

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Cardoza Analyst: Marion Mann DeJong Bill Number: AB 9

Related Bills: See Legislative History Telephone: (916) 845-6979 Introduced Date: 12/07/98

Attorney: Doug Bramhall Sponsor:

SUBJECT: Gun Safe Credit

SUMMARY

This bill would create a tax credit for individual taxpayers equal to \$150 each for up to two gun safes purchased new by the taxpayer each taxable year. This bill also would require FTB to report annually to the Legislature regarding this credit.

EFFECTIVE DATE

As a tax levy, this bill would become effective immediately and apply to taxable years beginning on or after January 1, 1999, and before January 1, 2003.

LEGISLATIVE HISTORY

AB 94 (1998).

SPECIFIC FINDINGS

Current federal and state laws impose an income tax on individuals. **Under current state law**, residents of California are taxed on their entire taxable income, regardless of where it is derived. Nonresidents are taxed only on income derived from California sources.

Current federal and state laws allow a taxpayer to deduct expenses paid or incurred in the ordinary course of a taxpayer's business. Generally tax deductions are not allowed for personal expenses. Personal expenses that are deductible, except for items such as charitable contributions, medical expenses, interest, and taxes, are primarily work-related and considered miscellaneous itemized deductions. Miscellaneous itemized deductions are deductible to the extent that they exceed 2% of adjusted gross income.

Current federal and state laws provide for 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.

This bill would create a Personal Income Tax Law (PITL) credit equal to \$150 each for up to two gun safes purchased by a California resident each taxable year for personal, noncommercial use. "Gun safe" would mean a safe specifically manufactured to store firearms and constructed of steel or a material of equal or

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald Goldberg

1-28-99

greater strength that has a combination or key lock listed by the Underwriters' Laboratories Inc. The credit would be allowed only if the gun safe is purchased new. Any credit in excess of "net tax" could be carried forward indefinitely. Since this bill does not specify otherwise, this credit would not reduce regular tax below tentative minimum tax.

Constitutional Consideration

This bill would restrict the gun safe credit to California residents. This may be unconstitutional since it would discriminate against nonresidents with California filing requirements who would not be able to claim the credit. For example, a nonresident taxpayer could not claim a credit for the purchase of a gun safe for personal use in a vacation home located in California. The author's staff indicated that the author is considering replacing the resident requirement with a requirement that the safe be used in homes located in California.

Policy Considerations

This bill would raise the following tax policy considerations:

- This bill would provide a credit for the purchase of a gun safe regardless of whether the safe was used to store firearms. (The safe could be used to store valuable items such as jewelry.)
- This bill would provide a credit equal to \$150 for each gun safe regardless of whether the cost of the safe was less than \$150. However, according to the author's staff, the requirement that the safe be listed by the Underwriters' Laboratories Inc. would result in the safe costing more than \$150.
- This bill would provide a credit for the purchase of a gun safe to be used by a California resident outside of California (e.g., used in a vacation home in Nevada).
- This bill would allow a taxpayer to purchase two gun safes each year with no cap on the total number of gun safes for each taxpayer.
- Most credits relating to the purchase of property require the taxpayer to recapture the credit if the property is subsequently disposed of or removed from the state. This bill does not have a recapture provision. However, credits with recapture provisions are usually much larger than \$150.

Implementation Considerations

This bill would raise the following considerations:

- The bill would require the combination or key lock on the gun safe to be listed by the Underwriters' Laboratories Inc. Taxpayers may not know whether the safe they purchased meets this qualification, and auditors may have difficulty verifying the safe met this qualification.
- The bill would require the "taxpayer" to use the safe for personal, noncommercial use. It is unclear whether the author intends to allow partnerships, estates and trusts, and limited liability companies to claim the credit or intends to limit the credit to individuals. The term "taxpayer" would include all entities subject to tax under the PITL. Further, it is unclear whether both spouses could claim the credit when a joint return is filed (for \$150 credit for each spouse) or whether a single credit would be divided between the spouses.
- This bill would provide an unlimited carryover of excess credit amounts. Since tax credits are usually used within eight years, most recently enacted credits contain limited carryover provisions, usually eight or ten years.

LEGISLATIVELY MANDATED REPORTS

This bill would require the Franchise Tax Board to report annually to the Legislature regarding the number of taxpayers claiming the gun safe credit.

FISCAL IMPACT

Departmental Costs

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

Tax Revenue Estimate

Based on data and assumptions discussed below, this bill would result in revenue losses under the PITL as shown in the table.

Estimated Revenue Impact of AB 9 As Introduced 12/07/1998 [\$ In Millions]		
1999-2000	2000-2001	2001-2002
(\$2)	(\$2)	(\$2)

The bill would be effective with taxable years beginning on or after January 1, 1999, with enactment assumed after June 30, 1999. 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 of this bill would be determined by the number of new gun safes (as defined and limited by the bill) that are purchased by taxpayers, the credit amount (specified as \$150 for each safe purchased), and the amount of credits that could be applied to reduce tax liabilities.

"Gun safe" is assumed to include only gun safes and not lighter gauge metal gun cabinets and pistol boxes since safes have locks that are UL listed. Retail dealers have indicated that a gun safe can cost from \$600 up to a few thousand dollars.

"Gun safe" sales data for 1997 were obtained from industry contacts. Data were grown by industry-provided growth rates plus an estimated incentive effect based on the relative cost of a safe versus the proposed credit. California's share of national sales was estimated to be 12%. The number of projected units sold each year was multiplied by the credit of \$150. It is assumed any credits generated during a taxable year would be fully applied.

It is not expected that the credit would generate multiple purchases of qualifying gun safes by many taxpayers. Therefore, limiting the number of eligible safes to two a tax year has a negligible impact on the estimate.

BOARD POSITION

Pending.