Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Margett	Analyst:	Jane Tolman	Bill Number:	SB 121
Related Bills:	See Prior Analysis	Telephone:	845-6111	Amended Date:	01-05-2004
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Long-Term Care Or Long-Term Care Insurance Credit

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________.

____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

__x__ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 3, 2003.

__x__ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ________________.

__x__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 3, 2003 STILL APPLIES.

____ OTHER – See comments below.

SUMMARY

This bill would allow a credit for amounts paid or incurred for long-term care insurance or long-term care expenses.

SUMMARY OF AMENDMENTS

The January 5, 2004, amendment would change the operative date to January 1, 2004.

The amendment did not resolve the implementation considerations and policy concerns identified in the department's analysis of the bill as introduced February 3, 2003. These concerns still apply and are included below for convenience. In addition, the existing fiscal and economic impacts are provided below.

Department staff is available to assist with amendments to resolve the concerns identified in the analysis.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective immediately upon enactment and would be operative for taxable years beginning on of after January 1, 2004.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	1/13/04
____ N	____ OUA	__X__ PENDING		

POSITION

Pending

IMPLEMENTATION CONSIDERATIONS

This bill would require the long-term care facility or home care giver to provide the taxpayer with written verification of payment for services that qualify for the credit. Language of this type in tax law normally specifies that the taxpayer would be required to provide the written verification to the department upon request. It would be helpful for the department in administering this credit if this language were added to the bill.

This bill uses an undefined term, "long-term care services." The absence of a definition for this term could lead to disputes between taxpayers and the department, thus complicating the administration of this credit.

The department would interpret this credit as a per taxpayer credit, rather than per eligible person (taxpayer, spouse, parents) credit. If a taxpayer were paying long-term care insurance for themselves, their spouse, and both of their parents, they would only be eligible for a $300 maximum credit ($600 if joint return). The author may wish to consider specify the intent of the bill on this issue.

FISCAL IMPACT

Once the implementation concerns are resolved, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Due to data limitations, it is only possible to provide generalized estimates for each category of long-term care. However, significant revenue losses would result, possibly on the order of $150 million annually beginning in 2004-05. Estimates assume that the proposed credit is in addition to any other existing tax benefits for costs incurred for long-term care or long-term care insurance.

Revenue Discussion

The revenue impact of this bill would be determined by amounts incurred for any long-term care or for long-term care insurance premiums by a taxpayer for the benefit of the taxpayer or a parent, and the amount of credits that could be applied to reduce tax liabilities. In the initial tax year for the proposed credit (2004), approximately 500,000 individuals could benefit from an average tax credit of $300.

According to the Department of Aging, there are about 100,000 individuals in long-term care facilities in California. Medicare or private insurance covers approximately one-third of these individuals [100,00 x 1/3 = 33,000]; Medi-Cal covers the others. If one-half of those covered by Medicare or private insurance are taxpayers [33,000 x ½ = 16,500] and have a tax liability with which to apply the maximum proposed credit of $600 or $300 (depending upon filing status), revenue losses would be on the order of $5 million [16,500 taxpayers times an average credit of $300 = $4.9 million]. Those individuals receiving care in assisted-living facilities, adult day health care facilities, or in the home could easily exceed 100,000. The revenue loss impact for the latter categories could approach $30 million (100,000 times an average credit of $300).

The insurance component of the proposed credit was derived by (1) projecting the net number of policies in force each year by California resident taxpayers (approximately 475,000 by 2004); (2) multiplying the number of policies by 30% times the average annual premium of $1,700 up to a maximum of $300; and (3) calculating and applying an “inducement to purchase” rate that increases incrementally each year. The revenue loss for this component for the first year is projected to be on the order of $120 million [475,000 polices times an average credit of $300 times an inducement to purchase factor of 1.086 times a participation rate (or learning curve) of 76% = $118 million].

Based on national data, the number of policies in force in California is projected to grow to roughly 475,000 by 2004 and 500,000 by 2005. An average annually premium of $1,700 is used for the estimate. According to industry contacts, most long-term care insurance premiums range from $1,000 to $3,000 annually.

ARGUMENTS/POLICY CONCERNS

This bill does not contain a sunset date. Sunset dates generally are provided to allow periodic review by the Legislature.

This bill does not limit the number of years for the carryover period. Without a limit the department would be required to retain the carryover on the tax forms indefinitely because presently the bill would allow an unlimited credit carryover period. Recent credits have been enacted with a carryover period limitation since experience shows credits are typically used within eight years of being earned.

Expenditures for insurance or for care services that are eligible for this credit would not be limited to California residents. Thus an individual in any state or country who has a California income tax liability could claim the credit. However, it would be unconstitutional to restrict this credit to California residents. Since insurance is sold internationally, there may not be an effective way to limit the credit for the insurance part of the bill. This concern could be resolved if the bill is amended to require that expenditures for care services be limited to those services administered in California.

This bill would allow taxpayers in certain circumstances to claim this new credit as well as both the existing eligible caregiver credit and the deduction for medical expenses. Taxpayers are not generally allowed multiple tax benefits for the same expense.

This bill would allow a new credit for natural or adopted parents, even if the parent is not a dependent of the taxpayer. The medical expense deduction is allowed on natural or adopted parents or in-laws if the parent is a dependent. To prevent the same expenses from being claimed for both the credit and the deduction, the author may wish to make this credit in lieu of the medical deduction.

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