STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Gipson	Sponsor:	Bill Number: AB 2795
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SUBJECT

New Americans Incentive Tax Credit

SUMMARY

This bill would allow a tax credit, the New Americans Incentive Tax Credit, to individuals that became citizens of the United States (U.S.) through naturalization within the 12-month period preceding the start of the taxable year.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 4, 2020, amendments removed provisions of the bill related to the Sales and Use Tax Law and replaced them with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to assist taxpayers that recently became U.S. citizens through naturalization.

ANALYSIS

Under the Personal Income Tax Law (PITL), for taxable years beginning on or after January 1, 2021, and before January 1, 2025, this bill would allow a tax credit in the amount of seven hundred twenty-five dollars ($725) for an individual, or a spouse filing a separate return, if the taxpayer is an eligible member; and one thousand four hundred fifty dollars ($1,450) for spouses filing a joint return, if both spouses are eligible members, or $725, if only one spouse is an eligible member. In addition, a $725 credit amount would be allowed for each qualifying child of the taxpayer if that qualifying child is an eligible member.

For purposes of this bill, all of the following definitions shall apply:

1) "Eligible member" means an individual who was naturalized as a citizen of the U.S. within the 12-month period preceding the start of the taxable year.
2) "Qualifying child" shall have the same meaning as that used for an eligible individual for the federal earned income tax credit (Internal Revenue Code section 32, as amended by the Tax Cuts and Jobs Act, Public Law 115-97, enacted December 22, 2017), except that the child shall be younger than 19 years old as of the last day of the taxable year.

The credit would only be claimed on one return, and would be known, and may be cited, as the "New Americans Incentive Tax Credit."

The bill provides that it is the intent of the Legislature to enact legislation to comply with the requirements of Section 41 of the Revenue and Taxation Code (R&TC).

The bill allows the Franchise Tax Board (FTB) to issue any regulation as necessary or appropriate to implement the purposes of this bill. The Administrative Procedures Act would not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the FTB.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2021, and before January 1, 2025. This provision would remain in effect until December 1, 2025, and as of that date would be repealed.

Federal/State Law

Existing federal and state laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption or first-time home buying) or to influence behavior, including business practices and decisions (e.g., research credits or hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

There are no federal or state credits currently comparable to the credit this bill would create.

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 bill provides that the $725 credit may be claimed by an individual, or a spouse filing a separate return, if the taxpayer is an eligible member, and that the credit would only be claimed on one return. If the intent is to limit the credit in this case to only the taxpayer or the eligible spouse, it is unclear who would claim the credit. Would it be the first individual to file? To avoid disputes between taxpayers and the department, and to ensure consistency with the author's intent, this bill should be amended.

In compliance with R&TC section 41, the FTB would include the amount of the credit claimed and the number of returns on which the credit is claimed in its annual reporting. If this is not the author's intent, the bill should be amended to include the desired reporting metrics.

Technical Considerations

None noted.

Policy Concerns

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.

LEGISLATIVE HISTORY

Research of California legislation history found no legislation similar to the provisions of this bill.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement these provisions 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 2795 as Amended May 4, 2020
Assumed Enactment after June 30, 2020

($ in Millions)

Fiscal Year	**Revenue**
2020-2021	-$65
2021-2022	-$110
2022-2023	-$110

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 the Department of Homeland Security immigration data, it is estimated that approximately 300,000 legal permanent resident adults and children will be naturalized in 2020. The estimate is then adjusted to reflect changes in the economy over time. This would result in an estimated population of 320,000 in the 2020 taxable year.

Multiplying the applicable credit amount allowed by filing status and age would result in a total estimated credit generated of $260 million in the 2021 taxable year, increasing to $265 million by the 2024 taxable year.

Based on data from the FTB, It is estimated that 60 percent, or $160 million, would be earned by taxpayers with sufficient tax liability to offset with the credit. It is estimated that 70 percent, or $110 million, would be claimed in the year generated and the remainder would go unused.

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

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

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