



Summary Analysis of Amended Bill

Author: Jackson and Quirk

Sponsor:

Bill Number: SB 468

Analyst: Margo Cave

Phone: (916) 845-7475

Amended: July 11, 2019

Attorney: Shane Hofeling

Related Bills: See Prior Analysis

Subject: California Tax Expenditure Review Board

Summary

This bill would establish the California Tax Expenditure Review Board (CTERB) as an independent advisory body to comprehensively assess major tax expenditures meeting specified criteria and make recommendations to the Legislature regarding those expenditures.

Recommendation – No position.

Summary of Amendments

The July 11, 2019, amendments removed provisions that required the CTERB to hold public meetings to consider information provided by the public to determine the schedule for the Legislative Analyst Office to conduct a comprehensive assessment of major tax expenditures and replaced them with the provisions discussed in this analysis.

Except for the "This Bill" and "Implementation Considerations" sections, the remainder of the department's analysis as amended May 7, 2019, still applies. The "Reason for the Bill," "Effective/Operative Date," "Fiscal Impact," and "Economic Impact" has been restated for convenience.

Reason for the Bill

The reason for the bill is to create a mechanism for review of some of California's largest tax expenditures.

Effective/Operative Date

This bill would become effective and operative January 1, 2020.

This Bill

This bill would establish the CTERB to assess major tax expenditures that meet certain criteria, and make recommendations to the Legislature. The CTERB will meet on or before July 1, 2020, and convene at least twice per year and shall be composed of five members who shall serve in an advisory capacity without compensation.

Major tax expenditures would mean, a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state as defined in subdivision (b) of Section 13305 of the Government Code that meets all of the following criteria:

- Forgone revenue resulting from the tax expenditure met or exceeded one billion dollars (\$1,000,000,000) in total over the previous 10 fiscal years, and does not contain either of the following as of January 1, 2020:
 - A repeal or inoperative date; and
 - A requirement to report metrics of efficacy.
- The bill specifically excludes tax expenditures:
 - For sales and use tax exemptions for utilities, food products, and medicines, pursuant to Revenue and Taxation Code (R&TC) sections 6353, 6359, 6369, and 6369.1; and
 - That are only under the Personal Income Tax Laws;
 - That apply to exempt corporations.

The Legislature will request that a comprehensive assessment of major tax expenditures be performed by the Regents of the University of California, through a new or existing research center (Center).

By July 1, 2021, at a public meeting of the CTERB, the Center shall present a comprehensive peer-reviewed assessment of major tax expenditures to the CTERB.

To the extent that the University of California needs access to taxpayer data and information, The Department of Finance (DOF) will ensure that relevant taxpayer's data is available and ensure appropriate levels of data security and protections are in place for transferred and sensitive data.

In addition to other information, the scope of each comprehensive assessment of major tax expenditures is required to include the number of returns filed or business entities affected for the most recent tax year in which full year data is available. It should also include a listing on any comparable federal tax benefits.

After receiving the comprehensive assessment from the Center, the CTERB shall post it on its internet website.

After the comprehensive assessment of the major tax expenditures has been posted on the CTERB's website for at least 14 days, and no later than two months from the date the board posts the comprehensive assessment on the website, the CTERB shall meet in public to vote and make a recommendation to the Legislature. Recommendations are subject to enactment.

This bill also requires the CTERB to consider information provided by the public, including any recommendations the board failed to make for a major tax expenditure for which the University of California has completed a comprehensive assessment, and the reason for the failure. The CTERB report is required to make recommendations and be provided to the Legislature by January 1, 2022.

Upon receipt of the report, the Senate Committee on Governance and Finance and the Assembly Committee on Revenue and Taxation shall hold a joint public meeting on the report by August 15 of the second year of the legislative session.

This provision will become inoperative on the date six months after the Senate Governance and Finance and the Assembly Committee on Revenue and Taxation hold a joint public hearing on the CTERB report.

Implementation Considerations

Department staff has identified the following implementation consideration 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 this and other concerns that may be identified.

Although this bill would require the Department of Finance to assist the University of California with completion of the comprehensive assessment, the bill is silent on what the Franchise Tax Board's (FTB's) duties are in regards to providing the specified data. For clarity and ease of administration, it is recommended that the bill be amended.

This bill requires the Department of Finance to provide relevant taxpayer data to the University of California. The FTB cannot provide tax information to the DOF or the University of California without express authorization. For clarity and ease of administration, it is recommended that the bill be amended.

Fiscal Impact

If the FTB is required to create and maintain the website, the costs would be approximately \$58,000 in fiscal year 2019-2020; \$182,000 in fiscal year 2020-2021; \$85,000 in fiscal year 2021-2022; and \$84,000 ongoing to support the California Tax Expenditures Review Board's website.

Economic Impact

Revenue Estimate

This bill as amended July 11, 2019, may have an impact on the general fund, but the amount and timing of the impact is unknown.

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

Using corporate tax expenditure data for taxable years 2006 through 2015, the FTB identified five expenditures that meet the definition of a major tax expenditure in accordance with the provisions of this bill. Those expenditures are: the credit for research expenses, the water's-edge election, the like-kind exchange capital gain exclusion, the acceleration of depreciation for research expenses deduction, and the S Corporation filing election.

Legislative Staff Contact

Margo Cave
Legislative Analyst, FTB
(916) 845-7475
margo.cave@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Jahna Carlson
Asst. Legislative Director, FTB
(916) 845-5683
jahna.carlson@ftb.ca.gov