

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Hagman Analyst: Jessica Matus Bill Number: AB 205
 Related Bills: See Legislative History Telephone: 845-6310 Introduced and Amended Dates: January 27, 2011 and February 16, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Vehicle Registration Costs Credit

SUMMARY

This bill would provide a personal income tax credit for the registration fees paid on qualified vehicles.

SUMMARY OF AMENDMENTS

The February 16, 2011, amendments do the following:

- Change the operative date of the bill from taxable years beginning on or after January 1, 2011, to taxable years beginning on or after January 1, 2010.
- Clarify that the credit is for the vehicle that was either sold or traded in to purchase a new vehicle.
- Provides a public purpose statement that the retroactive operative date does not constitute a gift of public funds.

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

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF SUGGESTED AMENDMENTS

The bill language contains a spelling error. An amendment has been provided under “Technical Considerations” below.

PURPOSE OF THE BILL

According to the public purpose statement in the bill, the purpose is to encourage the purchase of energy efficient and economical vehicles to benefit the environment.

| | | |
|-----------------|---------------------|----------|
| Board Position: | Department Director | Date |
| _____ S | | |
| _____ SA | | |
| _____ N | | |
| _____ NA | | |
| _____ O | | |
| _____ OUA | | |
| _____ X NP | | |
| _____ NAR | | |
| | Selvi Stanislaus | 03/25/11 |

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, 2010.

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.

Annually, California charges individuals and businesses a motor vehicle registration fee on the ownership of motor vehicles. The state Department of Motor Vehicles (DMV) administers the fee. The motor vehicle registration fee consists of a vehicle license fee (VLF), base registration fee, and other miscellaneous surcharges and fees.

Current federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, mortgage interest, and taxes, such as the VLF, as itemized deductions. The VLF is considered a personal property tax based on the market value of the motor vehicle.

THIS BILL

For taxable years beginning on and after January 1, 2010, this bill would provide a tax credit to individuals for the cost paid to register a qualified vehicle. To qualify for the credit, a taxpayer must do all of the following in the same calendar year:

- Own a “qualified vehicle” and pay registration costs on that vehicle during the taxable year,
- Pay the registration fees on another new vehicle in the same calendar year as the registration fees on the qualified vehicle were paid, and
- Trade in or sell the qualified vehicle upon which the registration fees were paid on.

Registration fee is defined as the base registration fee in the Vehicle Code. Currently, the fee is \$34.

“Qualified vehicle” is defined as any vehicle that the taxpayer has paid California registration fees on and in the same calendar year purchased a new vehicle to replace it and either sold or traded in the old vehicle.

The public purpose statement listed in the bill states that it is to encourage the purchase of more energy efficient and economical vehicles to benefit the environment.

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 uses terms that are undefined, i.e., "qualified taxpayer," "new vehicle," and "registration fees." The absence of definitions to clarify these terms could lead to disputes with taxpayers and could complicate the administration of this credit. It is recommended the bill be amended to clarify these terms.

The bill states that the registration fees on the old and new vehicles must be paid in the same "taxable" year, yet the bill requires the sale or trade in of the old vehicle to be in the same "calendar" year. It is unclear whether the registration fees and trade in or sell of the qualified vehicle must occur during the same year in order to qualify for the credit. To eliminate confusion, the author may wish to amend the bill to use either calendar or taxable year.

To qualify for the credit, a taxpayer must trade in or sell a vehicle. Without requiring the taxpayer to retain documentation and provide it to the department upon request, the department would be unable to determine whether the taxpayer met that requirement. It is recommended that the bill be amended to require the taxpayer to retain the necessary documents and to provide them upon request.

This bill specifies an operative date for taxable years beginning on or after January 1, 2010. The department has published all of the tax booklets and forms for the 2010 tax year and the 2010 filing season is currently underway. With a retroactive operative date, taxpayers would need to file an amended return to claim the credit. Preparing amended returns can be confusing and costly for taxpayers, and require additional processing by the department. To eliminate the need to file amended returns, staff recommends changing the operative date to January 1, 2011.

TECHNICAL CONSIDERATIONS

On page 2, line 10, strikeout "Qualified" and insert "Qualified".

LEGISLATIVE HISTORY

AB 838 (Saldana, 2005/2006) would have allowed individuals and businesses that purchase "qualified vehicles" a tax credit equal to the amount of the vehicle license fee paid annually to register one of these vehicles. AB 838 failed to pass out of the Assembly by the constitutional deadline.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit 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

Because this bill has a retroactive operative date, the department could receive an influx of amended returns that could increase the department's processing costs. The total amount of the costs is unknown at this time, but will be determined as the bill moves through the legislative process and an appropriation will be requested if necessary.

ECONOMIC IMPACT

Revenue Estimate

| Estimated Revenue Impact of AB205 (2/16/11) For Taxable Years Beginning On or After January 1, 2010 Enactment Assumed After June 30, 2011 (\$ in Millions) | | | | |
|--|---------|---------|---------|---------|
| 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
| -\$0 | -\$6.0 | -\$3.9 | -\$3.9 | -\$4.0 |

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 taxpayers may say that the bill would encourage the purchasing of more energy efficient and economical vehicles.

Con: Some taxpayers may say that with the state's a 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 the credit by the Legislature.

LEGISLATIVE STAFF CONTACT

Jessica Matus
Legislative Analyst, FTB
(916) 845-6310
jessica.matus@ftb.ca.gov

Patrice Gau-Johnson
Asst. Legislative Director, FTB
(916) 845-5521
patrice.gau-johnson@ftb.ca.gov