



Summary Analysis of Amended Bill

Author: Anderson

Sponsor:

Bill Number: SB 1211

Analyst: Jessica Deitchman

Phone: (916) 845-6310

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Attorney: Bruce Langston

Related Bills: See Prior Analysis

Subject: Apprentice Training Credit

Summary

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a tax credit to a taxpayer for wages paid to an apprentice.

Recommendation – No position.

Summary of Amendments

The May 1, 2018, amendments recast the credit as an allocated and certified credit subject to an annual cap and modified a definition and the recapture provisions. As a result of the amendments, all of the implementation considerations and several of the policy concerns discussed in the department's analysis of the bill as introduced on February 15, 2018, have been resolved and one new implementation consideration has been identified.

Except for the "This Bill," "Implementation Considerations," "Economic Impact," and "Policy Concerns" sections, the remainder of that analysis still applies. The unresolved "Policy Concerns" and the "Fiscal Impact" section have been restated below for convenience.

This analysis only addresses the provisions that impact the department.

This Bill

This bill would, under the PITL and the CTL, for each taxable year beginning on or after January 1, 2019, and before January 1, 2024, allow a tax credit to a taxpayer in an amount equal to 50 percent of the wages paid by the taxpayer to a registered apprentice during the taxable year or \$2,500, whichever is less, for each registered apprentice trained by the taxpayer in that taxable year. The credit would be limited to the amount attributable to ten or fewer registered apprentices per taxable year.

The aggregate amount of credits that may be allocated and certified during a fiscal year would be limited to \$10,000,000.

The bill would define the following:

- “Registered Apprentice” means an individual who meets all of the following requirements:
 - Has entered into an apprenticeship agreement with the taxpayer as described in Section 3077 of the Labor Code.
 - Is trained by the taxpayer through a qualified apprenticeship program.
- “Qualified apprenticeship program” means an apprenticeship program that meets all of the following requirements:
 - Is approved by the Chief of the Division of Apprenticeship Standards, as specified.¹
 - Requires at least 4,000 hours, but not more than 8,000 hours of apprenticeship training to occur during a term that is no more than three years.
 - Satisfactory completion provides recognition of the apprentice as a qualified professional, technical, craft, or trade worker.
- “Wages” means any payments or remuneration made to a registered apprentice for services performed by the registered apprentice.

A credit would only be allowed for a taxable year if the taxpayer has received a certificate from the Division of Apprenticeship Standards in the Department of Industrial Relations. A taxpayer would be required to obtain a certificate for each taxable year that the credit is claimed and provide a copy of the certificate to the Franchise Tax Board (FTB) upon request.

The Division of Apprenticeship Standards would be required to do all of the following:

- Allocate and certify tax credits to taxpayers on a first-come-first-served basis.
- Establish a procedure for taxpayers, in the form and manner jointly prescribed by the Division of Apprenticeship Standards and the FTB, to apply and receive a certificate for the credit.
- Verify that the taxpayer is training during the taxable year an individual who meets the requirements to be a registered apprentice.
- Provide the taxpayer with a certificate for each registered apprentice trained by the taxpayer in that taxable year. The certificate must contain:
 - The name of the taxpayer,
 - The name of the apprentice,
 - A brief description of the apprenticeship,
 - The primary location of the apprenticeship, and
 - Any other information the Division of Apprenticeship Standards or the FTB deems relevant.

¹ Pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

- Annually provide the FTB with a list of the names of the taxpayers that received certificates and the names of each taxpayer's registered apprentices. The list may also contain any other information from the certificates.
- Inform the FTB if the Division of Apprenticeship Standards has knowledge that the training of a registered apprentice is terminated before the completion of the apprenticeship program after the taxpayer has received a certificate.

The Division of Apprenticeship Standards may adopt rules and regulations as reasonably necessary to perform its duties with regard to this credit, and would be required to consult with the FTB. The FTB may prescribe rules, guidelines, or procedures necessary or appropriate to perform its duties with regard to this credit.

In the case where the credit allowed by this section exceeds the tax, the excess may be carried over for up to 5 years until the credit is exhausted.

If the training of a registered apprentice is terminated before the completion of the apprenticeship program, any unused carryover of the credit shall be canceled and any previously claimed credit that reduced net tax shall be recaptured by increasing the tax imposed by this part for the taxable year in which the training is terminated. This recapture provision shall not apply if any of the following apply:

- The registered apprentice voluntarily leaves the apprenticeship program.
- The registered apprentice, before the end of the completion of the apprenticeship program, becomes disabled and unable to perform the services of that program, unless that disability is removed before the close of the period of that program and the taxpayer fails to offer reinstatement to the program for that apprentice.
- The training of the registered apprentice was terminated due to substantial reduction in the trade or business operations of the taxpayer.

A deduction otherwise allowed for any amount paid or incurred by the taxpayer in training a registered apprentice as a trade or business expense must be reduced by the amount of credit allowed.

The credit would be excluded from the provisions of Section 41.

This bill would be repealed by its own terms as of December 1, 2024.

Implementation Considerations

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

Because the bill fails to specify otherwise, the FTB would be subject to the rulemaking procedures required under the Administrative Procedures Act (APA). Following these procedures may delay the immediate implementation of this bill. To prevent any delay, it is recommended that the author add a provision exempting the FTB from the APA when the FTB is prescribing rules, guidelines, or procedures necessary or appropriate to carry out the bill's purpose.

Fiscal Impact

This bill would require some changes to the existing tax forms and instructions, and information systems. As the bill continues to move 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 SB 1211 as Amended May 1, 2018
For Taxable Years Beginning On or After January 1, 2019, and Before January 1, 2024
Assumed Enactment after June 30, 2018

(\$ in Millions)

| Fiscal Year | Revenue |
|-------------|---------|
| 2018-2019 | - \$2.0 |
| 2019-2020 | - \$4.8 |
| 2020-2021 | - \$5.8 |

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 data from the Department of Industrial Relations for the number of apprentices entering programs requiring between 4,000 to 8,000 hours of training, and who completed their first year of apprentice training, it is estimated that there would be 28,000 qualified apprentice employees in 2019. This population is then reduced by 96 percent to include only the first 10 qualified apprentices for each employer.

It is assumed that each apprentice would generate the maximum credit of \$2,500 per year. The estimated number of qualified apprentices is multiplied by the maximum credit resulting in total estimated credit generated of \$8 million in 2019. Due to the short implementation period, the first year of credit generation is reduced by 10 percent. It is estimated that neither personal income taxpayers nor corporate taxpayers will reach their respective \$10 million credit caps. It is assumed that taxpayers will use 65 percent of the credit, or \$4.5 million, in the year generated and the remaining 35 percent over the next four years. It is further assumed that 30 percent would be used by personal income taxpayers and 70 percent by corporate taxpayers.

To arrive at the offsetting tax effect of wage deduction that would otherwise be allowed under current law, it is estimated that qualified taxpayers would have been able to deduct approximately \$4.5 million wages, multiplied by the average tax rate of 6 percent, results in an estimated offsetting revenue gain of \$250,000 in taxable year 2019. This results in an estimated net revenue loss of \$4.2 million in taxable 2019.

The tax-year estimates are converted to fiscal-year estimates, and then rounded to arrive at the estimates shown in the above table.

Policy Concerns

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same wages paid. For example, there may be situations where more than one credit could apply for the same wages paid.

Legislative Staff Contact

Jessica Deitchman
Legislative Analyst, FTB
(916) 845-6310

jessica.deitchman@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484

jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333

diane.deatherage@ftb.ca.gov