

Author: Holden Analyst: Funmi Obatolu Bill Number: AB 586
March 8, 2017 &
Related Bills: See Prior Telephone: 845-5845 Amended Dates: March 14, 2017
Analysis Attorney: Bruce Langston Sponsor: _____

SUBJECT: Teacher Professional Development Expense Credit and Deduction

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), allow a tax credit and a tax deduction for certain teacher professional development expenses.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The March 8, 2017, and the March 14, 2017, amendments modified certain definitions and the criteria for the credit and deductions, and made other technical changes. These amendments resolved the technical consideration and one implementation consideration in the department's analysis of the bill as introduced February 14, 2017, and created additional implementation considerations. As a result of the amendments the "This Bill," "Implementation Considerations," and "Economic Impact" sections have been revised. The remainder of the department's analysis of the bill as introduced February 14, 2017, still applies. The "Fiscal Impact" and "Policy Concerns" sections have been restated for convenience.

THIS BILL

Under the PITL, for each taxable year beginning on or after January 1, 2017, and before January 1, 2022, a tax credit would be allowed in an amount equal to 50 percent of teacher professional development expenses paid or incurred, not to exceed \$500, by a qualified taxpayer during the taxable year.

The maximum amount of \$500 would be increased to \$1,000 for spouses filing a joint return, if both individuals are qualified taxpayers.

The total aggregate amount of the credit that may be allowed to all qualified taxpayers would not exceed the following:

- \$2,000,000 for fiscal year 2017–18.
- \$3,000,000 for fiscal year 2018–19.
- \$5,000,000 for each of fiscal year 2019–20, 2020–21, and 2021–22.

The Franchise Tax Board (FTB) would be required to allocate the credit to qualified taxpayers on a first-come-first-served basis, determined by the date the qualified taxpayer's timely filed original tax return is received by the FTB.

Any disallowance by the FTB of a credit claimed as a result of the annual dollar limitations above would be treated as a mathematical error appearing on the return. Any amount of tax resulting from that disallowance may be assessed by the FTB in the same manner as provided in Section 19051.

The credit allowed under this section must be claimed on a timely filed original return and any unused credits may be carried over for up to six years, until exhausted.

This bill would also allow, for each taxable year beginning on or after January 1, 2017, and before January 1, 2022, “an above the line”¹ deduction in an amount equal to the amount paid or incurred, not to exceed \$2,500, for teacher professional development expenses by a qualified taxpayer during the taxable year.

For purposes of determining both the credit and the deduction, the following definitions would apply:

“Qualified taxpayer” means a taxpayer who meets all of the following requirements:

- Completed a teacher preparation program, or fulfilled the requirements of the early completion option described in Section 44468 of the Education Code, and is in possession of a preliminary general education (multiple or single subject) teaching credential or a preliminary special education teaching credential.
- Enrolled in a program, approved by the Commission on Teacher Credentialing, in order to earn a general education clear credential or an education specialist instruction clear credential.
- Is not otherwise reimbursed for the teacher professional development expenses.

“Teacher professional development expenses” means enrollment fees associated with the completion of a second tier teaching credential program, including, but not limited to, general education induction, general education clear, and clear education specialist induction, approved by the Commission on Teacher Credentialing.

The bill would specify the following in regard to the credit and deduction:

1. The credit or deduction, or both, may be allowed in the aggregate for no more than three taxable years.
2. A credit or a deduction but not both would be allowed.

No credit or deduction otherwise allowed would be allowed for any amount paid or incurred for the same expenses allowed as a credit or deduction established by this bill.

¹ A deduction that reduces gross income to arrive at adjusted gross income, before any itemized or standard deduction.

The FTB may issue regulations to carry out the purposes of the credit and the deduction. Any rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

This bill would require the FTB to report to the Legislature annually on the number of taxpayers claiming the credit.

The credit and the deduction would be repealed by their own terms as of December 1, 2022.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill's language allowing both a credit and a deduction for no more than three taxable years is inconsistent with the language that prohibits both a credit and a deduction in the same taxable year. If the author intends to prevent both a credit and a deduction being reported for the same dollar of expense (often referred to as "double-dipping") while still allowing both the credit and deduction in the same taxable year, this bill should be amended.

Currently, the bill would require this credit to be allocated on a first-come-first-served basis as returns are filed. Taxpayers would lack certainty that they would be allocated the credit, even if they file timely. It appears that the intent of the bill is to allocate the credit before the taxpayer files a return; however, the bill lacks language to require the taxpayer to request a "reservation" of the credit before the return is filed. If it is the author's intent that the credit be reserved before the taxpayer file their return, the bill should be amended to clarify this process.

This bill would require that the credit must be claimed on a timely filed original return, however the deduction does not have the same requirement. Taxpayers who are denied the credit on the original return could file an amended return to claim the deduction, thereby creating an extra burden on the taxpayers and the department. Additionally, it is unclear how the FTB would allocate the credit if returns of two or more taxpayers are received on the same day and the remaining amount of credit to be allocated is insufficient to be allocated to each fully. For ease of administration, it is recommended that the bill be amended.

To avoid disputes with taxpayers, it is recommended that the bill be amended to specify that the determinations of the FTB with respect to whether a return has been timely filed, may not be reviewed in any administrative or judicial proceeding.

This bill uses terms that are undefined, i.e., "preliminary general education teaching credential," "preliminary special education teaching credential," "education specialist instruction clear credential program," "general education clear credential," "second tier teaching credential program," "general education induction," "general education clear," and "clear education specialist induction." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

The definitions of “qualified taxpayer,” may be more broadly interpreted than the author intends. For example, “qualified taxpayer” lacks a requirement that the individual in question be employed in a teaching environment.

The department lacks expertise in the teacher credentialing process. Typically, credits involving areas for which the department lacks expertise are certified by another agency or agencies that possess the relevant expertise, for example, the Commission on Teacher Credentialing. 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.

It is unclear whether the \$500 limitation refers to the maximum amount of credit or the 50 percent of the teacher professional development expenses. For example, the bill could be interpreted to mean that the teacher professional expenses cannot exceed \$500 for a credit of \$250 or that the expenses cannot exceed \$1,000 for a credit of \$500. Further, the limitation of the credit to \$1,000 for spouses filing a joint return may be interpreted to allow each spouse to claim \$1,000 for the maximum credit, if the spouses file a joint return. If this is contrary to the author’s intent, this 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 and implementation considerations are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

A revenue estimate cannot be completed until the implementation concerns discussed above have been resolved.

POLICY CONCERNS

This bill would create differences between federal and California tax law with respect to the deduction provisions, thereby increasing the complexity of California tax return preparation.

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