STATE OF CALIFORNIA
Franchise Tax Board

Summary Analysis of Amended Bill

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Subject: Tax Credits for Education and Training

Summary

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), create two tax credits for costs related to specific education and training programs.

Recommendation – No position.

Summary of Amendments

The May 16, 2018, amendments modified the bill's operative and sunset dates and specified that the credits are allowed in lieu of any otherwise allowable deduction. As a result of the amendments, one of the implementation considerations and one of the policy concerns listed in the department's analysis of the bill as amended March 21, 2018, and May 7, 2018, has been resolved and a new policy concern was identified. Except for the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Economic Impact," and "Policy Concerns" sections, the remainder of that analysis still applies. The "Fiscal Impact" section has been restated for convenience.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for each taxable year beginning on or after January 1, 2019, and before January 1, 2029.

This Bill

This bill would create the two credits described below.

<u>High-Demand Jobs Education and Training Program Credit</u>

For each taxable year beginning on or after January 1, 2019, and before January 1, 2029, under the PITL and the CTL, this bill would allow a tax credit in an amount equal to 30 percent of the costs paid or incurred by a qualified taxpayer during the taxable year for qualified expenditures.

The bill would define the following for purposes of this credit:

- "Qualified expenditures" means the costs paid or incurred by a qualified taxpayer to create and administer an education and training program designed to prepare students for high-demand jobs including, but not limited to, costs related to the development of curriculum, recruitment, training, and retention of instructors, and the creation of an application for the program on the qualified taxpayer's Internet Web site.
- "Qualified taxpayer" means a person or entity engaged in a trade or business within the state that partners with a California Community College or the California State University to create and administer an education and training program designed to prepare students for high-demand jobs.

This credit would only be allowed on a timely filed original return and would be allowed in lieu of any deduction which the qualified taxpayer may otherwise claim with respect to the same item of expense.

The Franchise Tax Board (FTB) would be allowed to prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section. Chapter 3.5[1] of Part 1 of Division 3 of Title 2 of the Government Code (GC) does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the FTB.

This credit would be repealed by its own terms on December 1, 2029.

<u>"Doing What Matters" Business Partner Credit</u>

This bill would also create an additional credit available for taxable years beginning on or after January 1, 2019, and before January 1, 2029, under the PITL and the CTL, equal to 15 percent of costs paid or incurred by the qualified taxpayer during the taxable year for qualified expenditures.

The bill would define the following for purposes of this credit:

- "Qualified expenditures" means the costs paid or incurred by a qualified taxpayer that are related to program activities for the "Doing What Matters" program, including, but not limited to, costs related to partnering with the California Community Colleges to shape and develop curriculum.
- "Qualified taxpayer" means a person or entity engaged in a trade or business within the state and is a "Doing What Matters" business partner with the California Community Colleges Economic and Workforce Development Division.

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[1] Commencing with Section 11340.

This credit would only be allowed on a timely filed original return and would be allowed in lieu of any deduction which the qualified taxpayer may otherwise claim with respect to the same item of expense.

The FTB would be allowed to prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section. Chapter 3.5[2] of Part 1 of Division 3 of Title 2 of the GC does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the FTB.

This credit would be repealed by its own terms on December 1, 2029.

For purposes of complying with the general requirements under Revenue & Taxation Code section 41, the bill would require the collection of the following data with respect to both credits:

- Number of training programs created.
- Number of students enrolled in the training programs created.
- Number of students enrolled in the training programs created that obtain employment related to their field of study.

Implementation Considerations

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The definition for "qualified expenditures" under both credits is overly broad and may include expenditures that are contrary to the author's intent. The author may want to amend the bill to clearly define the phrase and remove the phrase "but not limited to."

The bill uses terms and phrases that are undefined, i.e., "education and training program," "that partners with," "that are related to program activities," and "business partner." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. To clarify the author's intent, it is recommended that the bill be amended.

Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise. The certification language would specify the responsibilities of both the certifying agency and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

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[2] ibid.

Because the bill fails to specify otherwise, the credit allowed by this bill would be available to any qualified taxpayer that pays or incurs qualified expenditures for training provided to anyone in or out of this state whether or not they are an employee of the qualified taxpayer. If this is contrary to the author's intent, the bill should be amended.

Fiscal Impact

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Economic Impact

Revenue Estimate

For every $100 million in "qualified expenditures" for the education and training programs for high demand jobs there would be an estimated revenue loss of $20 million and for every $100 million in "qualified expenditures" for the "Doing What Matters" program there would be an estimated revenue loss of $7 million.

Revenue Discussion

The revenue estimate for this bill would depend on the number of "qualified taxpayers" and the amount of "qualified expenditures." Because the definitions of "qualified taxpayers" and "qualified expenditures" are overly broad, the revenue impact cannot be determined. In addition, the number of training programs and the number of students enrolled in such programs as a result of this bill cannot be predicted accurately.

However, every $100 million in "qualified expenditures" would generate $30 million in tax credits for "qualified expenditures" related to education and training programs for high demand jobs. In addition, every $100 million in "qualified expenditures" would generate $15 million in tax credits for "qualified expenditures" related to the "Doing What Matters" program. Assuming that 90 percent of taxpayers would have sufficient tax liabilities to claim the credit in the year generated, this results in a revenue loss of approximately $27 million related to education and training programs for high demand jobs for every $100 million in "qualified expenditures" and a revenue loss of approximately $14 million related to the "Doing What Matters" program for every $100 million in "qualified expenditures".

Because the bill specifies that the taxpayer may claim the credit in lieu of deductions, there would be an offsetting tax effect for deductions that would otherwise be allowed under current law. This results in an offsetting revenue gain of approximately $7 million related to deductions for education and training programs for high demand jobs and a $7 million revenue gain related to deductions for the "Doing What Matters" program for every $100 million in deductions.

Combining the loss from the credits utilized with the offsetting gain from the deductions otherwise allowed under current law results in a net revenue loss of $20 million for credits pertaining to high demand jobs and a $7 million net revenue loss for credits pertaining to the "Doing What Matters" program.

Policy Concerns

This bill would allow taxpayers in certain circumstances to claim multiple credits for the same wage expense.

The credit would be allowed for costs to administer an education and training program either inside or outside California.

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

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