

April 7, 2010

The Honorable Lois Wolk
Chair, Senate Revenue and Taxation Committee
California State Senate
State Capitol, Room 4032
Sacramento, CA 95814

RE: Senate Bill 1086 (Florez) - OPPOSE

Dear Senator Wolk:

On behalf of the California Healthcare Institute (CHI), whose more than 250 members include our state's premier life sciences companies and academic research institutions, I am writing to oppose SB 1086, a bill that would require the Franchise Tax Board (FTB) to annually publish information on taxpayers receiving credits of \$1,000 allowed from their corporate tax expenditures on the state's transparency website.

The author claims that this information needs to be made available to the public so that companies claiming tax credits can be held accountable when they utilize tax credits aimed at job creation, research and development, and other laudable public policy objectives. According to the author's fact sheet, "the recipients [of tax incentives] are currently shielded from having to disclose who they are or how much they take in tax subsidies every year so holding them accountable is impossible." This argument ignores the proper function of the Franchise Tax Board, which is the state agency responsible for collecting this information through the process of tax filing and auditing taxpayers to ensure that they are only taking credits for which they are eligible.

Taxpayers in the state have a reasonable and justifiable expectation of privacy when they file their corporate tax returns. From a public policy perspective, nothing valuable would be gained by allowing the public to examine corporate tax returns. California tax law is inherently complex, especially as it pertains to businesses with multi-state business activity and various subsidiaries. While it may appear that a business is underpaying its tax obligations in California, they may in fact have income derived and attributable to a subsidiary where it would correctly appear on their tax filing. This would be wholly unapparent to someone not familiar with not only California's tax code, but also the internal structure of the business whose tax return is being examined.

In 2000, the United States Congress Joint Committee on taxation completed a thorough review on the issue of taxpayer confidentiality. The Committee concluded that:

Taxpayers have a justifiable expectation of privacy in the extensive information they furnish under the 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.

For the reasons stated above, the federal Internal Revenue Service Code holds that tax returns and related information are confidential and not subject to public disclosure, and forbids the transmittal of federal tax return data to state and local governments unless they adhere to the same confidentiality and non-disclosure policies.

At a time when California's life sciences industry is already facing an economic disadvantage and constant recruitment from other states that have more favorable tax policy, SB 1086 promises to introduce more uncertainty and make California's corporate tax regime less attractive to would-be businesses and investors.

CHI must strongly oppose SB 1086 as it would provide another disincentive for life sciences companies to do business in California. Please feel free to contact us if you have any questions or would like to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Pizarro". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sandra Pizarro
Vice President – State Government Affairs

cc: Chair & Members, Senate Revenue and Taxation Committee
Senator Dean Florez
Senate Republican Caucus