

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Robert Pacheco Analyst: Marion Mann DeJong Bill Number: AB 2487

Related Bills: See Legislative History Telephone: 845-6979 Introduced Date: 02/24/2000

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: County Firearms Buyback Program Fund Donations Credit

SUMMARY

Under the Revenue and Taxation Code, this bill would allow a credit equal to 15% of donations made to any county firearms buyback program fund.

Under the Penal Code, this bill would establish a Firearms Buyback Program. Under this program, a county could establish a firearms buyback program administered by the sheriff's department. The program would be funded by donations.

This analysis discusses only the tax credit.

EFFECTIVE DATE

The bill would become effective January 1, 2001, and would apply to taxable or income years beginning on or after January 1, 2001.

LEGISLATIVE HISTORY

AB 94 (1998) and AB 9 (1999) would have created a tax credit for individual taxpayers who purchase gun safes. AB 94 died in the Senate Revenue and Taxation Committee. AB 9 was a two-year bill that was held in the Assembly Revenue and Taxation Committee and died because it did not pass the house of origin by the constitutional deadline.

AB 156 (1999) would have created a tax credit for taxpayers who purchase a firearm locking device. AB 156 was a two-year bill that was held in the Assembly Revenue and Taxation Committee and died because it failed to pass out of the house of origin by the constitutional deadline.

SPECIFIC FINDINGS

Under current federal and state laws, a taxpayer may claim a deduction for charitable contributions made to a qualified organization. A charitable contribution is a gift given to or for the use of a qualified organization. It may be in the form of money or property or unreimbursed out-of-pocket expenses incurred by the taxpayer in connection with services rendered to the organization.

Board Position:

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

Department Director

Date

Alan Hunter for GHG

3/30/00

Under **current federal and state laws**, contributions of property qualify as charitable contributions if the property is contributed to or for the use of qualified organizations (public, private or governmental), as follows:

- Ⓟ For corporations, **existing federal and state laws** allow a deduction for charitable contributions, limited to 10% of the taxpayer's net income (except as specified). Contributions in excess of 10% may be carried over to the following five income years. Under **state law**, the amount of a contribution is limited to a taxpayer's basis in the property contributed.
- Ⓟ For individuals, both **federal and state laws** allow a deduction for charitable contributions. The amount generally deductible for a contribution of appreciated real property (normally capital gain property) is equal to the FMV of the property on the date of the contribution. For contributions to certain types of charitable organizations, including governmental units, the allowable deduction is limited to 50% of the taxpayer's adjusted gross income (AGI). However, for other types of charitable organizations, the deduction may be limited to 30% of the taxpayer's AGI. If the charitable contribution amount exceeds 50% (or 30%) of the taxpayer's AGI, the taxpayer may carry over the excess amount up to five years.

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or achieve social goals. Credits generally are based on a percentage of expenses paid or incurred by the taxpayer.

This bill would allow a credit equal to 15% of donations made to any county firearms buyback program fund. A "county firearms buyback fund" would mean a fund designated by a county for the receipt of donations pursuant to the Firearms Buyback Program established by this bill.

Any credit amount in excess of tax could be carried forward indefinitely.

Policy Considerations

This bill would raise the following policy considerations:

- Ⓟ Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of a deduction. This new credit would have the effect of providing a double benefit for that charitable contribution deduction. On the other hand, making an adjustment to reduce the charitable contribution deduction in order to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time deduction, the reduction of that expense would not create an ongoing difference.
- Ⓟ This bill does not specify a repeal date or limit the number of years for the carryover. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness. If a repeal date were provided and an unlimited credit carryover were allowed, the department would be required to retain the carryover on the tax forms indefinitely. Recent credits have been enacted with a carryover limit since experience shows credits are typically used within eight years of being earned.

Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the department's normal annual update.

The bill provides a credit for 15% of "amounts paid or incurred" for donations to a county Firearms Buyback Program Fund. The use of the term "paid or incurred" is confusing. According to the author's staff, the author intends the credit for a "cash donation" made by a taxpayer. Amendments 1 and 2 would clarify that the credit is for cash donations.

Technical Considerations

The bill provides a credit for donations to "any county Firearms Buyback Program Fund Credit." Amendment 1 and 2 would also clarify that only donations made by a taxpayer to a Buyback Fund of a county located in this state would qualify, by requiring the donation to be made to a buyback program established pursuant to the Penal Code.

FISCAL IMPACT

Departmental Costs

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

Tax Revenue Estimate

Based on limited data and assumptions discussed below, this bill would result in negligible revenue losses, most likely less than \$150,000 annually beginning in 2001-02. The bill would be effective with taxable/income years beginning on or after January 1, 2001.

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

Cash amounts donated and the amount of credits that could be applied to reduce tax liabilities would determine the revenue impact of this bill.

For every \$100,000 in cash donated to a county firearm buyback program, credits generated would be \$15,000. If, for example, \$500,000 in cash were donated by individuals or business entities to all such county programs in any given year, revenue losses would be \$75,000 assuming all credits could be applied in the year generated.

As this type of county program does not currently exist, data do not exist to measure potential revenue losses. On personal income tax returns, only the most significant of voluntary check-off contributions receives donations of roughly \$500,000 in any given year. It is difficult to predict how many counties would designate a fund.

According to the Department of Justice, occasionally a local jurisdiction may offer modest goods in exchange for one or more firearms turned in by an individual at a specified collection point. Typically these limited buyback programs have occurred in urban areas and have experienced rather modest success.

BOARD POSITION

Pending.

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Patrick Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 2487
As Introduced February 24, 2000

AMENDMENT 1

On page 3, modify lines 27 through 29 as follows:

amount equal to 15 percent of the amount ~~paid or incurred~~ of cash (or cash equivalents) donated by the taxpayer during the taxable year ~~for donations~~ to any county Firearms Buyback Program Fund established pursuant to Title 6.7 of Part 4 of the Penal Code (commencing with Section 13920).

AMENDMENT 2

On page 4, modify lines 6 through 8 as follows:

equal to 15 percent of the amount ~~paid or incurred~~ of cash (or cash equivalents) donated by the taxpayer during the income year ~~for donations~~ to any county Firearms Buyback Program Fund established pursuant to Title 6.7 of Part 4 of the Penal Code (commencing with Section 13920).