

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Escutia Analyst: Marion Mann DeJong Bill Number: SB 1354

Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 02/18/2004

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Credit Carryovers/Aggregate Amount May Not Reduce "Net Tax" For The Taxable Year By More Than 50 Percent

SUMMARY

This bill would limit certain credits to 50% of the tax.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to limit the revenue loss to the state caused by tax credits.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective immediately upon enactment. The bill specifies that it would be operative for taxable years beginning on or after January 1, 2004, and before January 1, 2005.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. See Appendix I for a list of California tax credits.

Credits are applied against tax liability. Differing rules apply if the credit exceeds the tax liability. Some credits expire if they are not used in the year acquired while some credits are refunded. Most credits have carryover provisions that allow the amount of the credit that exceeds "tax" to be carried over to offset the "tax" in succeeding taxable years.

Board Position:

_____ S _____ NA _____ NP
_____ SA _____ O _____ NAR
_____ N _____ OUA X PENDING

Department Director

Date

Gerald H. Goldberg

4/5/04

THIS BILL

This bill would limit application of all credits that have carryover provisions to 50% of "net tax" or "tax." This limitation would apply to both credits carried forward from prior years and credit amounts allowed during the 2004 taxable year. The carryover period for any credit limited by this bill would be extended by one year.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

OTHER STATES' INFORMATION

The laws of *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* were reviewed because their tax laws are similar to California's income tax laws. Based on a limited review, none of these states limit their credit or credit carryovers to a percentage of tax as proposed by this bill. The review included the individual states' websites, tax forms, and tax handbooks.

FISCAL IMPACT

This bill would result in departmental costs of approximately \$205,000 for programming changes, administrative costs, and manual verification that credits are limited according to the provisions of this bill.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, this bill would result in the following revenue effects beginning in 2004-05.

Estimated Cash Flow Revenue Effects of SB 1354 Enactment Assumed After June 30, 2004 [\$ In Millions]				
	2004-05	2005-06	2006-07	2007-08
PIT	\$40	-\$13	-\$9	-\$6
Corp	\$276	-\$71	-\$43	-\$20
Total	\$316	-\$84	-\$52	-\$26

Revenue Discussion

The revenue gain in the initial year is the result of limiting the application of credits with carryover provisions as proposed by this bill relative to projected credits applied under current law. Subsequent year losses reflect a timing issues and an extension of the carryover period by one additional year. Subsequent year losses are the result of an increased application of credits in taxable years after the initial year (the year the credits are limited). Simulations of sample data (2001 base) derived the estimates.

ARGUMENTS/POLICY CONCERNS

Taxpayers may argue that this bill unfairly raises their tax liability because it limits the amount of credit they planned to use against their tax liability.

LEGISLATIVE STAFF CONTACT

Marion Mann DeJong
Franchise Tax Board
845-6979
marion.dejong@ftb.ca.gov

Brian Putler
Franchise Tax Board
845-6333
brian.putler@ftb.ca.gov

Appendix I

Refundable Credit

Child and Dependent Care Expenses

Credits Without Carryover Provisions

Dependent Parent	Other State Tax
Enterprise Zone Employee	Prison Inmate Labor
Joint Custody Head of Household	Senior Head of Household
Long-Term Care	Teacher Retention
Nonrefundable Renter's Credit	

Credits With Carryover Provisions (would be limited by SB 1354)

Child Adoption	Local Agency Military Base Recovery Area Hiring
Community Development Financial Institution Deposits	Local Agency Military Base Recovery Area Sales or Use Tax
Disabled Access for Eligible Small Businesses	Low-Income Housing
Donated Agricultural Products Transportation	Manufacturing Enhancement Area Hiring
Employer Child Care Contribution	Natural Heritage Preservation
Employer Child Care Program	Prior Year Alternative Minimum Tax
Enhanced Oil Recovery Area	Research
Enterprise Zone Hiring	Rice Straw
Enterprise Zone Sales or Use Tax	Solar Energy System
Farmworker Housing – Construction	Targeted Tax Area Hiring
Farmworker Housing – Loan	Targeted Tax Area Sales or Use Tax
Joint Strike Fighter – Wages	
Joint Strike Fighter – Property Costs	

Repealed Credits With Carryover Provisions (would be limited by SB 1354)

Agricultural Products	Manufacturers' Investment
Commercial Solar Electric System	Orphan Drug
Commercial Solar Energy	Political Contributions
Contribution of Computer Software	Recycling Equipment
Employer Ridesharing – Large Employer	Residential Rental & Farm Sales
Employer Ridesharing – Small Employer	Ridesharing
Employer Ridesharing – Transit	Salmon & Steelhead Trout Habitat Restoration
Energy Conservation	Solar Energy
Los Angeles Revitalization Zone – Hiring	Solar Pump
Los Angeles Revitalization Zone – Sale or Use Tax	Technological Property Contribution
Low-Emission Vehicles	Water Conservation
	Young Infant