



Bill Analysis

Author: Irwin

Sponsor:

Bill Number: AB 2378

Related Bills: See Legislative
History

Introduced: February 17, 2022

SUBJECT

Employee Hiring Credit – Qualified Wages for Certain Disabled and Other Employees

SUMMARY

This bill would create a credit equal to forty percent of the amount paid or incurred by a qualified taxpayer during the taxable year for qualified wages of qualified employees, not to exceed six thousand dollars (\$6,000) per qualified employee.

This analysis only addresses the provisions of the bill that would impact the department's programs and operations.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to encourage employers to hire individuals with disabilities.

ANALYSIS

Under the Personal Income Tax Law (PITL), for taxable years beginning on or after January 1, 2023, and before January 1, 2028, this bill would create a credit for an amount equal to forty percent of the amount paid or incurred by a qualified taxpayer during the taxable year for qualified wages of qualified employees not to exceed six thousand dollars (\$6,000) per qualified employee.

Introduced February 17, 2022

The bill defines the following:

“Qualified employee” means an employee that meets both of the following criteria:

- Was hired on or after January 1, 2023
- Is one of the following:
 - A vocational rehabilitation referral
 - A qualified Social Security Income (SSI) recipient
 - A qualified Social Security Disability Income (SSDI) recipient

“Qualified taxpayer” means a taxpayer that operates a business and does not hold a certificate pursuant to subsection (c) of Section 214 of Title 29 of the United States Code, related to handicapped workers.

“Qualified wages” means wages for work performed in California for the first 12 months that a qualified employee is employed by the qualified taxpayer.

“Qualified SSI recipient” means an individual who is receiving supplemental security income benefits under Title XVI of the Social Security Act, relating to supplemental security income benefits, for any month ending within 60 days of the date that the qualified taxpayer hired the qualified employee.

“Qualified SSDI recipient” means an individual who is certified by a designated local agency as receiving disability insurance benefits under Section 223 of the Social Security Act, relating to disability insurance benefits, for any month ending within 60 days of the date that the qualified taxpayer hired the qualified employee.

“Vocational rehabilitation referral” means an individual who is certified by the Department of Rehabilitation as having both of the following:

- A physical or mental disability that constitutes or results in a substantial handicap to employment.
- A referral to the employer upon completion of or while receiving rehabilitative services pursuant to any of the following:
 - An individualized written plan for employment under California's plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, related to individuals with disabilities.
 - A program of vocational rehabilitation carried out under Chapter 31 of Title 38 of the United States Code, related to training and rehabilitation for veterans with service-connected disabilities.
 - An individual work plan developed and implemented by an employment network pursuant to subsection (g) of Section 1148 of the Social Security Act, related to individual work plans.

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For purposes of complying with Section 41 of the Revenue and Taxation Code (RTC), beginning on March 1, 2024, and annually thereafter, the Franchise Tax Board (FTB) would be required to submit to the Joint Legislative Budget Committee (JLBC) a report that includes the following for the prior taxable year:

- Total dollar amount of the credit claimed.
- A comparison of the total dollar amount of the credit claimed to the FTB's prior estimate of the total dollar amount of the credit expected to be claimed for that fiscal year.
- The number of qualified taxpayers claiming the credit and the number of qualified employees represented in those claims.

The bill indicates that the FTB may disclose the required information to the JLBC.

Unused credits could be carried over until exhausted.

This credit would be repealed by its own terms on December 1, 2028.

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, 2023, and before January 1, 2028.

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 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 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 provides that information collected from income tax returns is considered confidential and, unless specifically available for other uses, must be used only to administer the income tax laws. The FTB may disclose taxpayer information only in limited circumstances and only to specific agencies as authorized by law. Improper disclosure of federal tax information is punishable as a felony, and improper disclosure of state tax information is punishable as a misdemeanor.

Introduced February 17, 2022

Implementation Considerations

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

This bill would require the department to provide a report on the utilization of this credit by March 1, 2024. The department would not have that specific data until after June 2025. The author may wish to amend the bill to change the due date of the report to allow the department to collect the necessary data.

Technical Considerations

For technical consistency, the following change is recommended:

- In section 17053.75 (b)(6)(B)(i) replace "19" with "29".
- In section 17053.75 (e)(3), the term "while the credit is in effect," should be added after, "and annually thereafter."

The bill as written, would limit the credit by taxable year rather than by qualified employee. For example, if a qualified employee begins working July 1, 2023, the qualified taxpayer may be able to receive a credit up to \$6,000 for the 6 months the qualified employee worked. If the qualified employee continues to work the following year, the qualified taxpayer may be able to obtain a credit up to \$6,000 for the first 6 months the employee worked in 2025. If it is the intent of the author to limit the credit to a total of \$6,000 for the qualified employee's first 12 months of employment, the author may wish to amend the bill.

Policy Considerations

This bill would provide a tax benefit for business entities under the PITL that would be unavailable to corporations under the Corporation Tax Law (CTL). Thus, this bill would provide differing treatment based solely on entity classification.

Although the bill limits the amount of credit that can be taken per eligible employee, there is no limit for total credit a qualified taxpayer can take. Credits are sometimes limited either on a per-project or per-taxpayer basis to reduce potential cost.

Since this bill allows the credit for wages paid for 12 months, it could incentivize a taxpayer to terminate an employee and then rehire the same or another employee to restart the 12 months. If this is not the author's intent, the author may wish to amend the bill.

Introduced February 17, 2022

This bill would allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Credits are generally enacted with a limited carryover period because experience shows credits typically are exhausted within eight years of being earned.

LEGISLATIVE HISTORY

AB 150 (Committee on Budget and Fiscal Review, Chapter 82, Statutes of 2021), amongst other items, for taxable year beginning on or after January 1, 2021, and before January 1, 2022, under the Sales and Use Tax Law, the PITL, and the CTL, allowed a qualified small business employer a small business hiring credit, subject to receiving a tentative credit reservation.

SB 1447 (Bradford, et al., Chapter 41, Statutes of 2020) similar to AB150, allowed for the taxable year beginning on or after January 1, 2020, and before January 1, 2021, a small business hiring credit to a qualified small business employer that receives a tentative credit reservation.

AB 2932 (Choi, 2017/2018), would have under the CTL, allowed a tax credit to certain taxpayers that increase their workforce. AB 2932 did not pass out of the Assembly by the constitutional 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 2378 as Introduced on February 17, 2022
Assumed Enactment after June 30, 2022

(\$ in Millions)

Fiscal Year	Revenue
2022-2023	-\$7
2023-2024	-\$15
2024-2025	-\$18

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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

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