

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Portantino Analyst: Angela Raygoza Bill Number: AB 40

Related Bills: See Legislative History Telephone: 845-7814 Amended Date: January 7, 2008

Attorney: _____ Sponsor: _____

SUBJECT: Umbilical Cord Blood Collection Program Fund Contribution Credit

SUMMARY

This bill would allow a refundable tax credit for certified contributions made to the Umbilical Cord Blood Collection Program fund.

SUMMARY OF AMENDMENTS

The January 7, 2008, amendments removed language that would have required the State Department of Health to create an advisory council on umbilical cord blood collection and replaced it with the provisions discussed in this analysis.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to expand cord blood research and to create a genetically diverse supply of cord blood in California.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment but be expressly operative for taxable years beginning on or after January 1, 2009.

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 individual taxpayers who itemize deductions to deduct eligible charitable contributions from their income only for the calendar year in which the contributions were made. Corporations are also allowed to deduct eligible charitable contributions from income for the calendar year in which the contributions are made.

Board Position:	Department Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING	Lynette Iwafuchi for Selvi Stanislaus	1/15/08

Under existing state law, the Umbilical Cord Blood Collection Program identifies and provides funds for grants or contracts with qualified umbilical cord blood banks that are licensed or accredited for the purposes of collecting and storing genetically diverse umbilical cord blood for public transplantation. The Umbilical Cord Blood Collection Program Fund is created in the General Fund. Moneys in the fund shall be available upon appropriation by the Legislature. The fund shall include any federal, state, and private funds made available for purposes of the program and any interest earned on moneys in the fund.

THIS BILL

For taxable years beginning on or after January 1, 2009, and before January 1, 2015, subject to the aggregate credit authorization discussed below, this bill would provide a tax credit in an amount equal to the amount contributed by the taxpayer to the Umbilical Cord Blood Collection Program Fund, as established pursuant to Health and Safety Code Section 1628..

To determine eligibility for the credit, this bill would require the State Department of Public Health (DPH). to do the following:

- Certify that the taxpayer made a contribution to the Umbilical Cord Blood Collection Program Fund for a taxable year beginning on or after January 1, 2009.
- Obtain the taxpayer's identification number, and in the case of a partnership, the taxpayer identification numbers of all partners.
- Process and approve or reject all applications on a first-come first-served basis.
- For approved applications, issue certificates for the tax credit in an aggregate amount not to exceed \$25 million.
- Provide an annual listing to the Franchise Tax Board (FTB) of the taxpayers that were issued certificates for the credit authorized and the total dollar amount of the credit claimed by the taxpayer.

This bill would require that if the certified and claimed credit amount exceeds the taxpayer's tax liability, the excess would be applied, against other amounts due, if any and the balance, if any would be refunded to the taxpayer.

The refund amounts as determined by FTB, could only be refunded to the taxpayer upon appropriation by the legislature. The refund amounts would be transferred from the Personal Income Tax Fund to the Tax Relief and Refund Account, and be continuously appropriated to FTB without regard to fiscal year. For Corporations, the refunds would be issued from the Corporation Tax Fund as a continuous appropriation without regard to fiscal year.

This bill would specify that any credit allocated to a pass through entity would be allowed to pass the credit through to the partners, members, or shareholders.

This credit would be repealed as of January 1, 2015, or when the aggregate amount of authorized tax credits is exhausted, which ever is first.

IMPLEMENTATION CONSIDERATIONS

This bill would require DPH to certify applicants and authorize credits by obtaining the taxpayer's identification number, and in the case of a partnership, the taxpayer identification numbers of all partners. Because a pass through entity includes S-corps, DPH would need the social security number (SSN) of all shareholders to verify the credit. The author may wish to amend the bill to require all shareholders to provide SSNs, to ease the administration of this bill.

This bill would authorize a maximum of \$25 million in aggregate tax credits until January 1, 2015, or until the aggregate amount of tax credits authorized are exhausted. If the author's intent is that the \$25 million limit is for the entire life of the act, it is suggested that the limitation be stated to eliminate any argument that the limit is \$25 million per year.

This bill would require the legislature to appropriate funds in order to authorize FTB to pay refunds of the refundable portion of this credit. However, the bill is unclear as to how frequently FTB is to request an appropriation authority. In addition, it is silent about the priority of payment of refunds in situations where additional refund amounts are determined after the Legislature has appropriated monies to pay refunds. Clarification of these questions would ensure that FTB is able to implement the payment of refunds in the manner intended by the author.

Fraud is typically a problem with refundable credits. To minimize the potential for fraud, staff recommends that the language provide for DPH to give a credit certification and for a partnership or S corporation taxpayer to receive a certification, the applying partnership or S Corporation must provide DPH the taxpayer identification numbers for every partner or shareholder and the amount of contribution attributed to each partner or shareholder. In addition, it is recommended that the language require DPH to provide FTB with the taxpayer identification numbers and contribution amounts of each partner or shareholder.

LEGISLATIVE HISTORY

AB 34 (Stats. 2007, Ch. 516), requires DPH to establish, by July 1, 2009, the Umbilical Cord Blood Collection Program for the purpose of collecting and storing umbilical cord blood for public use. The bill also requires DPH to contract with up to five blood banks that are licensed or accredited to provide umbilical cord blood banking storage services to collect, and make available to doctors and their patients, umbilical cord blood.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws have an umbilical cord blood donation program but 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

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 40 Effective for Tax Years BOA January 1, 2009 (\$ in Millions)		
2008-09	2009-10	2010-11
-\$8	-\$15	\$0

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would be determined by the monetary contributions donated to the Umbilical Cord Blood Collection Program Fund. The bill states, legislative action is required to authorize funds for payment of refunds in excess of net tax. It is assumed all credits would be allowed in the first year the credit becomes available. It is also assumed that approximately \$23.8 million (\$25 million x 95% of the available aggregate credit \approx \$23.8 million) in tax credits would reduce tax liabilities and approximately \$1.2 million (\$25 million x 5% \approx \$1.2 million) would be claimed as refundable credits. Assuming the first application approved by DPH certifying a taxpayer's donation would be issued no earlier than March 1, 2008, it is expected that approximately \$8.5 million would be claimed in the first fiscal year (\$23.8 million x 35% \approx \$8.5 million) and approximately \$15.3 million would be claimed in the second fiscal year (\$23.8 million x 65% \approx \$15.3 million). The remaining \$1.2 million for refunds is not included in this estimate because it would need to be appropriated by the legislature and it is unknown when the appropriation would be approved. The estimate in the chart reflects a combination of reduced estimated tax payments and returns filed claiming the credit.

POLICY CONCERNS

Generally, credits are limited to a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense. For example, a taxpayer could claim both a charitable contribution deduction and this credit.

LEGISLATIVE STAFF CONTACT

Analysis prepared by
Angela Raygoza
(916) 845-7814
angela.raygoza@ftb.ca.gov

Revenue estimated by
Janet Jennings
(916) 845-3495
janet.jennings@ftb.ca.gov

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