STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Santiago

Sponsor:

Bill Number: AB 2018

Related Bills: See Legislative History

Introduced: February 14, 2022
Amended: March 17, 2022

SUBJECT

Student Loan Debt Refundable Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), allow to qualified taxpayers, who graduated from a California university and have worked in public service for at least five years, a one-time refundable credit.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 17, 2022, amendments removed intent language relating to a student debt fund for the purpose of providing grants to certain college graduates to repay student loan debt, 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 provide student loan debt relief for taxpayers that work in public service.

ANALYSIS

For the taxable year beginning on or after January 1, 2022, and before January 1, 2023, this bill would allow a one-time student loan rebate credit to a qualified taxpayer, as defined. The credit would be equal to the lesser of either the qualified taxpayer's federal student loan debt or $10,000.

For purposes of this bill, the following definitions would apply:

1) "Federal student loan debt" would mean debt based on any subsidized or unsubsidized loan made by the federal government to the qualified taxpayer to finance postsecondary education expenses, including tuition, fees, books, supplies, room and board, transportation, and personal expenses.
2) "Public service" would mean service rendered as an officer or employee of the United States (U.S.), this state, or any city, county, or political subdivision in the state.
3) "Qualified taxpayer" would mean an individual that satisfies all of the following:
   a) Graduated with a degree from a private or public university headquartered in the state.
   b) Has worked in public service for at least five years.
   c) Has gross income of no more than $100,000.
   d) Has at least $5,000 of federal student loan debt.

If the credit allowed by this bill would exceed the qualified taxpayer's current tax liability, the excess would be credited against other amounts due, if any, and the balance, if any, would be refunded to the qualified taxpayer, upon appropriation by the Legislature.

The bill states that undocumented persons would be eligible for the tax credit authorized by this section within the meaning of Section 1621(d) of Title 8 of the U.S. Code, which among other items, provides that an individual, who is not lawfully present in the U.S., is eligible for any state or local public benefit for which such alien would otherwise be ineligible.

The bill states that the purpose of the credit is to provide financial assistance to public servants burdened with student debt incurred while attending California universities. The performance indicators to determine whether this tax credit achieves its stated purpose would be the number of taxpayers and the total dollar value of the credits allowed under the provisions of this bill.

By January 10, 2024, the Franchise Tax Board (FTB) would be required to provide a report to the Legislature with the number of taxpayers allowed the credit and the total dollar value of credits allowed. This reporting would be treated as an exception to the general prohibition against disclosure of tax information.

This credit would be repealed by its own terms on December 1, 2023.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for the taxable year beginning on or after January 1, 2022, and before January 1, 2023.

Federal/State Law

Federal Law

Current federal law provides two education-related tax credits: the American Opportunity Credit (AOC) and the Lifetime Learning Credit (LLC).

The AOC allows qualified taxpayers a credit of 100 percent (100%) for the first $2,000 of qualified tuition and related expenses, and 25 percent (25%) of the next $2,000 of qualifying education expenses, for a total tax credit of up to $2,500 per eligible student per year. Up to 40 percent (40%) of the tax credit is refundable. The tax credit is phased out for taxpayers with modified adjusted gross income between $80,000 and $90,000 for single filers and between $160,000 and $180,000 for joint filers. The tax credit may be claimed for an eligible student for only the first four years of postsecondary education.

The LLC allows qualified taxpayers a nonrefundable credit of 20 percent (20%) of the first $10,000 of qualified tuition for a total of up to $2,000 per taxable year. The tax credit is phased out for taxpayers with modified adjusted gross income between $80,000 and $90,000 for single filers and between $160,000 and $180,000 for joint filers. The credit is available for an unlimited number of tax years.

In lieu of the above credits, qualified taxpayers may claim a deduction in computing adjusted gross income for qualified education expenses, not to exceed $4,000.

State Law

Current state law does not provide tax credits similar to the AOC or LLC.

Existing state 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 Section 41, legislation that would create a new tax expenditure is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the credit.

Implementation Considerations

The department has identified the following implementation consideration, and is available to work with the author's office to resolve this and other considerations that may be identified.

