

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Perea Analyst: Jessica Deitchman Bill Number: AB 248
Related Bills: See Legislative History Telephone: 845-6310 Amended Date: January 11, 2012
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: New Jobs Credit Modification/Qualified Medical Services Credit

SUMMARY

This bill would reduce the New Jobs Tax Credit allocation and would create an income tax credit for a physician or surgeon who provides non-reimbursed emergency qualified medical services.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

Summary of Amendments

The January 11, 2012, amendments added language that would reduce the maximum allocation amount for the New Jobs Tax Credit from \$400 million to \$250 million. The amendments would also limit the total credit allocation for the Qualified Medical Services tax credit to \$150 million. As a result of the amendments, the department's analysis of the bill as amended June 13, 2011, no longer applies. This analysis replaces the prior analysis of the bill.

PURPOSE OF THE BILL

It appears the purpose of this bill is to increase the availability of medical care by providing an incentive for physicians or surgeons to provide services at a reduced or free rate.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and is specifically operative for taxable years beginning on or after January 1, 2013, and before January 1, 2016. The reduction in the maximum allocation amount for the New Jobs Tax Credit would apply as of the effective date.

Board Position:

_____ S _____ NA X NP
_____ SA _____ O _____ NAR
_____ N _____ OUA

Executive Officer

Date

Selvi Stanislaus

01/23/12

ANALYSIS

FEDERAL/STATE LAW

New Jobs Tax Credit

Current state tax law, SBX3 15 (Calderon, Stats. 2009, Third Extraordinary Session, Ch. 17), allows a credit for taxable years beginning on or after January 1, 2009, to a qualified employer in the amount of \$3,000 for each qualified full-time employee hired in the taxable year, determined on an annual full-time equivalent basis. The credit is allocated by the Franchise Tax Board (FTB) and has a cap of \$400 million for all taxable years. The credit remains in effect until December 1 of the calendar year after the year in which the cumulative credit limit has been reached and is repealed as of that date. Any credits not used in the taxable year may be carried forward up to eight years.

Federal law does not provide a credit comparable to the New Jobs Tax Credit allowed by this bill.

Qualified Medical Services Credit

Existing federal and state 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.

THIS BILL

This bill would reduce the maximum allocation amount for the New Jobs Tax Credit from \$400 million to \$250 million.

In addition, for each taxable year beginning on or after January 1, 2013, and before January 1, 2016, this bill would allow a personal income tax credit equal to 25 percent of the value of qualified medical services personally provided by a qualified taxpayer during the taxable year. The maximum amount of the credit allowed to a qualified taxpayer would be \$5,000 per taxable year.

This bill provides the following definitions:

- “Qualified taxpayer” means a physician or surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.
- “Qualified medical services” means either (1) medical services provided by a qualified taxpayer free of charge or at a reduced rate at a local community clinic, or (2) emergency medical services provided by a qualified taxpayer free of charge or at a reduced rate in an emergency department of a general acute care hospital licensed pursuant to Section 1250 of the Health and Safety Code.
- “Local community clinic” means a community clinic or free clinic as defined in Section 1204 of the Health and Safety Code.
- “Emergency medical services” means “emergency services and care” as that term is defined in Section 1317.1 of the Health and Safety Code.

In addition, this bill would do the following:

- Require the value of medical services to be determined according to the usual, reasonable, and customary rate as described in Section 1300.71(a)(3)(B) of Title 28 of the California Code of Regulations. For medical services provided at a reduced rate, this bill would require the amount used to calculate the value of the medical services to be the difference between the usual, reasonable, and customary rate as specified in the previous sentence, and the reduced rate charged.
- Require the local community clinic or general acute care hospital to provide documentation to the qualified taxpayer regarding the value of the services provided.
- Prohibit any other credit or deduction for any amount for which a credit is claimed under this bill.
- Prohibit the credit when the qualified taxpayer has received reimbursement.
- Allow the credit allowed by this bill to be carried over for the succeeding eight taxable years, or until exhausted, whichever occurs first.
- Limit the maximum aggregate credit allocation amount to \$150 million.
- Require that the credit be claimed only on timely filed original returns.
- Establish a cut-off date of the last day of the calendar quarter in which the FTB estimates that it will have received timely filed original returns claiming credits that cumulatively total \$150 million.
- Require the FTB to periodically provide notice on its Internet Web site on how much of the credit has been claimed.
- Remain in effect until December 1, 2016, and as of that date would be repealed.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would occur during the department's normal annual update.

LEGISLATIVE HISTORY

New Jobs Tax Credit

AB 304 (Knight, 2011/2012) would allow a credit of \$3,000 or \$5,000 to an employer with 30 or more employees that moves or establishes a headquarters within California. This bill is currently in the Assembly Revenue and Taxation Committee.

AB 1009 (Wieckowski, 2011/2012) would modify the current New Jobs Tax Credit to increase the allowance of the credit from employers with less than 20 employees to employers with 100 or less employees. This bill is currently in the Revenue and Taxation Committee.

SB 643 (Davis, 2011/2012) would limit the total amount of the New Jobs Tax Credit to \$100 million. The "California New Markets" tax credit authorized by the bill would be limited to \$300 million. SB 643 is currently in the Assembly for the second reading.

ABX3 15 (Krekorian, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 10) and SBX3 15 (Calderon, Stats. 2010, 3rd Ex. Sess. 2009, Ch. 17) created the New Jobs Tax Credit, which provides a tax credit of \$3,000 for each net job increase.

Qualified Medical Services Credit

AB 895 (Halderman & Portantino, 2011/2012), similar to this bill, would have provided an income tax credit for physicians and surgeons who provide qualified medical services for free or at a reduced rate. AB 895 is currently being held under submission in the Assembly Revenue and Taxation Committee.

SBX1 20 (Runner, 2007/2008) would have provided an income tax credit for primary care providers. This bill was held in the Senate Health Committee without action.

SBX1 21 (Cogdill, 2007/2008) would have provided a tax credit for a medical care professional that provides medical care in a rural area. This bill failed to pass out of the Senate Health Committee.

SB 1026 (Calderon, 2007) would have provided an income tax credit for a “qualified health care provider” in an amount equal to the amount paid or incurred during a taxable year to provide health care to residents of the state whose health care is not covered by a health care service plan or health insurance. This bill was held in the Senate Health Committee.

PROGRAM BACKGROUND

As of December 31, 2011, the total Personal Income Tax and Business Entity returns claiming the New Jobs Tax Credit was 12,914 and the amount of income tax credits generated was \$76.1 million. The cut-off date is the last day of the calendar quarter within which FTB estimates it will have received timely filed original returns claiming the credit that cumulatively total \$400 million.

OTHER STATES’ INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

New Jobs Tax Credit

Florida, Illinois, New York, Michigan, and Minnesota do not provide a credit similar to the New Jobs Tax Credit.

Massachusetts allows a Full Employment credit to employers who participate in the Full Employment Program and continue to employ a participant for at least one full month. The taxpayer may claim a credit of \$100 per month of eligible employment per participant, up to \$1,200 per participant.

Qualified Medical Services Credit

A review of the similar states found no comparable tax credit as the one proposed by this bill.

FISCAL IMPACT

This bill would require a calculation for the new Qualified Medical Services Credit that would require a new form to be developed and would require tracking the credit usage. As a result, this bill would impact the department’s printing, processing, and storage costs for tax returns. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue for AB 248 as Amended January 11, 2012 For Taxable Years Beginning On or After January 1, 2013, and Before January 1, 2016 Enactment Assumed After June 30, 2012 (\$ in Millions)				
	2012-13	2013-14	2014-15	2015-16
Qualified Medical Services Credit	-\$28	-\$50	-\$38	-\$14
Change in Jobs Credit from Current Law	\$0	\$0	\$0	+\$25
Total Revenue Impact	-\$28	-\$50	-\$38	+\$11

Fiscal year 2016/17:

Qualified Medical Services Credit: -\$4 million
Change in Jobs Credit from Current Law: +\$70 million
Total Revenue Impact: +\$66 million

Fiscal year 2017/18:

Qualified Medical Services Credit: -\$4 million
Change in Jobs Credit from Current Law: +\$50 million
Total Revenue Impact: +\$46 million

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: This bill could increase the availability of medical care and, as a result, save lives.

Con: Some may argue this bill give an unfair tax advantage to physicians and not to other worthy professions.

LEGISLATIVE STAFF CONTACT

Jessica Deitchman
Legislative Analyst, FTB
(916) 845-6310

jessica.deitchman@ftb.ca.gov

Patrice Gau-Johnson
Asst. Legislative Director, FTB
(916) 845-5521

patrice.gau-johnson@ftb.ca.gov