



Bill Analysis

Author: Quirk

Sponsor:

Bill Number: AB 545

Related Bills: See Legislative
History

Amended: June 29, 2021

SUBJECT

Major Tax Expenditures Research Center

SUMMARY

This bill would require the Regents of the University of California (RUC), through a new or existing research center, to perform a comprehensive assessment of major tax expenditures, meeting specified criteria, and provide a report with recommendations to the Legislature regarding those expenditures.

This bill would require the Franchise Tax Board (FTB) and the California Department of Tax and Fee Administration (CDTFA) to provide aggregated and anonymized taxpayer information to the RUC to perform the research.

This analysis is limited to the provisions that affect the department.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 29, 2021, amendments resolved all of the implementation considerations as discussed in the department's analysis of the bill as introduced on February 10, 2021, and amended April 19, 2021, and May 4, 2021. The amendments also narrowed the scope of the taxpayer information that would be required to be provided by the FTB.

REASON FOR THE BILL

The reason for this bill is to ensure that the most costly tax expenditures in California are achieving their intended public policy objectives, and that they are making the best use of limited public dollars.

ANALYSIS

This bill would task the RUC, through a new or existing research center, to perform a comprehensive peer review assessment of major tax expenditures and provide a report to the Legislature by January 1, 2024.

This bill defines a “major tax expenditure” as a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state that:

- Has resulted in a total foregone revenue of one billion dollars (\$1,000,000,000) or more over the previous ten fiscal years, and does not contain a sunset, repeal, or inoperative date, or efficacy metrics reporting requirement as of January 1, 2021.
- Is not an exemption under certain sales and use taxes as indicated.
- Is not allowed only against taxes imposed by the Personal Income Tax Law (PITL).
- Is not authorized by the provisions of the law relating to exempt corporations.
- Is not allowed as a deduction under the provisions of PITL and Corporation tax Law (CTL) relating to charitable contributions.
- Is not excluded from income under the provisions of PITL and CTL relating to certain death benefits, annuities, and proceeds of endowment and life insurance contracts.
- Is not authorized under laws pertaining to the treatment of S corporations and their shareholders.

The scope of the assessment would include, but is not limited to:

1. A description of the legislative intent for each tax expenditure, if the act adding or amending the expenditure includes intent in legislative findings and declarations or is otherwise expressed or specified by that act.
2. A brief description of the beneficiaries of the tax expenditure, without disclosing taxpayers' personal identifying information.
3. The number of returns filed or business entities affected as applicable, for the most recent tax year for which full year data is available.
4. A listing of any comparable federal tax benefit.
5. A description of any recent prior tax expenditure evaluation or compilation of information completed by any state agency.
6. A total loss to the General Fund dollars as a result of tax expenditures allowed to taxpayers.
7. The economic, social, environmental, or any other impact of the tax expenditure to the State of California using metrics that the research center deems appropriate for the tax expenditure.

8. Options for modifying the tax expenditure to improve its effectiveness or to reduce its costs to the General Fund.
9. A comparison of other states' related tax incentives, and the estimated change in state and local revenue and employment if the tax incentive is reduced or removed.
10. Estimated revenue increase in General Fund resulting from the tax expenditure.

This bill would require the FTB and the CDTFA to provide readily available taxpayer information, subject to the limitations in federal law, in an aggregate or anonymized manner to the University of California to conduct research related to items three and six listed above. The FTB's disclosure required under this bill would be treated as an exception to the disclosures rules under Revenue and Taxation Code (RTC) section 19542. However, the information provided pursuant to this provision would still be subject to the accompanying provisions.

This bill would require the University of California to provide a report of its recommendations regarding major tax expenditures to the Legislature, as well as the Senate Committee on Budget and Fiscal Review, the Senate Committee on Governance and Finance, the Assembly Committee on Budget, and the Assembly Committee on Revenue and Taxation by January 1, 2024.

Upon receipt of the report, this bill would also require the Senate Committee on Governance and Finance and the Assembly Committee on Revenue and Taxation to hold a joint public hearing on the report by August 15, 2024.

The provisions of this bill would be repealed by its own terms on February 15, 2025.

Effective/Operative Date

This bill would become effective and operative on January 1, 2022.

Federal/State Law

There are currently no federal or state laws that establish a tax expenditure research center comparable to this bill.

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as the FTB. A federal return is defined as any tax return, information return, declaration of estimated tax, or claim for refund under the Internal Revenue Code. Any FTB employee or member responsible for the improper disclosure of federal tax information is subject to felony criminal prosecution.

Current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits the FTB to release individual tax return information to specific state agencies. Agencies must have a specific reason for requesting the information, including investigating items of income disclosed on any return or report, verifying eligibility for public assistance, locating absent parents to collect child support, or locating abducted children. For some agencies, only limited information may be released, such as the taxpayer's social security number and address.

Under RTC 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

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 1538 (Quirk, 2021/2022) would authorize the FTB to disclose, upon request, returns or return information to a bona fide research body for conducting research related to poverty. AB 1538 was held at the Assembly Committee on Revenue and Taxation without further action.

SB 468 (Jackson, et al., 2019/2020) would have established the California Tax Expenditure Review Board as an independent advisory body to comprehensively assess major tax expenditures meeting specified criteria and to make recommendations to the Legislature regarding those expenditures. SB 468 was vetoed by the governor whose veto message stated, "*I support greater transparency with respect to tax credits, exemptions, and other expenditures and believe these items should be scrutinized periodically to justify their overall cost to the state's revenue base. However, creating a new board to accomplish that goal is unnecessary. The Department of Finance is currently required to publish tax expenditure reports and existing law requires new income tax expenditures to specify goals, performance indicators, and data collection requirements.*"

SB 956 (Jackson, 2019/2020), substantially similar to SB 486, was held at the Assembly Committee on Revenue and Taxation without further action.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The scope of the requests required for this legislation could be significant. The resources needed to complete these requests could not be absorbed by the department and are estimated to be \$450,000 in fiscal year 2022-2023 and \$400,000 in the 2023-2024 fiscal year. Additionally, the department would not be able to begin this work until approximately July 1, 2022, when the resources could become available.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended June 29, 2021, does not change the manner in which income or franchise tax is calculated under the RTC. However, should the tax expenditure review authorized by this bill spur changes to the RTC, there could be an impact on the General Fund, but the amount and timing of the impact is unknown.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support

Per the Senate Education Committee bill analysis dated July 12, 2021, the following organizations are in support of the bill:

- California Community Colleges;
- Chancellor's Office;
- California Professional Firefighters;
- California School Employees Association;
- California Teachers Association; and
- Los Angeles Unified School District.

Opposition

Per the Senate Education Committee bill analysis dated July 12, 2021, there is no opposition to this bill on file.

ARGUMENTS

None noted.

LEGISLATIVE CONTACT

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