Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Morrell	Analyst:	Diane Deatherage	Bill Number:	AB 1745
Related Bills:	None	Telephone:	845-4783	Introduced Date:	February 14, 2014
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Charitable Contributions Credit

SUMMARY

This bill would create a nonrefundable credit under the Personal Income Tax Law for contributions to qualified charitable organizations.

RECOMMENDATION

No position.

Summary of Suggested Amendments

Amendment 1 would clarify that the bill's provisions would apply on a taxable year basis.

REASON FOR THE BILL

The reason for the bill is to offer certain charities an ability to market to their donors.

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, 2014.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws allow deductions from income for charitable contributions. Under certain circumstances an individual is allowed to deduct the fair market value of the property being contributed. An individual can deduct an amount not to exceed 50 percent of their adjusted gross income. A contribution made in excess of the percentage limitations may be carried over and deducted in future years.

Board Position:			Executive Officer	Date
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THIS BILL

For taxable years beginning on or after January 1, 2014, this bill would allow a credit in an amount equal to a taxpayer's contributions to a qualified charitable organization, and could not exceed:

- $500 for married taxpayers filing joint returns or an individual filing as a surviving spouse; or
- $250 for individuals filing as either single or as a head of household, or married taxpayers filing separate returns.

"Qualified charitable organization" would mean an organization that meets all of the following requirements:

- Is an organization that is exempt under Internal Revenue Code (IRC) section 501(c)(3) or is a designated community action agency that receives community services block grant moneys.
- Spends at least 50 percent of its budget on services to California individuals who receive California Work Opportunity and Responsibility to Kids (CalWORKS) benefits, are low-income individuals whose household income is less than 150 percent of the poverty guidelines, are chronically ill, or physically disabled children.
- Demonstrates that the organization plans to continue to spend at least 50 percent of its budget on services to those persons listed above.
- Applies for certification from the Franchise Tax Board (FTB) and receives such certification that the organization meets all of the requirements.

The FTB would be required to post the names of the qualified charitable organizations on its Internet web site.

Credits in excess of the net tax may be carried over to reduce the net tax in the following year and succeeding four years, until exhausted.

A credit allowed under this bill would be in lieu of any charitable deduction otherwise allowed.

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 phrases that are undefined, i.e., "chronically ill" and "physically disabled children." The absence of definitions to clarify these phrases could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill lacks administrative details necessary to implement the bill and determine its impacts to the department's systems, forms, and processes. The bill is silent on the following issues:

- A funding mechanism for the FTB's start-up and on-going costs to administer the certification and reporting process provisions of this bill. Absence of a funding mechanism could delay implementation or require diversion of resources from existing revenue generating workloads.
- A "qualified charitable organization" includes an organization described in IRC section 501(c)(3) that is exempt from federal taxes. However, some organizations described in IRC section 501(c)(3) are tax-exempt but do not receive a federal determination letter from the Internal Revenue Service (IRS). For example, organizations that have minimal gross receipts are not required to request tax-exempt status from the IRS, but they are exempt from federal tax. Would a qualified charitable organization need to obtain a federal determination letter from the IRS?
- Would the FTB be responsible for determining if the charitable organization is exempt under IRC section 501(c)(3) or is a designated community action agency that receives community services block grant moneys? Or would the charitable organization be responsible for providing documentation that it meets that requirement?
- A qualified charitable organization must spend at least 50 percent of its budget on services for specific persons and it must also demonstrate that the organization plans to continue to spend 50 percent of its budget on services for the same specific persons. However, the bill lacks a timeframe and detail as to how the organization would demonstrate its plans.

It is recommended that the bill be amended to provide clarity on these issues and ensure consistency with the author's intent.

TECHNICAL CONSIDERATIONS

This bill would create a credit for individuals who made contributions to a qualified charitable organization for each taxable year beginning on or after January 1, 2014, with dollar limitations dependent on filing status. However, the bill lacks language as to the period of time for which the credit is allowed. As a result, a one-time credit of $250 by a single taxpayer for the 2014 tax year eliminates the credit for subsequent years. Amendment 1 would clarify that the bill's provisions would apply on a taxable year basis.

The language in the bill states that the credit allowed would be in lieu of any charitable deduction. This has the affect of denying all charitable deductions, not just the deduction for this contribution. If this is not the author's intent, the author may wish to amend the bill to limit the denial of the deduction to amounts contributed to these organizations or amounts that provide the basis for the credit.

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. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

This bill would impact the department's printing, processing and programming costs. 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 Impact of AB 1745 As Introduced on February 14, 2014 Assumed Enactment After June 30, 2014 ($ in Millions)		
2014-15	2015-16	2016-17
- $300	- $45	- $18

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

Proponents: Supporters could argue that this bill would encourage more taxpayers to contribute to qualified charitable organizations.

Opponents: Some could argue that because a taxpayer may already deduct a charitable contribution, creating a credit for a charitable contribution is unnecessary.

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.

Credits generally are provided as a percentage of actual amounts paid. This bill would allow a 100 percent credit, which is unprecedented.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1745
As Introduced on February 14, 2014

AMENDMENT 1

On page 2, lines 6 and 9 after "section" insert:

for a taxable year