



Bill Analysis

Author: Bradford

Sponsor:

Bill Number: SB 603

Related Bills: See Legislative
History

Amended: April 19, 2021

SUBJECT

Cannabis Equity Business Tax Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), this bill would create a Cannabis Equity Business Tax Credit.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 19, 2021, amendments added the credit provisions to the CTL and added a sunset date, carryover period, and clarifying language. The April 19, 2021, amendments resolved all the technical considerations, and resolved several, but not all, of the policy considerations.

REASON FOR THE BILL

The reason for this bill is to provide a qualified taxpayer with a credit related to cannabis licensing fees.

ANALYSIS

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, allow a qualified taxpayer a credit, in an amount equal to state and local cannabis licensing fees paid or incurred by the qualified taxpayer that are not otherwise reimbursed by a grant or other funds.

A “qualified taxpayer” means either a local equity applicant or local equity licensee as defined in Section 26240 of the Business and Professions Code (BPC):

- A “Local equity applicant” means an applicant who has submitted, or will submit, an application to a local jurisdiction to engage in commercial cannabis activity as specified.
- A “Local equity licensee” means a person who has obtained a license from a local jurisdiction to engage in commercial cannabis activity as specified.

Amended April 19, 2021

Unused credits could be carried over for seven taxable years, until the credit is exhausted.

The bill specifies that it is the intent of the Legislature to comply with Section 41 of the Revenue & Taxation Code (RTC).

Effective/Operative Date

This bill would be effective January 1, 2022, and the credit would be specifically operative for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

Federal/State Law

Federal Law

Federal law states that no deduction or credit is allowed for any amount paid or incurred during the taxable year in carrying on any trade or business that consists of trafficking in specified controlled substances, including cannabis.

State Law

Existing state and federal 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 the PITL, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, licensees engaged in commercial cannabis activity, as defined in the BPC, may deduct expenses and claim tax credits, related to that trade or business.

Under the CTL, a licensee engaged in commercial cannabis activity is allowed otherwise allowable deductions or credits assuming the entity has adequate records to substantiate these items.

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

Implementation Considerations

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

Technical Considerations

None noted.

Policy Considerations

Under RTC section 41, legislation that would create a new tax credit is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the credit's effectiveness. While this bill states that it intends to comply with section 41, it does not include the required information to evaluate the credit's effectiveness.

LEGISLATIVE HISTORY

AB 37 (Jones-Sawyer, Chapter 792, Statutes of 2019) under the PITL, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, allows licensees engaged in commercial cannabis activity, to deduct expenses and claim tax credits, related to that trade or business.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

To determine the revenue impact of this proposal, the number of equity applicants and licensees must be known. This information is not currently available. However, assuming an average licensing fee of \$17,000, it is estimated that for every 1,000 qualified taxpayers, total credits generated would be \$17 million. It is assumed that 70 percent, or \$12 million, would be earned by taxpayers with sufficient tax liability to offset with the credit. Of that amount, 65 percent, or approximately \$8 million, would be claimed in the year generated and the remaining credits would be used over the subsequent six years.

The cost of licensing fees are dependent on the type of license(s) a qualified taxpayer would need for their business and what commercial cannabis activities they plan to engage in. These license fees are based on the applicant's or licensee's estimated gross revenue for annual license. Therefore, the revenue impact could increase or decrease depending on the amount paid for licensing fees.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov