Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Arambula	Analyst:	Nicole Kwon	Bill Number:	AB 1527
Related Bills:	See Prior Analysis	Telephone:	845-7800	Amended Date:	June 12, 2007
		Attorney:	Douglas Powers	Sponsor:	

SUBJECT: California Cleantech Advantage Act Of 2008/Costs For Cleantech Property And Research Expenses Credits

__X__ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced February 23, 2007.

__X__ 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 May 15, 2007, STILL APPLIES.

_____ OTHER – See comments below.

SUMMARY

This bill would allow a taxpayer a credit for research expenses relating to the clean technology (cleantech) industry.

SUMMARY OF AMENDMENTS

The June 12, 2007, amendments would make the following changes:

- Change the initial taxable year for which the proposed qualified research expense credit for cleantech could be claimed from 2008 to 2009.
- Allow taxpayers to sell unused credits at 10% for in-house research conducted in California dedicated to the development of cleantech technologies. The amount of unused credits that may be sold would be limited not to exceed 50% of the allocated unused credit for a taxable year.
- Limit the amount of 10% transferable qualified research credits that may be sold to a qualified taxpayer to $1 million per qualified taxpayer per taxable year.

Board Position:			Legislative Director	Date
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_____ N	_____ OUA	__X__ PENDING		

- Limit the aggregate amount of the 10% transferable qualified research credits that may be initially allocated in any calendar quarter to $12.5 million.
- Eliminate the term “qualified buyer.”
- Limit the sale of unused credits by a qualified taxpayer for any taxable year beginning on or after January 1, 2010.
- Specify that the buyer will not be able to apply the transferred credit against the net tax for any taxable year beginning before January 1, 2011.
- Allow the buyer of unused credits to apply the credit to the taxable year immediately preceding the taxable year of purchase in the taxable year in which the credit is purchased or the taxable year immediately following the purchase.
- Prohibit the buyer of unused credits from further selling or transferring purchased credits.

In addition, the June 12, 2007, amendments also make changes to the following terms:

- “Qualified taxpayer” would mean any taxpayer who has received the certification from the California Council on Science and Technology and meets the additional specified qualifications provided in the bill.
- “Cleantech” would mean technologies identified by the California Council on Science and Technology, the implementation of which result in cleaner air and water, encourage the reuse of materials, and result in reductions of emissions of greenhouse gases.
- “Unused credit” would mean an amount of tax credit reflected in a final allocation to a qualified taxpayer that the qualified taxpayer has not claimed against the “net tax.”

As a result of the amendments, revised Implementation Considerations, Technical Considerations, Economic Impact, and Policy Concern sections are provided below. The department’s previous analysis of the bill as amended on May 15, 2007, continues to apply.

IMPLEMENTATION CONSIDERATIONS

The definition of “cleantech” under the qualified research expense credit and the transferable unused credit are not consistent. The author may want to use the same definition of “cleantech” under both credit sections to prevent disputes between the taxpayers and the department.

TECHNICAL CONSIDERATIONS

On page 12, line 32, and page 13, line 4 after “Section 17039,” the following should be inserted:

“or the “tax,” as defined on Section 23036,”

On page 13, line 5, and page 23, line 17, replace “paragraph (7)” with “paragraph (2).”

POSITION

Pending.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of this bill is estimated to be as shown in the following table:

Estimated Revenue Impact of AB 1527 Effective for tax years BOA 1/1/2009 Enacted after 6/30/2007 ($ in Millions)				
	2007-08	2008-09	2009-10	2010-11
Cleantech Research Credit	0	<-0.5	-$5	-$10

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact for this amended bill is estimated separately for two options: (1) 20% qualified research expense credit relating to the cleantech industry and (2) 10% transferable of unused qualified research credits with the limit of only up to 50% of the amount of unused research credits that is allowed to be sold. Considering the research expense credit utilized by the taxpayers under current law and the new provisions that would allow the qualified taxpayers to sell unused credit, it is assumed that 15% of qualified taxpayers would choose Option 1 and the remaining 85% would choose Option 2. The revenue impact of each option is the excess of cleantech research credit used under the proposed law over the research credit used under current law.

Based on various data sources, including the department’s 2004 corporate sample and the 2006 Survey of Current Business, an estimate is made for Option 1 that would result in an additional $2.5 million of research credit generated and $2 million excess research credit used for the 2009 tax year. Option 1 is expected to generate approximately the same revenue impact for the 2010 tax year. Option 2 would not have an impact until the 2010 tax year, when the credits generated in 2009 would be sold and used. It is estimated that the Option 2 credit would yield $10 million of excess research credit, which would be used in the 2010 tax year. The total impact of both options for the 2010 tax year is a revenue loss of $12 million ($2 million + $10 million = $12 million).

The tax year estimates are then converted to fiscal year estimates shown in the table. For example, the 2010-11 cash flow estimate of a revenue loss of $10 million includes a $7 million loss for 2010, plus $3 million loss for 2011 due to higher credit use and reduced estimated tax payments.

ARGUMENTS/POLICY CONCERNS

This bill would allow a taxpayer to sell unused tax credits to a third party, which would be purchased at a discount and paid at the face amount by the state. Tax credits influence taxpayer behavior by providing tax relief in exchange for incurring a specified expense or modifying behavior to achieve a state-endorsed purpose. Authorizing the selling of credits permits the third party purchaser to offset income unrelated to the state-endorsed purpose and provides a benefit to a taxpayer that did not actually incur the underlying expense or risk associated with the expenditure.

LEGISLATIVE STAFF CONTACT

Nicole Kwon
Franchise Tax Board
(916) 845-7800
haeyoung.kwon@ftb.ca.gov

Brian Putler
Franchise Tax Board
(916) 845-6333
brian.putler@ftb.ca.gov