SCS Agency
Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Prenter | Analyst: Roger Lackey | Bill Number: AB 2520

Related Bills: See Legislative History | Telephone: 845-3627 | Introduced Date: 02-20-98

Attorney: Doug Bramhall | Sponsor:

SUBJECT: Employer Provided Preventative Health Care Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would create a tax credit equal to 25% of the amount paid or incurred by a taxpayer for preventive health care provided to employees who are qualified farmworkers.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1998, and before January 1, 2001.

LEGISLATIVE HISTORY

AB 148 (1997), AB 2033, AB 3267 (1995/96)

SPECIFIC FINDINGS

Under federal law, to which California conforms, an employer's contribution to an employee health plan is not includable in the employee's gross income. Employers are allowed to deduct health care contributions as ordinary business expenses.

Existing state and federal law provide various tax credits that can reduce a taxpayer's liability dollar-for-dollar.

Current state law provides general rules for the division of credits between multiple taxpayers, a husband and wife, or partners. Unless specified in state income tax law, no tax credit shall reduce regular tax below the tentative minimum tax for purposes of calculating alternative minimum tax (AMT).

Current federal and state laws do not provide credits for any health care costs. Prior **state law** would have provided a small-employer health coverage tax credit (SB 2260, Ch. 1521, Stats. 1988). However, the credit was repealed prior to becoming operative.

DEPARTMENTS THAT MAY BE AFFECTED:

____ STATE MANDATE ____ GOVERNOR'S APPOINTMENT

Board Position:	Agency Secretary Position:	GOVERNOR'S OFFICE USE
____ S ____ O	____ S ____ O	Position Approved ____
____ SA ____ OUA	____ SA ____ OUA	Position Disapproved ____
____ N ____ NP	____ N ____ NP	Position Noted ____
____ NA ____ NAR	____ NA ____ NAR	
____X____ PENDING	DEFER TO ____________	
Department Director Date	Agency Secretary Date	By: Date
Gerald H. Goldberg 3/17/98		

This bill would allow a tax credit equal to 25% of the amount paid or incurred by a taxpayer for preventive health care provided to the taxpayer's employees who are qualified farm workers. The credit amount would be limited to $50,000 per taxpayer for each taxable or income year.

This bill would define "preventive health care," "qualified expenses" and "qualified farm worker." "Preventive health care" includes, but is not limited to, an annual physical examination and related services as deemed medically appropriate in an effort to maintain good health, well being and growth.

The general rules regarding the division of credits would apply, and this credit would not reduce regular tax below the tentative minimum tax for AMT purposes. The taxpayer would be allowed to both claim this credit and deduct the expenses as ordinary business expenses.

Policy Considerations

Frequently a deduction is denied for expenses for which a credit is allowed. This bill would not deny a deduction for expenses attributable to this credit.

This bill would allow this credit only for taxpayers who employ "agricultural employees," resulting in different tax treatment for similarly situated taxpayers employing employees in different occupations.

Implementation Considerations

The following implementation concerns have been identified. The department would be unable to implement this bill effectively until these concerns are resolved. Department staff is available to assist in resolving these and any other issues that may be identified.

The definition of "preventive health care" is ambiguous and could be interpreted to include items not intended by the author. Further, the phrases "as deemed medically appropriate" and "good health, well-being and growth" are subjective and interpretations may vary in application from one individual to another. To ensure the author's intentions are achieved and to minimize disputes with taxpayers, a clearer definition of "preventive health care" and its components is needed.

The definition of "qualified farm worker" specifies that the employee cannot qualify for publicly funded health care services. It is unclear how the employer or the department would make this determination.

This bill allows a maximum credit not to exceed $50,000 for any one year. Where the credit exceeds the "net tax" or "tax," the taxpayer would be allowed to carry over the excess to reduce the "net tax" or "tax" in subsequent years. It is unclear if a taxpayer generating more than $200,000 in expenses in any one year could carry over the amount in excess of the $50,000 credit limitation to reduce the "net tax" or "tax" in subsequent years.

This bill does not limit the number of years any excess credit could be carried over. Generally, credits are exhausted in eight years.

Technical Considerations

In the definition of "qualified expenses," the reference to Section 23701 of the Revenue and Taxation Code should be changed to Section 23701d to be consistent with the reference to Internal Revenue Code Section 501(c)(3).

The language allowing carryover of the credit after repeal of the section is unnecessary since general tax law rules contain this provision.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs once the implementation concerns are resolved.

Tax Revenue Estimate

The revenue impact of this measure, under the assumptions discussed below, is estimated to be as follows in applied credits:

Revenue Impact of AB 2520
Beginning 1/1/98
Assumed Enactment After 6/30/98
(In Millions)

	1998-9	1999-0	2000-1
Personal Income Tax	($63)	($47)	($52)
Bank and Corporation	($21)	($16)	($16)
Total	($84)	($63)	($68)

This estimate does not account for changes in employment, personal income, or gross state product which could result from this measure.

Revenue Discussion

The revenue impact of this proposal would depend upon the number of employers who would incur qualified expenses for preventive health care for employees who are qualified farm workers, the average costs for qualifying expenses, and credit limitations due to insufficient regular tax or alternative minimum tax interactions.

Because this bill (which is identical to AB 148 of 1997) could be interpreted broadly, the actual revenue losses could be significant. For example, the bill is not specific in what costs would qualify for preventive health care and does not require an employer to purchase any type of preventive health insurance policy, nor does it limit the credit allowable per employee. The bill also does not provide for a deduction offset for the same expense.

The estimated losses were determined in several steps. First, the number of individuals who potentially could receive preventive health care was obtained from the California Statistical Abstract for 1997. According to the abstract there are approximately 372,000 employees in agricultural establishments located within California. Additionally approximately 4% of the population receive some sort of government assistance. This credit would be available only for aqricultural workers who do not qualify for publicly funded health care. For purposes of a possible revenue impact, if 75% of the farm workers not receiving public assistance, qualify the employer for a credit, with an average expense of $1,000 (assumes qualifying expenses can include such things as medication, mileage, paid time off, providing clean water, etc.) per year per employee ([$1,000 x (372,000 x 96% x 75%) x 25%]), the revenue impact would be approximately $67 million in applied and carryover credits at 1997 levels. Estimates above are consistent with estimates developed for the identical AB 148 of 1997 adjusted by a 5% annual growth rate. It is assumed applied credits would be approximately 70% of the credits generated.

BOARD POSITION

Pending.