthering an objective analysis of single-sales factor. It does, however, raise the concern addressed by the Joint Committee on Taxation that the use of this information will not be for a fair and objective analysis of single-sales factor but misleading the public for political gain.

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For these reasons we respectfully **OPPOSE** AB 2439 (Eng) and request your “**NO**” vote on this measure when it is heard on the Senate Floor.

Thank you.

cc: The Honorable Mike Eng, Member, California State Assembly
Alicia Belmontes, Consultant, Senate Floor Analysis
Scott Chavez, Policy Consultant, Senate Republican Caucus