



Analysis of Amended Bill

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Sponsor:

Bill Number: SB 1395

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Amended: May 2, 2018

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Related Bills: See Legislative
History

Subject: Franchise Tax Board Report to Legislature Total Amount of Specified Personal Income Tax and Corporation Tax Credits Allowed

Summary

This bill would require the Franchise Tax Board (FTB) to annually report the total amounts of specified credits allowed under the Personal Income Tax Law (PITL) and Corporate Tax Law (CTL) to the Legislature.

Recommendation – No position.

Summary of Amendments

The May 2, 2018, amendments removed provisions of bill related to posting a document, on the FTB's Internet Website, listing every taxpayer that has been allowed a tax credit over one thousand dollars, and replaced them with the provisions discussed in this analysis. As a result of the amendments, the department's analysis of the bill as introduced February 16, 2018, and amended March 22, 2018, no longer applies.

Reason for the Bill

The reason for the bill is to inform the Legislature which industries are claiming specified tax credits.

Effective/Operative Date

This bill would be effective January 1, 2019, and operative with the first report due to the Legislature on November 1, 2019.

State Law

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, and the Multistate Tax Commission solely for tax administration purposes. Additionally, the FTB is authorized to publish statistical data related to taxpayer information so long as no individually identifiable information is revealed. Unauthorized disclosure of state tax information is a misdemeanor and unauthorized disclosure of federal tax information is a felony.

As specifically authorized,¹ the FTB is required to compile and make publicly available an annual list that identifies the largest 500 tax debtors whose delinquencies exceed \$100,000 selected from both the personal income tax and corporation tax records.

State law requires the Department of Finance to provide an annual report to the Legislature on tax expenditures providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures. State law requires all state agencies to submit to the Governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the ensuing fiscal year.

This Bill

This bill would require the FTB to provide a report to the Legislature by November 1, 2019, and each November 1 thereafter, that includes the total amount of specified credits allowed under PITL and CTL for the previous taxable year.

The total amount of credits is to be aggregated by lines of business described in codes of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget, 2012 edition.

The bill would define credits to mean all of the following:

- Research and development credit, California Revenue and Taxation Code (R&TC) sections 17052.12 and 23609;
- Qualified motion pictures credit, R&TC sections 17053.85, 17053.95, 23685, and 23695;
- Low-income housing credit, R&TC sections 17058 and 23610.5;
- Go-Biz California Competes Credit, R&TC sections 17059.2 and 23689;
- Qualified wages for qualified employee credit, R&TC sections 23636 and 23689.

The report is to be submitted in compliance with Government Code section 9795, which requires all state and local agencies, including the FTB, to provide an electronic or printed copy of any required report to both the Legislative Counsel and the Secretary of the Senate, and an electronic copy of any required report to the Chief Clerk of the Assembly. Additionally, all state agencies are required to submit an electronic copy of the summary of any required report to each member of the house(s) of the Legislature, as appropriate.

¹ California R&TC section 19195.

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.

Personal income tax returns may be filed, with extension, until October 15. Corporate returns may be filed even later, depending on when the taxpayer's fiscal year ends. The department generally processes returns within six months of receipt. If the author's intent is to have each report contain complete information for the taxable year, the due date of the report should be changed. For instance, the return due date for corporate taxpayers with fiscal years beginning December 1, 2017, and ending November 30, 2018, is March 15, 2019, and with extension, September 15, 2019. The department would complete processing of these returns by March 2020. Thus, the earliest that data from these corporate returns could be included in a report would be approximately June 2020.

Taxpayers file using the Principal Business Activity Code (PBAC) that most closely matches their business operations. The PBAC is based on the NAICS code. Combined reports use the primary corporation's PBAC, which may not be the same for all corporations included in the combined report. Therefore, the information derived from self-identified returns and combined reports may not be completely accurate.

Technical Considerations

On page 2, line 23 delete "and 23689" because the same R&TC section is listed on page 2, line 21.

Legislative History

SB 1424 (Perea, Chapter 455, Statutes of 2011) among other things, increased the listing of the top 250 tax debtors to the top 500 tax debtors.

AB 1418 (Horton, Chapter 716, Statutes of 2006) among other things, requires the FTB to make publicly available each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, as specified.

Other States' Information

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack a reporting requirement for allowed tax credits comparable to this bill's requirement. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

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

This bill would not impact the state's income tax revenue.

Support/Opposition

Support: None provided.

Opposition: None provided.

Arguments

Proponents: Some could argue information on which industry type of business utilizes specified tax credits could assist the Legislature in reviewing the effectiveness of the credit.

Opponents: Some could argue that the information on credits allowed by industry type would not be an effective measure of whether the credits are meeting the legislative intent since enactment.

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