



## Summary Analysis of Amended Bill

Author: Mayes

Sponsor:

Bill Number: AB 2703

Analyst: Cristina Perfino

Phone: (916) 845-4313

Amended: April 25, 2018

Attorney: Bruce Langston

Related Bills: See Prior Analysis

**Subject:** Home Care Services Credit/ FTB Collect Data Annually

### Summary

This bill would, under the Personal Income Tax Law, allow a tax credit for certain home care services paid or incurred by a qualified taxpayer.

**Recommendation – No position.**

### Summary of Amendments

The April 25, 2018, amendments modified the operative date, credit calculation, and definition of “qualified taxpayer.”

As a result of the amendments, one of the policy concerns discussed in the department’s analysis of the bill as amended March 22, 2018, and April 3, 2018, was resolved and a new implementation consideration was identified.

Except for the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and “Economic Impact” sections, the remainder of the department’s analysis of the bill as amended on March 22, 2018, and April 3, 2018, still applies. The unresolved implementation considerations, the “Fiscal Impact,” “Support/Opposition,” and “Policy Concerns” sections have been restated below 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, 2023.

### This Bill

This bill would, for each taxable year beginning on or after January 1, 2019, and before January 1, 2023, allow a tax credit in an amount equal to 25 percent of the amount paid or incurred during the taxable year by a qualified taxpayer for home care services, not to exceed \$5,000.

This bill would define the following terms:

- “Home care services” means nonmedical services and assistance provided by a registered home care aide, a home health agency licensed under Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code (HSC), or a hospice licensed under Chapter 8.5 (commencing with Section 1745) of Division 2 of the HSC to a qualified taxpayer who, because of advanced age or physical or mental disability, cannot perform these services. These services enable the qualified taxpayer to remain in his or her residence and include, but are not limited to, assistance with the following: bathing, dressing, feeding, exercising, personal hygiene and grooming, transferring, ambulating, positioning, toileting and incontinence care, assisting with medication that the client self-administers, housekeeping, meal planning and preparation, laundry, transportation, correspondence, making telephone calls, shopping for personal care items or groceries, and companionship. This bill would not authorize a registered home care aide to assist with medication that the qualified taxpayer self-administers that would otherwise require administration or oversight by a licensed health care professional.
- “Qualified taxpayer” means a single individual, or a spouse filing a separate return, whose gross income is \$100,000 or less, or a married couple filing a joint return whose gross income is \$200,000 or less.
- “Registered home care aide” would be defined by reference to subdivision (o) of Section 1796.12 of the HSC to mean an affiliated home care aide or independent home care aide, 18 years of age or older, who is listed on the home care aide registry.

Taxpayers would be required to submit a receipt or other proof of costs paid or incurred in connection with home care services to the Franchise Tax Board (FTB).

Credits in excess of the tax liability may be carried over to the following taxable year, if necessary.

This bill would require the FTB to collect data relating to the number of Californians using home care services and the number of Californians in nursing homes and assisted living facilities annually.

This bill would be repealed on January 1, 2023.

### **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.

This bill uses terms that are undefined, i.e., “advanced age,” and “physical or mental disability.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to clearly define the terms.

It is unclear whether the \$5,000 limit would apply to the credit or the amounts paid for services.

It is unclear how the department would determine that a qualified taxpayer was unable to perform the nonmedical services and assistance because of advanced age or physical or mental disability or that such services or assistance enabled the qualified taxpayer to remain in their residence. For clarity and to ensure consistency with the author's intent this bill should be amended.

Because the bill fails to specify otherwise, otherwise eligible expenses that are reimbursed by insurance or another source would be included in the calculation of the credit.

**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

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2703 as Amended April 25, 2018  
For Taxable Years Beginning On or After January 1, 2019  
Assumed Enactment after June 30, 2018

(\$ in Billions)

Fiscal Year	Revenue
2018-2019	- \$1.1
2019-2020	- \$2.3
2020-2021	- \$2.6

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Based on US Census Bureau and In Home Support Services Program data, approximately 1.4 million Californians would receive home health aide services in 2019. This number is increased by 10 percent, to 1.5 million taxpayers, to account for individuals that would be incentivized to receive qualified home care services. It is estimated that 50 percent of these taxpayers would meet the income and filing status limitations specified in the bill, resulting in an estimated 770,000 qualified taxpayers in taxable year 2019. Based on industry statistics, the average annual cost of a home health aide is \$58,000. Applying the credit rate of 25 percent of the amount paid or incurred, but not to exceed \$5,000 and allowing for reimbursed expenses in the calculation of the credit results in an approximately \$3.8 billion in qualified home care service expense credits generated in 2019. Because of the broad definition of "qualified taxpayer" this amount is increased by an additional 20 percent to account for other taxpayers that would pay for qualified home care service expenses. This

results in an estimated total credit generated of \$4.6 billion in taxable year 2019. It is estimated that 38 percent of California taxpayers would have sufficient tax liability to claim the credit in the year generated, resulting in estimated credits used of \$1.7 billion in taxable year 2019.

Using the same methodology as above, it is estimated there would be 110,000 qualified taxpayers who would receive hospice services in 2019 who meet the income and filing status limitations specified in the bill. Based on data from Medicare, the average cost for six months of hospice care per taxpayer would be \$100,000. Applying the credit rate of 25 percent of the amount paid or incurred, but not to exceed \$5,000 and allowing for reimbursed expenses in the calculation of the credit results in approximately \$550 million in qualified hospice care expense credit generated in 2019. Because of the broad definition of “qualified taxpayer” this amount is increased by an additional 20 percent to account for other taxpayers that would pay for qualified hospice care expenses. This results in an estimated total credit generated of \$650 million in taxable year 2019. It is estimated that 38 percent of California taxpayers would have sufficient tax liability to claim the credit in the year generated, resulting in estimated credits used of \$250 million in taxable year 2019.

Combining the credits used for home health aide and hospice care results in an estimated revenue loss of \$2 billion in taxable year 2019.

The tax-year estimates are converted to fiscal-year revenue estimates, rounded and reflected in the above table.

### **Support/Opposition**

Support: None provided.

Opposition: None provided.

### **Policy Concerns**

The proposed tax credit would be allowed for expenses paid or incurred either inside or outside California.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

This bill would provide a tax benefit for single individuals, spouses that file separate returns or married couples that would be unavailable to other individual taxpayers.

### **Legislative Staff Contact**

Cristina Perfino  
Legislative Analyst, FTB  
(916) 845-4313  
[cristina.perfino@ftb.ca.gov](mailto:cristina.perfino@ftb.ca.gov)

Jame Eiserman  
Revenue Manager, FTB  
(916) 845-7484  
[jame.eiserman@ftb.ca.gov](mailto:jame.eiserman@ftb.ca.gov)

Diane Deatherage  
Legislative Director, FTB  
(916) 845-6333  
[diane.deatherage@ftb.ca.gov](mailto:diane.deatherage@ftb.ca.gov)