

SUMMARY ANALYSIS OF AMENDED BILL

Author: Tran/Portantino Analyst: Matthew Cooling Bill Number: AB 2148
 Related Bills: See Prior Analysis Telephone: 845-5983 Amended Date: May 18, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Deduction For Physician’s Medical Services Performed Free Of Charge To Local Community Clinic Or Emergency Department Of General Acute Care Hospital

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced February 18, 2010.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 18, 2010, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would allow physicians to deduct the value of medical services provided free of charge to community clinics and emergency departments of general acute care hospitals.

SUMMARY OF AMENDMENTS

The May 18, 2010, amendments added language that would do the following:

- Allow the deduction to be an "above-the-line" deduction in computing adjusted gross income (AGI);¹
- Amend the operative date of this bill;
- Define the following terms: “emergency medical services,” “local community clinics,” “qualified medical services,” and “qualified taxpayer;” and
- Clarify that physicians would have to perform services at a local community clinic.

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.

Board Position:	Asst. Legislative Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
_____ X PENDING	Patrice Gau-Johnson	06/08/10

These amendments resolved the department's implementation considerations in the analysis of this bill as introduced February 18, 2010, and added a coauthor to the bill. As a result of the amendments, the "Effective/Operative Date," "Federal/State Law," "This Bill," "Implementation Considerations," and "Economic Impact" discussions have been revised.

Except for the revisions referred to above, the department's analysis of the bill as introduced February 18, 2010, still applies.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2011, and before January 1, 2016.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow for the deduction of certain expenses when calculating adjusted gross income, such as moving expenses and interest on education loans, certain ordinary and necessary trade and business expenses, losses from the sale or exchange of certain property, contributions for pension, profit-sharing and annuity plans of self employed individuals, retirement savings, and alimony. Thus, all taxpayers with these types of expenses receive the benefit of the deduction, regardless of whether the taxpayer itemized deductions or uses the standard deduction. These are known as "above-the-line" deductions.

Currently, there is no deduction - including a charitable contribution - for providing medical services free of charge 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 provided free of charge by a qualified taxpayer at a local community clinic or in the emergency department of a general acute care hospital. The deduction would be an above-the-line deduction allowed in computing AGI and would be limited to \$1,500 per year.

This bill would define the following terms:

- “Emergency medical services” means “emergency services and care” as defined by Health and Safety Code (HSC) section 1317.1.²
- “Local community clinic” means a clinic as defined by HSC section 1204(a).³
- “Qualified medical services” means either of the following:
 - Services provided by a qualified taxpayer free of charge at a local community clinic, or
 - Emergency medical services provided in an emergency department of a general acute care hospital that is licensed pursuant to HSC section 1250.⁴
- “Qualified taxpayer” means a physician or surgeon licensed by the Medical Board of California or the Osteopathic Board of California.

This bill would require the value of medical services provided to be calculated pursuant to the California Code of Regulations, Title 28, Section 1300.71(a)(3)(B).⁵ This bill would also require the local community clinic or general acute care hospital to provide documentation regarding the value of the medical services provided by the practicing physician.

This bill would specify that any deduction otherwise allowable for contribution of services would not be allowed if those services are used to calculate the deduction proposed by this bill.

IMPLEMENTATION CONSIDERATIONS

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

²Health and Safety Code (HSC) section 1317.1 states, in general, that “emergency services and care” means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician.

³ HSC 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.

⁴ HSC section 1250 states, in general, the requirements needed to be met in order for a general acute care hospital to be licensed in California.

⁵ California Code of Regulations, Title 28, Section 1300.71(a)(3)(B) states, in general, that the payment of the reasonable and customary value for the health care services is rendered based upon statistically credible information that is updated at least annually.

ECONOMIC IMPACT

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 2148 As Amended May 18, 2010 For Taxable Years Beginning On or After January 1, 2011 Assumed Enactment September 30, 2010 (\$ in Millions)		
2010-11	2011-12	2012-13
-\$0.6	-\$1.5	-\$1.8

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

LEGISLATIVE STAFF CONTACT

Legislative Analyst

Matthew Cooling

(916) 845-5983

matthew.cooling@ftb.ca.gov

Revenue Manager

Monica Trefz

(916) 845-4002

monica.trefz@ftb.ca.gov

Asst. Legislative Director

Patrice Gau-Johnson

(916) 845-5521

patrice.gau-johnson@ftb.ca.gov