This bill would require a regular annual appropriation by the Legislature to pay for the refundable portion of this credit. If there are insufficient funds available to cover all of the refunds due and payable, the department would suspend payment until additional funds were appropriated, unless directed otherwise. Interest may have to be paid to refund recipients for the period the refund was delayed. This could cause uncertainty for taxpayers and the department regarding the amount of the credit allowed for the taxable year. In addition, this delay would result in additional contacts to the department by refund recipients, which would likely increase departmental costs.

By January 10, 2024, the FTB would be required to provide a report to the Legislature. Personal income tax returns may be filed, with extension, until October 15. The department generally processes returns within six months of receipt. If the author's intent is to have a report that contains complete information for the 2022 taxable year, it is recommended that the due date of the report be extended. For instance, the return due date for the 2022 taxable year is April 15, 2023, and with extension, October 15, 2023. The department would then need to complete processing of these returns. It is recommended that the due date for the report be changed to April through July 2024, based on data availability.

Technical Considerations

For consistency of terminology, the following changes are recommended:

Section 1:

- Section 17052.13. (a) For ~~the~~ taxable years beginning on or after January 1, 2022, and before January 1, 2023,…
- Section 17052.13. (b)(3)(C) Has *adjusted* gross income of no more than...

SEC. 2:

- (b) *...*the credit, and the total dollar *amount*~~value~~ of credits allowed.
- (c)(1) *…*the credit, and the total dollar *amount*~~value~~ of credits allowed.

Policy Considerations

Generally, refundable tax credits are subject to federal income tax unless a federal income exclusion applies.

Historically, refundable credits (such as the state renter's credit, the federal Earned Income Tax Credit, and the federal credit for gasoline used for farming) have resulted in increased attempts at filing fraudulent returns.

This bill would allow the credit to individuals that graduated from a university in California. However, individuals performing public service in California may not have attended a California university. If this is contrary to the author's intent, the bill should be amended to clarify.

Along similar lines, it is unclear if the public service needs to be performed in California. If the author's intent is that the public service should to be performed in California, the author may wish to amend the bill to clarify.

This bill would allow the credit to individuals that have worked in public service for at least five years, whether that public service occurred before or after the individual graduated from a university or while they were attending a university. If this is contrary to the author's intent, the bill should be amended.

An individual with $4,999 in federal student loan debt would be ineligible for the credit; however, an individual with $5,000 in federal student loan debt would receive a refundable credit for the entire amount. If this is contrary to the author's intent, the bill should be amended to specify a phase-out amount.

LEGISLATIVE HISTORY

AB 668 (Petrie-Norris, 2021/2022) would have, under the PITL, conformed to the student loan forgiveness provisions under the federal American Rescue Plan Act of 2021. AB 668 did not pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

AB 91 (Burke, Chapter 39, Statutes of 2019) for taxable years beginning after December 31, 2018, provides that for discharges of indebtedness, certain student loans that are discharged on account of death or total and permanent disability of the student are also excluded from gross income.

SB 63 (Hertzberg, Chapter 468, Statutes of 2019) for taxable years beginning on and after January 1, 2019, and before January 1, 2024, provides an exclusion from gross income for income that would otherwise result from the discharge of a student loan of an eligible individual.

AB 461(Muratsuchi, Chapter 525, Statutes of 2017) for taxable years beginning on or after January 1, 2017, and before January 1, 2022, excludes from gross income student loan debt that is cancelled or repaid under the Income Contingent Repayment plan, the Pay As You Earn Repayment plan, and the Revised Pay As You Earn Repayment plan as administered by the U.S. Department of Education.

SB 477 (Wieckowski and Allen, 2019/2020) would have, under the PITL, allowed a credit equal to the amount of interest paid during the taxable year on a qualified education loan. SB 477 did not pass out of the Assembly Revenue and Taxation Committee.

AB 647 (Reyes and Ridley-Thomas, 2017/2018) would have, under the PITL, allowed a refundable tax credit for certain community college student expenses. AB 647 did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined but are expected to be significant as this would be a new refundable credit. 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 2018 as Amended March 17, 2022
Assumed Enactment after June 30, 2022

($ in Billions)

Fiscal Year	Revenue
2022-2023	-$2.9
2023-2024	-$0.0
2024-2025	-$0.0

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

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov