

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: La Malfa Analyst: Kristina E. North Bill Number: AB 1700
Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: February 23, 2007
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Qualified Volunteer Firefighter Expenses Credit

SUMMARY

This bill would provide a credit for expenses incurred by individuals who volunteer to be firefighters.

PURPOSE OF THE BILL

According to the author's office, the purpose of this credit is to provide an incentive to encourage more volunteer firefighters.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and would be specifically operative for taxable years beginning on or after January 1, 2008.

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.

Existing state and federal laws allow employees to deduct their unreimbursed employment-connected expenses such as travel expenses or work clothes. A deduction for the cost and maintenance of clothing is allowed if the employee's occupation is one that specifically requires special apparel or equipment as a condition of employment and the special apparel or equipment is inadaptable to general or continued usage so as to take the place of ordinary clothing.

Board Position:

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Protective clothing, such as safety shoes, helmets, or work gloves, is deductible if required for the job. Work clothing and standard work shoes are not deductible even if required.

Unreimbursed employee business expenses are generally deductible as miscellaneous itemized deductions subject to the 2% of adjusted gross income floor.

Current state law lacks a tax credit for volunteer firefighters to recoup costs paid or incurred to serve as a volunteer firefighter.

THIS BILL

This bill would provide a personal income tax credit for qualified volunteer firefighter expenses for each taxable year beginning on or after January 1, 2008.

This bill would define “qualified volunteer firefighter expenses” as unreimbursed amounts paid or incurred for training and equipment by a volunteer firefighter as a requirement to serve as a volunteer firefighter.

This bill would define “volunteer firefighter” as a person registered as an active firefighting member with an officially recognized, regularly organized volunteer fire department with full or partial support of the California county, city, town, or district in which the volunteer fire department is located.

This bill would specify that a deduction would be disallowed for the same expenses for which the credit was allowed.

This bill would also disallow any unused credit from being carried over into succeeding years.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill would provide a credit for unreimbursed amounts paid or incurred by a volunteer firefighter, as specified. To claim the credit, a volunteer firefighter would be required to be registered as an active firefighting member of an officially recognized volunteer fire department, as specified. The department lacks the expertise to determine whether a volunteer firefighter and his or her related expenses meet these criteria. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. The author may wish to amend the language to specify an agency that would be responsible for certifying that the volunteer firefighter and the related expenses meet the requirements provided for in this bill.

This bill uses terms that are undefined, i.e., “active,” “member,” “regularly organized,” and “official recognition.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this credit.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack a credit comparable to the credit that would be allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

The department's costs to administer this bill will be determined once the implementation considerations have been resolved, but are anticipated to be minor.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the Personal Income Tax and Corporation Tax revenue impact from this bill would be as follows:

Revenue Analysis for AB 1700 Effective Tax Years BOA January 1, 2008 Enactment assumed after June 30, 2007 (\$ in Millions)			
Fiscal Year	2007/08	2008/09	2009/2010
Volunteer Firefighter Expenses Credit	\$0	-\$5	-\$10

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

Revenue Discussion

The revenue impact of this bill is determined by the costs that would be expended to encourage more individuals to become volunteer firefighters.

According to the United States Fire Administration's Fire Department Census, volunteer firefighters outnumber career firefighters by a ratio of nearly 3:1 nationally. Per the Employment Development Department's Labor Market Information data, approximately 24,600 career firefighters were in California in 2005. Accordingly, it is estimated that there were 75,000 volunteer firefighters in California in 2005 (24,600 career firefighters x 3 volunteer firefighters = 75,000).

The National Volunteer Fire Council states that the cost to equip and train a volunteer firefighter is approximately \$7,500 in sum total split 85/15 respectively. Given the various implementation concerns discussed above, it is estimated that as many as half of all volunteers in any given year will view this credit as justification to upgrade their equipment or cover out-of-pocket training under proposed law. Using the statewide median tax liability of \$350 and assuming qualified taxpayers would spend up to 75% of their liability on equipment/training needs, the projected revenue impact is estimated to steadily grow to \$10 million ($75,000 \times 50\% \times \$350 \times 75\% = \$10$ million) within two years. All generated credits are expected to be exhausted in full each year.

POLICY CONCERNS

Most credits involving the acquisition and subsequent use of an item of property allow the credit to be claimed in the taxable year in which the placed in service date, for depreciation purposes, occurs. It is possible that a taxpayer could purchase the equipment, claim the credit, and resell the equipment to a third party that may also claim the credit. If this bill were to require that the equipment be placed in service in California, with an appropriate recapture provision to ensure continued use in California for a specified (recapture) period, this potential problem would be avoided. The recapture provision would require the taxpayer to use the equipment for a certain length of time in this state or add all or some portion of the credit amount back to the tax liability.

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

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review by the Legislature.

It is estimated carryover credits will be exhausted in full each year. Carryover credits would be unavailable if the taxpayer fails to use the entire credit amount in the year claimed. Other credits have been enacted with a limited carryover period as experience shows that most credit amounts are used within eight years of being earned. The author may wish to add language allowing a limited carryover period.

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