



Bill Analysis

Author: Choi, et al.

Sponsor:

Bill Number: AB 248

Related Bills: See Legislative
History

Amended: January 3, 2022

SUBJECT

COVID-19 Workplace Sanitizing and Cleaning Expense Credit

SUMMARY

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would create a credit for an amount equal to the amounts paid or incurred by a qualified taxpayer for the purchase of cleaning and sanitizing supplies used at business locations in this state to prevent the transmission of the novel coronavirus (COVID-19).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The January 3, 2022, amendments modified the effective and operative date, added reporting requirements and added co-authors. The January 3, 2022, amendments resolved one of the implementation considerations identified in the prior analysis, however one remains. Additionally the Policy Concerns identified in the prior analysis remain.

REASON FOR THE BILL

The reason for this bill is to provide some relief to businesses for cleaning and sanitizing supplies.

ANALYSIS

This bill would, under the PITL, and the CTL, for taxable years beginning on or after January 1, 2022, and before January 1, 2023, allow a qualified taxpayer a credit, in an amount equal to the costs paid or incurred by the qualified taxpayer during the taxable year for the purchase of cleaning and sanitizing supplies used at business locations in the state to prevent the transmission of the COVID-19.

This bill defines a "qualified taxpayer," as a taxpayer that is a business with a physical location in the state.

Amended January 3, 2022

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

The credit may be carried forward for up to eight years or until exhausted, whichever occurs first.

For purposes of complying with Section 41, this bill would require the Franchise Tax Board to report to the Legislature by June 1, 2024 the following information:

- The number of taxpayers claiming the credit;
- The average credit amount on tax returns claiming the credit.

This credit would be repealed by its own terms on December 1, 2024, but unused credits would be eligible for use throughout the carryover period.

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, 2023.

Federal/State Law

Existing federal and state laws provide various tax credits that are used to reduce the taxpayer's tax liability dollar-for-dollar. Generally for California, the credit is taken instead of any deduction otherwise allowable for the same costs. Any deduction allowed for the same costs may be reduced by the amount of the credit claimed for the current tax year. One benefit of allowing tax credits rather than deductions is that tax credits are claimed after taxable income has been calculated and, therefore, do not create differences between the taxable income amounts shown on the federal and state income tax returns.

There are currently no federal or state credits comparable to the credit this bill would create.

Implementation Considerations

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

This bill uses the terms "cleaning and sanitizing supplies," that are undefined. The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to clearly define these terms.

Amended January 3, 2022

Technical Considerations

None noted.

Policy Considerations

This bill provides no limitation on the amount of the credit that may be taken. Credits that could potentially be quite costly are sometimes limited either on a per-project or per-taxpayer basis. This bill would provide a 100 percent credit, which would be unusual.

This bill does not require that the purchased supplies be used at the taxpayer's business locations, but rather be used at a business location. If this is contrary to the author's intent, the bill should be amended.

LEGISLATIVE HISTORY

AB 62 (Gray, 2021/2022), would have under the PITL and the CTL, created a credit for the total amount paid or incurred by a qualified taxpayer to comply with regulations adopted by Occupational Safety and Health Standards Board, relating to COVID-19 prevention. AB 62 did not pass out of the Assembly by the constitutional deadline.

AB 80 (Burke, et al., Chapter 17, Statutes of 2021), under the PITL and the CTL, this bill expanded the exclusion from gross income for covered loan amounts forgiven pursuant to California conformity to certain federal provisions. AB 80 also conformed to the exclusion from gross income for advance grant amounts forgiven pursuant to certain federal provisions, and conformed to the allowance of deductions and treatment of tax basis and other tax attributes relating to business expenses paid with forgiven covered loan amounts under the Paycheck Protection Program (PPP), except for ineligible entities, as specified.

AB 2496 (Choi, 2019/2020), similar to this bill, would have created a tax credit for cleaning and sanitizing supplies purchased by businesses for use in this state to prevent the transmission of the novel coronavirus. AB 2496 did not pass out of the Assembly by the constitutional deadline.

AB 2166 (Kiley, 2019/2020), would have under the PITL and CTL, allowed a net operating loss (NOL) carryback in certain conditions, and would state that the goal, purpose, and objective of the bill is to jumpstart California's economic recovery from the COVID-19 pandemic. AB 2166 did not pass out of the Assembly by the constitutional deadline.

Amended January 3, 2022

AB 2493 (Choi, 2019/2020), would have under the PITL and CTL, increased the amounts of the research credit in California, and would state that the goals, purposes, and objectives of the bill include incentivizing more research into treatments, cures, and vaccines to address the global pandemic caused by COVID-19. AB 2493 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

If the implementation considerations addressed in this analysis are resolved, the department's costs are expected to be minor.

ECONOMIC IMPACT

Revenue Discussion

This bill, for taxable years beginning on or after January 1, 2022, and before January 1, 2023, would allow a credit in an amount equal to the costs paid or incurred for the purchase of cleaning and sanitizing supplies used at business locations in California to prevent the transmission of the novel coronavirus. To determine the magnitude of the potential impact to the General Fund, the number of businesses and amount of costs paid or incurred for cleaning or sanitizing supplies must be known. Since it is difficult to predict precautions businesses would take during a pandemic, the revenue impact to the General Fund is unknown.

It is estimated that for every \$1 million in credits generated, approximately \$360,000 would be claimed in the year generated and the remaining credit would be used over the subsequent seven years. The offsetting tax effect for every \$1 million qualified taxpayers spend on cleaning and sanitizing supplies would result in an offsetting revenue gain of \$70,000. The overall revenue loss is expected to be approximately \$290,000 in taxable year 2022 for each \$1 million of credits generated.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

Bill Analysis

Bill Number: AB 248

Amended January 3, 2022

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov