

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Tran Analyst: Matthew Cooling Bill Number: AB 2148
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 18, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Deduction For Physician's Medical Services Contributed Free Of Charge To Local Community Clinic

SUMMARY

This bill would allow physicians to deduct the value of medical services contributed free of charge to community clinics, as specified.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to incentivize physicians to provide services free of charge to certain community health clinics to promote health and wellness.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2010.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow individuals to deduct either a fixed amount, indexed for inflation, known as the standard deduction, or the amount of a taxpayer's itemized deductions, whichever is greater. Certain expenses, such as medical expenses incurred by the taxpayer, charitable contributions, interest, and taxes, are deductible as itemized deductions. Expenses for the production of income and certain employee business expenses are considered miscellaneous itemized deductions and, like certain other itemized deductions, must exceed 2 percent of adjusted gross income (AGI)¹ to be deducted as an itemized deduction.

¹For purposes of state income tax law, AGI is defined by cross-reference to the Internal Revenue Code (IRC) as gross income, which includes all income from whatever source derived, adjusted for certain allowable amounts, including IRA contributions, alimony paid, moving expenses, and Keogh account contributions.

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| _____ X PENDING | Selvi Stanislaus | 04/06/10 |

Currently, there is no deduction for contributing free medical services to an organization or clinic as proposed by this bill.

THIS BILL

Under the Personal Income Tax Law, this bill would allow a state income tax deduction equal to the value of medical services contributed free of charge by a physician to a local community clinic as a miscellaneous itemized deduction, subject to the 2 percent AGI limitation.

The deduction allowed to each taxpayer would be limited to the lesser of \$50 per hour for any medical services rendered or a maximum deduction of \$1,500 per year. In addition, this bill specifies that no other deduction would be allowed for any contribution for which this deduction was allowed.

This bill would define the following terms:

- “Local community clinic” means a clinic as defined by Health and Safety Code (HSC) section 1204(a).²
- “Physician” means a person authorized to practice medicine or osteopathy in any state.

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 allow a physician to claim a personal deduction for services contributed to a local clinic as specified. It is unclear if the physician must perform the services in the clinic or if the physician can appoint someone, even an unlicensed professional to the clinic. The physician could also hire professional medical services at a lower rate to work at the clinic and then claim the maximum deduction of \$50 per hour without providing any services himself or herself. Lack of clarity in this situation could lead to disputes between taxpayers and the department.

The definition of “physician” would include a physician licensed in any state. Not all states have the same licensing requirements, which may lead to services being provided in this state that do not meet the state’s certification requirements to practice medicine or osteopathy. The author may wish to amend the definition of a physician to mean a physician or surgeon licensed by the Medical Board of California or Osteopathic Medical Board of California.

This bill lacks a definition of “local.” HSC section 1204(a) provides the requirements for licensing a community or free clinic. The author may wish to define a local community clinic as one licensed in California per the requirements of the HSC section 1204(a).

² Health and Safety Code section 1204(a) states, in general, a "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services.

LEGISLATIVE HISTORY

SB 92 (Aanestad, 2009/2010) would have allowed a credit equal to 25 percent of the tax of a qualified medical individual providing medical services in a rural area, as defined. This bill failed to pass out of the house of origin before the Constitutional deadline.

AB 1592 (Huff, 2007/2008) would have allowed a credit equal to 50 percent of the fair market value of uncompensated medical care provided by a physician during the taxable year to an eligible individual, as specified. This bill failed to pass out of the house of origin before the Constitutional deadline.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

| Estimated Revenue Impact of AB 2148, as Introduced February 18, 2010 For Taxable Years Beginning On or After January 1, 2010 Enactment Assumed After 6/30/10 | | |
|---|-------------------|-------------------|
| 2010-11 | 2011-12 | 2012-13 |
| -\$900,000 | -\$600,000 | -\$610,000 |

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

ARGUMENTS/POLICY CONCERNS

This bill would allow a tax deduction for services that are donated, which is unprecedented. Deductions generally are allowed to taxpayers for actual expenses incurred. This bill would allow a tax deduction for the value of medical services contributed to a local clinic, but it lacks clarity regarding whether the clinic needs to be located within California. Generally, California tax incentives are enacted to benefit the state and its residents.

LEGISLATIVE STAFF CONTACT

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