

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Gorell and Olsen Analyst: Michelle Chan Bill Number: AB 2107
Related Bills: See Legislative History Telephone: 845-6805 Amended Date: April 1, 2014
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Contributions to California Preschool Investment Fund Credit

SUMMARY

This bill would establish a credit under the Personal Income Tax Law and Corporation Tax Law for cash contributions made to the California Preschool Investment Fund.

This analysis only addresses the provisions of the bill that impact the department's programs and operations.

RECOMMENDATION

No position.

Summary of Amendments

The April 1, 2014, amendments eliminated the bill's legislative intent language and added the provisions discussed in this analysis. This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to generate an additional source of funding to expand the number of preschool slots and subsidies available to parents seeking prekindergarten child care assistance by offering an income tax credit.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2015, and specifically operative for taxable years beginning on or after January 1, 2015, and before January 1, 2019. The credit would be repealed by its own terms on December 1, 2019.

ANALYSIS

FEDERAL/STATE LAW

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.

Board Position:

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Executive Officer

Date

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Currently, neither federal nor state law provides a credit similar to the one this bill would create.

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Itemized deductions may be limited for high-income taxpayers.

Current federal and state law allows a corporation and S-corporation to deduct charitable contributions limited to 10 percent of the taxpayer's net income. Contributions in excess of 10 percent may be carried over to the following five succeeding taxable years.

THIS BILL

This bill would create the California Preschool Investment Fund in the state treasury. For taxable years beginning on or after January 1, 2015, and before January 1, 2019, this bill would allow an income or franchise tax credit of 40 percent of amounts contributed during the taxable year to the California Preschool Investment Fund. Taxpayers may only claim this credit on an original, timely filed return.

The credit would be allowed to taxpayers that received a receipt for their contribution to the California Preschool Investment Fund from the State Department of Education. Taxpayers would be required to provide the receipt to the Franchise Tax Board (FTB) upon request.

A deduction otherwise allowed for amounts the credit is based upon would be required to be reduced by the amount of the credit allowed.

Any unused credit may be carried over to reduce the tax for the following five years if necessary, until the credit is exhausted.

The aggregate amount of credit that may be allowed could not exceed ___ dollars (\$___).

The FTB may prescribe rules, guidelines or procedures necessary or appropriate to carry out the purpose of the credit. These rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

The credit would be repealed by its own terms as of December 1, 2019.

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 lacks administrative details that must be determined to implement the bill and determine its impacts to the department's systems, forms, and processes. For example, the bill is silent on the following:

The aggregate total credit amount is unspecified. Additionally, it is unclear whether the aggregate total would apply to each taxable year the credit is available or over the life of the credit.

The bill fails to limit the amount of contributions the Department of Education accepts and provides a receipt for. As a result, the total credit amount based on receipts for contributions could exceed the specified cap. Additionally, the bill fails to specify how credits in excess of the aggregate total would be treated.

For clarity, to eliminate disputes between taxpayers and the department, and to clearly express the author's intent, this bill should be amended.

LEGISLATIVE HISTORY

SB 1356 (De Leon, 2011/2012) would have created an income tax credit for cash contributions made to an education special fund with an aggregate credit cap of \$100 million per calendar year. SB 1356 was held in the Assembly Appropriations Committee.

AB 279 (Duvall, 2009/2010) would have created an income tax credit for contributions to a scholarship granting organization. AB 279 failed passage out of the Assembly Revenue and Taxation Committee.

AB 1262 (Haynes, 2005/2006) would have created a 75 percent credit for donations to a nonprofit organization that provides scholarships to elementary and secondary school students. AB 1262 failed passage out of the Assembly Revenue and Taxation Committee.

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

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved. As the bill continues to move through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 2107 As Amended on April 1, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
-\$2.2	-\$17.0	-\$19.0

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

Proponents: Supporters could argue that this bill would encourage more taxpayers to contribute to the California Preschool Investment Fund and expand the state support available to parents seeking prekindergarten child care assistance.

Opponents: Some could argue that using a tax credit to expand state support of prekindergarten child care assistance, while a worthy cause, would provide a funding advantage over other worthy state services that rely on the budget process for funding.

POLICY CONCERNS

This bill would create differences between federal and California tax law thereby increasing the complexity of California tax return preparation.

This bill would create a credit for certain donations that are currently deductible as charitable contributions. As a result, because the credit's dollar-for-dollar reduction of tax is a more generous tax benefit than a deduction, there could be a redirection of existing, planned charitable giving to obtain the tax credit allowed under this bill.

LEGISLATIVE STAFF CONTACT

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