Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Battin | Analyst: Jane Tolman | Bill Number: SB 1561

Related Bills: See Prior Analysis | Telephone: 845-6111 | Amended Date: 04-12-2004

Attorney: Patrick Kusiak | Sponsor: ______

SUBJECT: National Guard Armory Credit

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ______________.

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

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended ______________.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO ______________.

__x__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 22,2004. STILL APPLIES.

__x__ OTHER - See comments below.

SUMMARY

This bill would provide a tax credit for taxpayers that donate property to the California National Guard.

SUMMARY OF AMENDMENTS

The April 12, 2004, amendments:

- limited the credit to 50%, not to exceed $10,000,
- defined qualified amounts,
- defined fair market value,
- defined detailed purpose of the donations,
- limited the credit to a five-year carryover, and
- would not allow the taxpayer to claim a credit for any expenditure that was otherwise claimed as a tax credit.

The April 12, 2004, amendments resolved some of the implementation and policy concerns identified in the department's analysis of the bill as amended March 22, 2004. However, new implementation considerations have been identified and are included below with the remaining argument/policy concern. Also, a new revenue estimate is provided. The remainder of the March 22, 2004, analysis still applies.

POSITION

Pending.

Board Position:			Legislative Director	Date
_____ S	_____ NA	_____ NP		
_____ SA	_____ O	_____ NAR		
_____ N	_____ OUA	__X__ PENDING	Brian Putler	4/20/04

IMPLEMENTATION CONSIDERATIONS

Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill attempts to define "qualified property" and what can be donated. As written, qualified property could include almost anything. A detailed explanation of what is an acceptable donation would reduce confusion for the taxpayer.

The bill also includes a definition of "fair market value." There are specific definitions for fair market value contained in the income tax laws of the Revenue and Taxation Code (R&TC) as well as the Internal Revenue Code. The author may want to consider referencing one of these definitions. Use of an existing definition would reduce possible confusion for the taxpayer and the department.

This bill would require the taxpayer to designate that the qualified property was for the construction, maintenance, or refurbishment of the armory facility. However, requiring the taxpayer to designate the purpose of the donated qualified property does not ensure that the property can be used for that purpose. The author may wish to include as a requirement of the credit receipt of a certificate from the California National Guard that the qualified property would be for a qualified purpose.

The bill does not provide authority for the California National Guard to reject the donation of qualified property. Consequently, any contribution designated by the taxpayer regardless of its actual use would qualify the taxpayer for the credit.

ARGUMENTS/POLICY CONCERNS

Under existing law, a taxpayer contribution of property, including materials, equipment, or services, is limited to the costs paid or incurred by the taxpayer (their adjusted basis) for the property. A credit that is based on the fair market value of the property as opposed to the taxpayer's adjusted basis could be construed as a disposition of the property that would in turn be subject to federal income tax if the taxpayer had a gain on the disposition.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of the bill, as amended, would be a $22 million loss of Personal Income Tax (PIT) revenue and an additional impact of 10% for corporations beginning in 2004-05.

Fiscal Year	2004-05	2005-06	2006-07
Personal Income Tax	-$22 million	-$23 million	-$24 million
Corporation Tax	-$2 million	-$2 million	-$3 million
Total	-$24 million	-$25 million	-$27 million

Revenue Discussion

It is estimated that a 50% tax credit would result in a PIT revenue loss of over $22 million annually due mainly to redirected cash donations. Individual taxpayers donated over $18 billion in total charitable contributions for 2001. Based on federal data approximately 6% of those donations were for social/public benefit charities. If it were assumed that 5% of those donations would be redirected to California National Guard armories, the PIT revenue loss would be $22 million annually ($18 billion x 6% x 5% x 97% donation limit x 50% = $26 million less the deduction offset = $22 million).

A reasonable assumption of how many taxpayers would make cash and non-cash donations under this bill must be made. In this case, some taxpayers would re-direct donations and receive a tax benefit of 50 cents on the dollar versus only 8 cents now as a charitable deduction. In addition, some taxpayers not currently making deductible donations would begin to do so because of the generous credit in this bill. We feel that a 5% assumption is reasonable and would strike a balance between a possibly higher or lower participation rate that might actually result.

If corporate donations equaled 10% of PIT donations, the additional revenue loss attributed to corporations would be $2 million annually.

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