STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Patterson and Gallagher

Sponsor:

Bill Number: AB 1697

Related Bills: See Legislative History

Amended: March 31, 2022

SUBJECT

Still Birth Tax Credit

SUMMARY

This bill, under the Personal Income Tax Law (PITL), would establish a tax credit for certain qualified expenses not to exceed $2,000 per Certificate of Still Birth for taxpayers who hold a Certificate of Still Birth.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 31, 2022, amendments resolved all of the implementation and policy considerations discussed in the department's analysis of the bill as introduced on January 25, 2022, and amended March 10, 2022.

REASON FOR THE BILL

The reason for this bill is to provide financial relief to assist families with medical and burial costs relating to a still birth.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2022, and before January 1, 2027, allow a credit against the net tax not to exceed $2,000 per Certificate of Still birth to a taxpayer who holds a Certificate of Still Birth for qualified expenses paid or incurred during the taxable year the still birth occurred or within the first six months of the next taxable year.

The bill would define "qualified expenses" as medical, burial, or cremation costs that are paid or incurred by the taxpayer during the taxable year the still birth occurred or within the first six months of the next taxable year. In addition, the costs must be directly related to the still birth and not have been or will not be reimbursed by any other source.

The bill specifies that if two taxpayers are married but filing separately, this credit could only be claimed by one spouse.

The bill provides that the specific goal, purpose, and objective of the credit is that the credit will provide financial relief to families to assist with health care, burial, and autopsy costs associated with a still birth. The performance indicators of the credit would be the number of taxpayers claiming the credit along with the total dollar amount of the credit claimed.

The bill would require the Franchise Tax Board (FTB) to analyze the performance indicators every year and report the findings on or before May 1, 2027, to the Legislature. Additionally, this bill provides an exception to the disclosure rules for the FTB to report any needed information to the Legislature.

This bill would reduce any deduction allowed for amounts paid or incurred on which the credit is based by the amount of the credit.

Unused credits could be carried over for eight years or until exhausted.

Because this bill did not specify otherwise, this credit would not reduce regular tax below the tentative minimum tax.

These provisions would be repealed by their own terms on December 1, 2027.

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, 2022, and before January 1, 2027.

Federal/State Law

Federal Law

No comparable provision in federal law.

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.

Under Revenue and Taxation Code (RTC) section 41, legislation that would create a new tax expenditure, which includes a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the tax benefit.

Current state tax law requires the FTB to report certain information to the California Legislature and other state agencies, as directed. For both federal and state purposes, the disclosure of any confidential taxpayer information is prohibited, except as specifically authorized by statute.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None Noted.

LEGISLATIVE HISTORY

AB 2259 (Patterson, 2017/2018) would have created a Still Birth Tax Credit, which would have allowed a credit to a taxpayer who holds a Certificate of Still Birth. AB 2259 did not pass out of the Assembly Appropriations Committee by the legislative deadline.

PROGRAM BACKGROUND

None noted.

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 1697 as Amended March 31, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$2.6
2023-2024	-$2.1
2024-2025	-$2.2

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

The Assembly Revenue and Taxation Committee analysis, dated March 18, 2022, lists the following support and opposition:

Support

California Catholic Conference, Community Health System, Infants Remembered in Silence, Inc., Push for Empowered Pregnancy, Sienna's Wings Foundation, Star Legacy Foundation, Valley Children's Foundation, 8 Individuals.

Opposition

California Tax Reform Association.

ARGUMENTS

Proponents

The Assembly Revenue and Taxation Committee Analysis dated March 18, 2022, includes the following argument in support of AB 1697:

> California provides families the option of receiving a certificate of fetal death or stillbirth, in addition to the death certificate, helping families acknowledge their infant. But at tax time, moms and dads of stillborn babies can be re-traumatized. Parents whose infants die even a minute after birth qualify for the child tax credit, but parents of a stillborn child do not qualify, even as they carry the emotional and financial costs.

Opponents

The Assembly Revenue and Taxation Committee Analysis dated March 18, 2022, includes the following argument in opposition of AB 1697:

> The California Tax Reform Association, writing in opposition to this bill, state that 'When general fund dollars are utilized to serve a specific purpose, they are no longer available to meet other state priorities, including K-14 education, critical public services like fire and safety, and vital safety net programming. While providing support for the parents of a still born child is a heartwarming endeavor, it is unclear that this is an appropriate use of the state's limited general fund dollars.

LEGISLATIVE CONTACT

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