ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Florez	Analyst:	Marion Mann DeJong	Bill Number:	SB 701
Related Bills:	See Legislative History	Telephone:	845-6979	Introduced Date:	02/21/2003
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Irrigation Pumps Credit/Costs Paid to Convert Diesel Fuel Burning Pumps to Run on Cleaner- Burning CARB 3 Gasoline

SUMMARY

This bill would create an income tax credit for converting diesel irrigation pumps to use cleaner fuel.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to provide an incentive to convert higher polluting diesel fuel irrigation pumps to use cleaner fuel to reduce emissions and ultimately reduce air pollution.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective immediately upon enactment and would be operative for taxable years beginning on or after January 1, 2003.

POSITION

Pending.

Summary of Suggested Amendments

Amendments are necessary before this bill can be implemented. See “Implementation Considerations” below.

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws generally allow a depreciation deduction for the obsolescence or wear and tear of property used in the production of income or property used in a trade or business. The amount of this deduction is determined, in part, by the cost (or basis) of the property. In addition, the property must have a limited, useful life of more than one year. Depreciable property includes equipment, machinery, vehicles, and buildings, but excludes land. Significant improvements to property are added to the basis of the property and are depreciated over the property's remaining useful life.

Board Position:			Department Director	Date
______ S	______ NA	______ NP	Gerald H. Goldberg	03/14/03
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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. There currently are no federal or state credits for converting irrigation pumps to use cleaner fuel.

THIS BILL

This bill would create a credit equal to the costs of converting diesel fuel burning irrigation pumps to run on cleaner-burning CARB 3 gasoline. Excess credit amounts could be carried forward until exhausted.

IMPLEMENTATION CONSIDERATIONS

For the reasons listed below, this bill cannot be implemented as currently drafted. Department staff is available to assist the author with any necessary amendments. Additional considerations may be identified as the bill is developed.

- This bill does not define “converting,” “diesel burning irrigation pumps,” or “CARB 3 gasoline.” “Converting” could be interpreted to mean retrofitting an existing pump or purchasing a new pump. The absence of definitions to clarify these terms could lead to disputes with taxpayers about what costs qualify and would complicate the administration of this credit.

- Typically, credits involving areas for which the department does not possess expertise are certified by another agency or agencies that possess the relevant expertise. The certification language would specify the responsibilities of both the certifying agency and the taxpayer. The author might consider having the California Air Resources Board certify the technical aspects of this credit.

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. None of these states provide a credit comparable to the credit allowed by this bill.

FISCAL IMPACT

If the bill is amended to resolve the implementation considerations addressed in this analysis, the department’s costs are expected to be minor.

ECONOMIC IMPACT

The revenue impact will not be determined until the bill is further developed.

ARGUMENTS/POLICY CONCERNS

- Credits generally are provided as a specified percentage of the total amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

- This bill does not specify a repeal date or limit the number of years for the carryover period. Credits typically are enacted with a repeal date to allow the Legislature to periodically review their effectiveness. However, even if a repeal date were added, the department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits are typically used within eight years of being earned.

- Conflicting tax policies come into play whenever a credit is provided for an item that is already provided a deduction for tax purposes. Providing both a credit and allowing the full amount to be deducted would have the effect of providing a double tax benefit for that item or cost. On the other hand, making an adjustment to deny or reduce the deduction in order to eliminate or reduce the double tax benefit creates a difference between state and federal taxable income, which is contrary to the state's general federal conformity policy.

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