STATE OF CALIFORNIA
Franchise Tax Board

Analysis of Amended Bill

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Subject: Qualified Commuter Refundable Credit

Summary

This bill would, under the Personal Income Tax Law (PITL), allow a refundable credit to a taxpayer that is a qualified commuter.

Recommendation – No position.

Summary of Amendments

The March 26, 2019, amendments removed provisions of the bill related to the methods of accounting 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 the bill is to help lower-income commuters offset the cost of commuting to work and school by offering a tax credit.

Effective/Operative Date

This bill would be effective upon enactment, and specifically operative for taxable years beginning on or after January 1, 2020.

Federal/State Law

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) 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.

Current state and federal law lack a credit similar to the one this bill would provide.

This Bill

This bill would, under the PITL, for taxable years beginning on or after January 1, 2020, allow a taxpayer who is a qualified commuter a credit as follows:

- For spouses filing joint returns who have an adjusted gross income of $100,000 or less, if both spouses are qualified commuters, $500.
- For taxpayers other than those filing joint returns, who have an adjusted gross income of $50,000 or less, if the taxpayer is a qualified commuter, $250.

The bill would define a "qualified commuter" as an individual who commutes at least 40 miles one way to work or school at least four days per week.

The bill would specify that any amount of credit that exceeds the tax liability for the taxable year to be credited against any other amounts due and refunded to the taxpayer.

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.

This bill uses a term that is undefined, i.e., "commutes." The absence of a definition to clarify this term 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.

For those taxpayers that file a joint return, the bill requires that they both be commuters to claim the credit. The bill would preclude a joint return filer from claiming any credit if only one of the spouses included on the return was a qualified commuter. If this is contrary to the author's intent, the bill should be amended.

The bill defines a "qualified commuter" as an individual who commutes at least 40 miles one way to work or school at least four days per week. However, the bill is silent on whether that commute must occur for the entire taxable year or if one week, within a calendar year, of commuting would meet the requirement. The author may wish to amend the bill to clarify that the commute must occur for a specified number of weeks within a taxable year in order for the credit to be allowed.

The bill would allow a credit to all commuters. There are some situations where the taxpayer would already be getting a reimbursement or subsidy from their employer or other entity for their commuting costs. This bill lacks a requirement that the credit be reduced by the amount of commuting cost that is reimbursed to the taxpayer. If this is contrary to the author's intent, the bill should be amended.

Legislative History

A review of recent legislative history found no similar credits.

Other States' Information

Review of *Florida, Illinois, Massachusetts, Michigan*, *Minnesota*, and *New York* laws found no comparable tax credits. These states were selected and reviewed 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

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 437 as Amended on March 26, 2019
Assumed Enactment after June 30, 2019

($ in Millions)

Fiscal Year	Revenue
2019-2020	0
2020-2021	-$1,200
2021-2022	-$700

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

Commuters to Work

Based on data from the U.S. Census Bureau it is estimated that 3.8 million Californians commuted 40 miles or more one way, at least four days a week, and that 60 percent, or 2.4 million, would meet the credit's income limitations in 2018. Based on the definition of qualified commuter, it is estimated that five percent would file as married filing joint eligible for a $500 credit and the other 95 percent of qualified commuters would be eligible for a $250 credit. Multiplying the number of qualified commuters by the eligible credit amount results in an estimated credit of $630 million generated by qualified commuters.

Commuters to School

Based on the same data it is estimated that approximately 3.3 million students were enrolled in California public or private colleges and graduate schools in 2018. Of those, it is estimated that 29 percent commute at least 4 days per week, and 11 percent commute more than 40 miles or more to school, resulting in an estimated 70,000 qualified commuters. Multiplying the number of commuters by the credit amount results in an estimated $18 million in credit generated by qualified commuters.

The combined credit generated by both work and student commuters is then adjusted for changes in the economy over time resulting in an estimated $670 million in credit generated and claimed in the 2020 taxable year.

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

Policy Concerns

The credit would be allowed to individuals residing inside or outside of California for commuting activity occurring inside or outside of California.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

Historically, refundable credits (such as the state renter's credit, the federal Earned Income Credit, and the federal credit for gasoline used for farming) have had significant problems with invalid and fraudulent returns.

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