

SUMMARY ANALYSIS OF AMENDED BILL

Author: Runner Analyst: Colin Stevens Bill Number: AB 119

Related Bills: See Prior Analyses Telephone: 845-3036 Amended Date: 3/9/98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Child Adoption Credit Conformity

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED January 28, 1998, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would repeal the existing state adoption credit and, by conforming with modifications to the federal adoption credit, allow a state credit equal to 50% of the costs above \$5,000 (\$6,000 in the case of a special needs adoption) but below \$10,000 paid or incurred by the taxpayer for an adoption that qualifies for the federal credit.

EFFECTIVE DATE

As a tax levy, this bill would be effective upon enactment but would specifically apply to taxable years beginning on or after January 1, 1998.

SUMMARY OF AMENDMENT

The March 9, 1998, amendments would change the operative date to January 1, 1998, repeal the existing state adoption credit, remove the prior language (adding a different state adoption credit equal to 100% of qualified costs under \$1,000), and add the provision described above.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department/Legislative Director Date
Johnnie Lou Rosas 3/16/98

Agency Secretary Date

By: Date:

SPECIFIC FINDINGS

The discussion of federal and state law in the analysis of the bill as introduced January 14, 1997, still applies.

Under the PITL, **this bill** would:

- repeal the existing state adoption credit; and
- by conforming with modifications to the federal adoption credit, allow a state credit equal to 50% of the costs above \$5,000 (\$6,000 in the case of a special needs adoption) but below \$10,000 paid or incurred by the taxpayer for adoptions that qualify for the federal credit.

Policy Considerations

By generally conforming state law to federal law in the determination of which expenses would qualify for an adoption credit, this bill would simplify the preparation of the state tax return for affected taxpayers. However, since this bill's provisions allow a credit for non-special needs adoptions after December 31, 2001, when the federal provision for non-special needs adoptions expires, this bill would create a federal/state difference after that date and may create confusion as to which taxpayers qualify for the credit.

Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which would not significantly impact the department's programs and operations.

Technical Considerations

The author's office has indicated that this bill is intended to provide for the carryover of any unused credit to subsequent years. However, since state law does not conform to Internal Revenue Code (IRC) Section 26 (which provides the federal rules for determining whether there is a carryover amount), references in the carryover provision in IRC Section 23(c) that are incorporated in this bill by reference arguably would not allow taxpayers to carryover any credits that could not be used in the year originally allowed. Amendment 1 would specifically provide for a limited carryover period for the credit in a manner similar to the carryover period provided in federal law.

FISCAL IMPACT

Departmental Costs

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

Tax Revenue Estimate

This proposal is estimated to impact PIT revenue as shown in the following table.

Fiscal Year Cash Flow			
Taxable Years Beginning After December 31, 1997			
Enactment Assumed After June 30, 1998			
\$ Millions			
	1998-9	1999-0	2000-01
Adoption Credit	(\$2)	(\$4)	(\$4)
Exclusion	(minor*)	(minor*)	(minor*)
Total	(\$2)	(\$4)	(\$4)

* Loss less than \$500,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The revenue impact for this bill would be determined by the number of qualified adoptions made during any given taxable year, average qualifying costs, and the tax liabilities of claimants.

This amendment differs from the amended version dated January 28, 1998, by repealing the existing adoption credit and conforming to the federal credit with modifications.

This estimate was developed in the following steps. First, the total number of adoptions by California residents was based on information received from the Department of Social Services. During fiscal year 1994-5, approximately 6,088 adoptions took place in California, of which 3,093 were public agency, 499 private, 1,850 independent, and 646 intercountry. Second, the total number of adoptions was increased 5% per year to allow for growth and an incentive effect from both federal and state tax incentives. Third, it was assumed that for this credit, independent, private, and intercountry adoptions would qualify. The typical cost for these adoptions is \$15,000 to \$18,000 per child. The maximum credit would be \$2,500 per child adopted. It was assumed that the average credit for taxpayers with AGIs less than \$75,000 would be \$2,500, and for taxpayers with AGIs between \$75,000 and \$115,000 it would be \$1,250 due to the AGI phase out. The average out-of-pocket cost for public agency adoptions is only \$500. Therefore, it is assumed these taxpayers would not incur sufficient costs to be allowed a credit under this bill. Fourth, based on AGI distributions for the general population of filers, it was assumed that approximately 80% of the above, non-public adoptions would qualify for this credit (2,800 adoptions for 1998-9). Of these, 80% are assumed to have AGI less than \$75,000. It was assumed on average that taxpayers with AGIs under \$75,000 would be able to use 50% of the credit and taxpayers with AGIs between \$75,000 and \$115,000, 95% of the credit amount per year. It also was assumed that unapplied carryover credits would be exhausted in the subsequent year. Finally, revenue estimates were adjusted to account for the repeal of current law credits of \$2 million annually based on updated Departmental statistics.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 119
As Amended March 9, 1998

AMENDMENT 1

On page 3, between lines 36 and 37, insert:

(c) Section 23(c) of the Internal Revenue Code shall not apply and, in lieu thereof, in the case where the credit allowed by this section exceeds the "net tax, the excess may be carried over to reduce the net tax in the following taxable year and the succeeding four taxable years, if necessary, until the credit is exhausted.