STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Irwin	Sponsor:	Bill Number: AB 2378
	Related Bills: See Legislative History	Amended: April 28, 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 $6,000 per qualified employee. The credit amount would be limited to $30,000 per qualified taxpayer per taxable year.

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

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 28, 2022, amendments added the credit to the Corporation Tax Law (CTL), added a limit to the credit per qualified taxpayer per taxable year, further defined a qualified employee, modified the Section 41 reporting requirements, limited the carryover period, and made other technical changes.

These amendments resolved all of the implementation, technical, and policy considerations discussed in the department's analysis of the bill as introduced on February 17, 2022.

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) and CTL, 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 $6,000 per qualified employee. The credit amount is capped at $30,000 per qualified taxpayer per taxable year.

The bill defines the following:

"Qualified employee" means an employee that meets all of the following criteria:

- Was hired on or after January 1, 2023.
- Was not an employee of the qualified taxpayer in the previous five taxable years.
- Is one of the following:
  - A vocational rehabilitation referral,
  - A qualified Social Security Income (SSI) recipient, or
  - 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.

Unused credits could be carried over for three years until exhausted.

This bill specifies that no deduction would be allowed for the same expenses for which the credit was allowed.

This credit would be repealed by its own terms on December 1, 2028.

For purposes of complying with Section 41 of the Revenue and Taxation Code (RTC), on or before June 1, 2025, and annually thereafter in years the credit is operative, 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.

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.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

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 Amended on April 28, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$8.9
2023-2024	-$22
2024-2025	-$23

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 May 4, 2022 Revenue and Taxation Committee analysis listed the following support and opposition.

Support

Association of Regional Center Agencies

Opposition

None listed.

ARGUMENTS

Proponents

The Association of Regional Center Agencies submitted the following statement in support, which reads in part:

> AB 2378 seeks to address a major challenge facing people with developmental disabilities – finding competitive, integrated employment. Many people served by the regional centers want, and actively seek, employment. But they face multiple barriers – among them is a misplaced concern by a prospective employer about the simple financial merits of hiring a person with a developmental disability. Despite ample research indicating such employees have lower turnover and lower on-the-job accident rates, employment rates remain low.
>
> By creating a tax credit for hiring a qualified individual, AB 2378 provides a meaningful incentive to hire a person with a developmental disability.

Opponents

None listed.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov