

Date of Hearing: April 21, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

Mike Gipson, Chair

AB 1518 (Committee on Revenue and Taxation) – As Introduced March 13, 2025

Majority vote. Fiscal committee.

SUBJECT: Income taxes: administration: nonresident aliens: identifying numbers: group filing

SUMMARY: Permanently extends an optional tax filing process that allows companies to file a group return on behalf of nonresident employees who travel to California from abroad and receive taxable income for services that take place in this state. Specifically, **this bill:**

- 1) Deletes the January 1, 2026 sunset date on the provisions establishing a voluntary group return option for nonresident aliens and the corresponding gross income exclusion for payments made on their behalf by an agent.
- 2) Exempts nonresident individuals who are included in a group return from any penalties associated with the failure to make required estimated quarterly payments.

EXISTING LAW:

- 1) Provides for the filing of a group return for electing nonresident aliens who receive taxable income for services that take place in California, for taxable years beginning on or after January 1, 2021, and until January 1, 2026, and excludes from gross income any payment made by an agent on behalf of a nonresident alien that is included in a group return. (Revenue & Taxation Code (R&TC) Sections 17132.1 and 18537.)
- 2) Imposes a tax on the entire taxable income of an individual taxpayer subject to the Personal Income Tax (PIT) Law, and provides for the specified treatment of the income of nonresidents. (R&TC Sections 17041 and 17951 *et seq.*)
- 3) Requires every taxpayer subject to tax under the PIT Law to file a return with the Franchise Tax Board (FTB), and authorizes the FTB to provide for the filing of a group return for electing nonresident partners or nonresident directors of a corporation, as specified. (R&TC Section 18501.)
- 4) Requires identifying numbers to be included on state tax returns, statements, or other documents, and in conformity with federal law, defines identifying numbers to mean a federal social security number (SSN) or individual taxpayer identification number (ITIN), unless otherwise provided. (R&TC Section 18624.)
- 5) Requires employers who pay wages to employees, including nonresident employees, for services performed in the state to deduct and withhold from those wages specified taxes and

to make returns, reports, statements, and other documents related to the wages paid and withheld. (R&TC Section 18662.)

- 6) Authorizes the FTB to impose penalties on taxpayers who fail to make required estimated quarterly payments. (R&TC Section 19136.)

FISCAL EFFECT: The FTB estimates increased General Fund revenues of approximately \$100,000 in future fiscal years.

COMMENTS:

1) Committee Staff Comments:

- a) *General background:* International employees often travel to California on business for short periods of time and their work in California can give rise to state income tax payment and filing obligations. Existing law requires "identifying numbers" to be included on state income tax returns and, in conformity with federal law, defines "identifying numbers" as a federal SSN or ITIN. International business travelers, however, are commonly ineligible to apply for a SSN or ITIN. As such, only a small number of these non-domestic employees file income tax returns on an individual basis.

Moreover, while many *companies* actively track the business travel of their international employees and can identify when tax withholding and reporting responsibilities exist, these companies previously lacked an effective mechanism to remit taxes with respect to this group of employees.

- b) *What did the Legislature do to address this?* AB 2660 (Burke), Chapter 102, Statutes of 2020, proposed a novel and completely voluntary solution to this problem. Specifically, AB 2660 offered companies the *option* of filing a "group" or "composite" return as a way to simplify and handle filings for their international travelers to California. This approach was partially modeled on existing law, which authorizes the FTB to provide for the filing of a group return for electing nonresident partners or nonresident directors of a corporation.
- c) *Filling in the details:* AB 2660 provided that, in lieu of nonresident aliens filing individual income tax returns, the FTB would allow the filing of a single group return for *electing* nonresident aliens who receive taxable income for services performed in this state. Thus, if an international company sends 100 of its employees to California during the course of a year to perform services here, those employees would not have to file individual income tax returns with the FTB. Instead, if they elect, they could be included in a single group return filed by their employer.

For those international employees voluntarily choosing to file using a group return, the tax rate applied to their taxable income will be set at the highest marginal rate provided for by the PIT Law. This is being done to promote administrative efficiency, both for the companies preparing the returns and for the FTB. It bears repeating, however, that an employee's decision whether or not to participate in this program is entirely voluntary. The employee's company, or other authorized entity, would then be responsible for making payments of tax on behalf of their electing employees. AB 2660, in turn,

specifically excluded these payments from the international business travelers' gross income.

To enable the filing of these group returns, AB 2660 specified that nonresident aliens who are not eligible for or who have not been issued a SSN or ITIN shall not be required to provide a SSN or ITIN to be included in a group return. However, if the nonresident alien subsequently becomes eligible for and is issued a SSN or ITIN, the FTB may require that they provide a letter documenting the nonresident alien's SSN or ITIN.

- d) *Usage so far:* According to data provided by the FTB, the number of California 540NRs (California nonresident (NR) returns) with a corresponding California Schedule 1067A (NR group return schedule) where at least one or more electing nonresident aliens did not have a valid SSN or ITIN are as follows:

Tax Year	540NRs with Schedule 1067A	Return Count with Electing Schedule 1067A and Electing NR Aliens with no SSNs/ITINs
TY 21	8,217	12
TY 22	7,911	26
TY 23	6,802	22

It should be noted that the figures above refer to the number of returns, not the number of nonresident aliens covered by the filing. This data indicates that the nonresident filing option has been used as intended to record and collect income taxes owed by nonresidents who could not have filed using any alternative method.

- e) *What else does this bill do?* In addition to deleting the sunset dates included in AB 2660, this bill also exempts nonresident individuals that are included in a group return from any penalties associated with the failure to make required estimated quarterly payments. Under current law, taxpayers with incomes above a certain threshold can be required to submit estimated quarterly payments to the Internal Revenue Service and FTB. Failure to make these payments can result in penalties at both the state and federal level. Given the nature of these nonresident individuals and their limited time in California, however, it would be impractical to impose these penalties in this specific context.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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