



May 1, 2023

Members, Senate Budget and Fiscal Review Committee  
1020 N Street, Room 502  
Sacramento, CA 95814

**Subject: OPPOSITION to Tax Increase Provisions Proposed in the Senate's "Protect Our Progress" Budget Plan, Announced on April 26, 2023**

Dear Senate President Pro Tem Atkins:

The California Taxpayers Association and the organizations listed below are opposed to the corporate tax changes included in the Senate's budget plan, which would create a competitive

disadvantage for California employers. Companies with an annual net income of \$1.5 million that are subject to corporate income and franchise taxes in California would be subject to a 10.99 percent corporate tax under the budget plan – the second-highest rate in the nation.<sup>1</sup> The plan also permanently restructures California’s net operating loss deduction to automatically trigger a long-term suspension of the deduction when a “budget emergency” is declared. We oppose the proposed changes for the following reasons:

**Creates a Competitive Disadvantage for California Employers.** The “Protect Our Progress” budget plan would subject C corporations to a 10.99 percent corporate income tax. High corporate tax rates put California companies at a tremendous competitive disadvantage. The 49 other states would benefit from California’s decision to make itself less attractive to employers. A thriving economy is the best source of growing revenue for important government programs, and chasing jobs away would hurt the state’s bottom line rather than help.

The United States recognized that its corporate tax rates were among the highest in the developed world, outpacing rates in the European Union and elsewhere. California is competing globally to attract and retain investment and employers. Increasing the corporate tax rate when the rest of the world is reducing rates is counterproductive and fails to recognize this trend in taxation, putting California out of step with the economies that are looking to lure California investors and jobs.

A 2021 study by the Washington, D.C.-based Tax Foundation found that the corporate tax falls predominately on labor, which it estimates bears at least 69 percent, if not all, of the burden.<sup>2</sup> Additionally, the study found that for every increase in the corporate tax rate, retail prices increased. A tax increase on business impacts individuals through less economic growth, lower wages, higher prices, fewer jobs, and decreased returns in retirement accounts.

**Automatic Trigger for Deferring Net Operating Loss Deductions.** A net operating loss occurs when a business’ expenses exceed income within a single tax year. The NOL deduction makes it possible for businesses to manage their losses by allowing them to offset or deduct one tax year’s losses from another tax year’s profits. The general purpose of the NOL deduction is to allow some relief to taxpayers when they incur losses in a tax year. Some taxpayers have profits that are cyclical in nature and are not in line with the artificial time constraints of the standard tax year, and this type of relief allows them to smooth their tax burden over a longer period of time.

The budget plan proposes to automatically trigger a deferral of net operating loss deductions when a “budget emergency” is declared. This NOL deferral program would suspend the ability of taxpayers to utilize their NOL deductions during years when California is facing a budget downturn – instead providing taxpayers a “dollar-for-dollar” credit they can utilize four years after the loss. The budget plan’s outline does not provide enough clarity to thoroughly evaluate the proposal. However, there are several notable problems with this approach.

**Excessive Deferral Would Harm Businesses.** The Senate’s plan includes language that would require businesses to use the tax benefits over a five-year period that begins four years after the initial deferral occurred. The deferral of net operating losses over this long period would harm taxpayers that have a business model where profits are cyclical, as these businesses no longer would have tools to smooth their tax burden over long periods of time. Additionally, NOLs

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<sup>1</sup> Fritts, Janelle. “State Corporate Income Tax Rates and Brackets for 2023.” *Tax Foundation*, January 24, 2023. <https://taxfoundation.org/publications/state-corporate-income-tax-rates-and-brackets/>.

<sup>2</sup> Durante, Alex. “Who Bears the Burden of Corporate Taxation? A Review of Recent Evidence.” *Tax Foundation*, June 10, 2021. <https://taxfoundation.org/who-bears-burden-corporate-tax/>.

*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.*

are useless to a company that goes out of business. Deferring NOLs for such a long length of time may reduce their usefulness completely for many businesses. If this proposal were to allow such taxpayers to sell NOLs that they generate, the NOLs might have a reduced value or uncertain value if the buyer's ability to deduct NOLs is deferred.

**Inaccurate Projections Can Cause Automatic Triggers to Misfire.** In 2020, budget forecasters predicted major deficits and massive economic collapse during the COVID-19 pandemic. This led California to suspend its net operating loss deduction and significantly limit key business tax credits. In a scenario where so much economic uncertainty existed, the state made revenue assumptions that turned out to be false. As a result, business incentives were limited for two years before the restrictions were lifted. Rather than the predicted budget collapse, California enjoyed a nearly \$100 billion surplus, illustrating that the tax increases on California employers were unnecessary. Operating a program that automatically triggers an NOL moratorium exposes California employers to a similar scenario repeating itself. Additionally, this trigger would set a dangerous precedent for how the state imposes tax increases.

For these reasons, the California Taxpayers Association and signatories to this letter must oppose these proposals.

Sincerely,



Robert Gutierrez  
President & CEO  
California Taxpayers Association

On behalf of...

California Taxpayers Association  
Acclamation Insurance Management  
Services  
Allied Managed Care  
Anaheim Chamber of Commerce  
Association of California Egg Farmers  
Beaumont Chamber of Commerce  
Brea Chamber of Commerce  
California Association of Licensed Security  
Guards  
California Association of Wheat Growers  
California Building Industry Association  
California Chamber of Commerce  
California Grain & Feed Association  
California Hotel and Lodging Association  
California Independent Petroleum  
Association  
California Life Sciences Association  
California Manufacturers & Technology  
Association

California New Car Dealers Association  
California Seed Association  
California Warehouse Association  
Chino Valley Chamber of Commerce  
Coalition of California Chambers – Orange  
County  
Coalition of Sensible Taxpayers  
Coalition of Small and Disabled Veteran  
Businesses  
Family Business Association of California  
Flasher Barricade Association  
Fremont Chamber of Commerce  
Greater Coachella Valley Chamber of  
Commerce  
Greater San Fernando Valley Chamber of  
Commerce  
Huntington Beach Chamber of Commerce  
Kern County Taxpayers Association  
Laguna Niguel Chamber of Commerce

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Lake Elsinore Valley Chamber of  
Commerce  
Manhattan Beach Chamber of Commerce  
Murrieta/Wildomar Chamber of Commerce  
National Federation of Independent  
Business  
National Seating & Mobility  
Newport Beach Chamber of Commerce  
Orange County Business Council  
Pacific Egg & Poultry Association  
Reliable Medical

Roseville Area Chamber of Commerce  
San Juan Capistrano Chamber of  
Commerce  
Simi Valley Chamber of Commerce  
Solano County Taxpayers Association  
Torrance Area Chamber of Commerce  
Tulare Chamber of Commerce  
Vernon Chamber of Commerce  
West Coast Lumber and Building Materials  
Association  
West Ventura County Business Alliance

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