

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cook, et al. Analyst: Brian Werking Bill Number: AB 1597
Related Bills: None Telephone: 845-5103 Introduced Date: February 6, 2012
Amended Date: March 20, 2012
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Loss Of Income Credit

SUMMARY

This bill would provide an income tax credit for individuals whose adjusted gross income (AGI) has decreased by more than 10 percent from the previous taxable year.

RECOMMENDATION

No position.

Summary of Amendments

This bill, as introduced February 6, 2012, would have provided a refundable credit for personal income taxpayers whose AGI decreased by more than 10 percent from the previous year.

The March 20, 2012, amendments eliminated the refundable portion of the credit and replaced it with a 10-year carryover period. In addition, the amendments limit the sources of lost income that may be used to determine a taxpayer's eligibility for the credit.

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

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to help alleviate some of the burden that the state's 11 percent unemployment rate has put on the Employment Development Department by helping Californians feel more financially secure about taking lower-paying jobs.

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, 2012.

Board Position:

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Executive Officer

Date

Selvi Stanislaus

03/30/12

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.

Except as specified, existing state law does not allow any tax credit to reduce regular tax below the tentative minimum tax (TMT) computed for purposes of the alternative minimum tax (AMT) calculation.

THIS BILL

This bill would provide an income tax credit for personal income taxpayers whose California AGI for the taxable year has decreased by 10 percent or more from the previous taxable year. The loss of income cannot be the result of a dismissal or termination for cause or the result of a finding of guilt in a criminal proceeding or a pending criminal investigation.

The credit would be equal to 10 percent of the decrease in California AGI from the previous taxable year. Taxpayers would be eligible for the credit if their federal AGI for the current taxable year is less than \$80,000 if single or less than \$160,000 if married. The credit would be capped at \$300 for individual filers whether single or married filing separately and \$600 for joint filers. Any unused portion of the credit may be carried forward to the succeeding taxable year for up to 10 years.

By signing a tax return in which this credit is claimed, the taxpayer would be affirmatively acknowledging that the loss of income is not the result of a dismissal or termination for cause or a result of a finding of guilt in a criminal proceeding or a pending criminal investigation.

The bill would also provide that the Franchise Tax Board (FTB) may prescribe regulations as necessary to administer and carry out the purposes of this section.

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.

The bill uses federal AGI thresholds established by marital status without regards to filing status to determine if a taxpayer is eligible for the credit. It is unclear how the federal AGI threshold would be used to limit eligibility for the credit for married individuals filing separate returns. To alleviate confusion among taxpayers, it is recommended that the bill be amended with AGI thresholds established by filing status, instead of marital status.

The bill bases the credit on a taxpayer's reduction in AGI from the prior year. It is unclear how the joint AGI of a jointly filed return would be allocated to the two individual filers for the loss calculation when there is a change in filing status from one year to the next. To alleviate confusion among taxpayers, it is recommended that the bill be amended to address how a change in filing status would impact the allowance of the credit.

The bill allows a credit in the amount \$300 or \$600, based on filing status. The bill fails to identify all filing statuses, such as head of household and surviving spouse. To avoid disputes between taxpayers and the department, it is recommended that the bill be amended to address all filing statuses and their corresponding credit amounts.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide 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

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 1597 As Amended March 20, 2012 For Taxable Years Beginning On or After January 1, 2012 Assumed Enactment After June 30, 2012 (\$ in Millions)		
2012-13	2013-14	2014-15
-\$900	-\$800	-\$800

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: Some proponents may say that this bill would provide the necessary incentive for individuals to accept lower-paying jobs instead of relying on unemployment.

Con: Some opponents may say that, with the state's current fiscal crisis, additional tax expenditures should be avoided.

POLICY CONCERNS

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

LEGISLATIVE STAFF CONTACT

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