

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Leslie Analyst: Roger Lackey Bill Number: SB 1799

Related Bills: See Legislative History Telephone: 845-3627 Introduced Date: 02-23-2000

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: United States Small Business Administration Guaranty Fees Credit

SUMMARY

This bill would provide a tax credit equal to the amount paid to the U.S. Small Business Administration as a guaranty fee related to obtaining guaranteed financing.

EFFECTIVE DATE

As a tax levy, this bill would be effective immediately upon signature and would apply to taxable and income years beginning on or after January 1, 2000.

Legislative History

SB 1336 (99/00, pending in Legislature) would provide a credit equal to the amount paid to the U.S. Small Business Administration as a guaranty fee related to obtaining guaranteed financing.

PROGRAM HISTORY/BACKGROUND

The United States Small Business Administration's (SBA) loan program charges lenders a guaranty fee and a servicing fee for each loan approved. The amount of the fees is determined by the amount of the loan guaranty.

When the guaranteed portion of the loan is \$80,000 or less, the guaranty fee will be 2% of the guaranteed portion; for loans more than \$80,000 but less than \$250,000, a 3% guaranty fee will be charged; for the next \$250,000 of the guaranteed portion, a 3.5% guaranty fee will be charged; and for any portion greater than \$500,000, a 3.875% guaranty fee will be charged.

In addition, all loans are subject to a 50 basis point (0.5%) annualized servicing fee, which is applied to the outstanding balance of SBA's guaranteed portion of the loan.

These fees can be passed on to the borrower once they have been paid by the lender.

SPECIFIC FINDINGS

Current federal and state laws provide for various tax credits designed to provide tax relief for taxpayers that incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions.

Board Position:

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

Department Director

Date

Alan Hunter for GHG

3/17/00

State law allows certain credits related to financing. The Farmworker Housing Loan Credit encourages banks to lend money at a reduced interest rate for the construction of farmworker housing. The Community Development Credit encourages deposits into financial institutions which are certified as having community development as their primary mission.

This bill would provide a credit equal to the amount paid to the U.S. Small Business Administration as a guaranty fee pursuant to obtaining guaranteed financing.

This bill would provide that the credit may be carried over for five years.

Policy Considerations

This bill does not specify a repeal date. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness.

This bill would provide a 100% credit equal to the guaranty fee paid to the U.S. Small Business Administration. Generally, credits are equal to a percentage of the expenses or costs associated with the credit.

This bill would allow a credit for a deductible expense, thereby providing a double benefit for guaranty fees paid or incurred. In many cases, the deduction for an expense that generates a credit is reduced or eliminated to minimize or eliminate this double tax benefit.

Implementation Considerations

It is unclear who would be entitled to receive the credit since the lender pays the guaranty fee to the SBA upon obtaining guaranteed financing. The lender may pass on the guaranty fee to the borrower, but the borrower would pay this passed-on amount to the lender, not to the SBA.

Once the implementation concern is resolved, implementing this bill would not significantly impact the department's programs and operations.

FISCAL IMPACT

Departmental Costs

Once the implementation concern is resolved, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill is estimated to result in revenue losses under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL) as shown in the following table.

Fiscal Year Cash Flow		
Taxable Years Beginning After December 31, 1999		
Enactment Assumed After June 30, 2000		
\$ Millions		
2000-01	2001-02	2002-03
-\$10	-\$15	-\$25

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 will be determined by the number of loans guaranteed by the SBA and the amount of eligible fees that can be applied against available tax liabilities.

This estimate was developed in the following steps. First, according to the Small Business Administration (SBA), the total number of approved and guaranteed loans for California businesses was 8,096 for tax year 1999. Second, this number was increased 2% per year to allow for growth, generating 8,258 loans for 2000. According to the same source, the average loan amount for California was \$250,000. The agency guarantees 75% of their loans, or \$187,500 ($\$250,000 \times 75\%$). The percentage of the guaranty fee ranges from 2% to 3.85% depending on the portion of the loan that is guaranteed. For this analysis, it was assumed 2.5% on average would be applied as the guaranty fee, generating a total fee of \$4,688 per loan ($\$187,500 \times 2.5\%$). Third, the total number of loans was multiplied by the average guaranty fee, generating approximately \$38.7 million for 2000 ($\$4,688 \times 8,258$). It was assumed that, on average, 15% of generated credits would be applied against available tax liabilities in the first year. The low usage rate was used because start-up companies generally have low tax liabilities or operating losses.

BOARD POSITION

Pending.