



Bill Analysis

Author: Davies, et al

Sponsor:

Bill Number: AB 14

Related Bills: See Legislative
History

Amended: March 2, 2023

SUBJECT

Childcare Costs Tax Credit

SUMMARY

This bill, under the Personal Income Tax Law (PITL), would allow a qualified taxpayer a credit equal to childcare costs paid or incurred in the state. The credit would equal the lesser of \$500, or the difference between the existing state child and dependent care expenses credit and the allowable federal child and dependent care expenses credit. This credit would be in addition to the current California child and dependent care expenses credit.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 2, 2023, amendments removed intent language relating to tax-preferred childcare saving and investment accounts and replaced it with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to provide financial relief for taxpayers to offset the cost of childcare.

ANALYSIS

This bill, under the PITL, for each taxable year beginning on or after January 1, 2025, and before January 1, 2030, would allow a qualified taxpayer a credit equal to childcare costs paid or incurred in the state. The credit would total the lesser of \$500, or the difference between the existing federal and state child and dependent care expenses credit.

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This bill would define the following terms:

- “Childcare costs” means employment-related expenses, within the meaning of Internal Revenue Code (IRC) section 21 but limited to expenses for household services and care provided in this state, as described under the California Child and Dependent Care credit per PITL, section 17052.6.
- “Qualified taxpayer” means a taxpayer who is qualified to receive the California child and dependent care credit.

The unused credits could be carried over for eight years until exhausted.

This bill would allow the Franchise Tax Board (FTB) to prescribe rules, guidelines, procedures, or other guidance to administer the credit, including any guidelines regarding the allocation of the credit.

For purposes of complying with RTC section 41, this bill would require the FTB to issue a report to the Legislature by June 1, 2029, on the following:

The number of taxpayers claiming the credit.

- The average credit amount on tax returns claiming the credit.
- This credit would be repealed on December 1, 2030, and unused credits would be eligible to be carried forward.

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, 2025, and before January 1, 2030.

Federal/State Law

Existing federal law allows a Child and Dependent Care Expenses Credit for 20 to 35 percent (depending on the taxpayer's adjusted gross income (AGI)) of employment-related expenses of care for a qualifying individual. A qualifying individual is defined as a dependent of the taxpayer that is under the age of 13, or a dependent or spouse who is physically or mentally unable to provide self-care. Employment-related expenses are generally defined as those expenses incurred to enable gainful employment. These expenses are limited to the lesser of the taxpayer's earned income or \$3,000 per taxable year for one qualifying individual, or \$6,000 if there are two or more qualifying individuals.

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State law allows a Child and Dependent Care Expenses Credit similar to the federal credit. In general, California conforms to federal law regarding qualifying individuals and the maximum amount and types of expenses eligible for the credit. However, state law limits expenses to care provided in California, and for purposes of the earned income limitation, uses California earned income.

The state credit is computed by first applying the federal credit percentage (20 to 35 percent) to the smallest of three amounts: the expense cap, California expenses, or California earned income. The state credit percentage is then applied. The state credit percentage varies from 34 to 50 percent based on the taxpayer's AGI and is limited to taxpayers with AGI of \$100,000 or less.

Implementation Considerations

The department has identified the following 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 FTB to prepare a report on the performance of the credit allowed by this bill by June 1, 2029. If the author's intent is to review a report that contains complete information through the 2029 taxable year, it is recommended that the reporting due date be extended to April of 2031. This date would allow time for the FTB to complete processing of personal income tax returns. The department needs approximately six months to complete return processing and to compile the needed data to prepare a report. As a result, it is recommended that the reporting due date be no earlier than April of 2031 to provide information for the 2029 taxable year. If the reporting due date remains unchanged, the report would include the information available as of the date the report is prepared.

Technical Considerations

For clarity, in Section 17052.6.1(e)(4)(A), it is recommended to replace "(c)" with "(e)(3)".

The bill language that would allow the credit to be carried over after it has been repealed could cause conflict between whether a credit is allowed to be used until exhausted or only for eight years until exhausted. Because existing law, RTC section 17039, subdivision (d), provides the general rule for credits with carryover provisions after the credit becomes repealed or inoperative, it is recommended that section 17052.5.1(f) be amended by removing: "However, any unused credit may continue to be carried forward, as provided in subdivision (c), until the credit is exhausted."

The bill provides FTB with regulatory authority, including any guidelines regarding the allocation of the credit. However, this credit does not have an allocation requirement. The author may want to remove or clarify this provision.

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Policy Considerations

This bill would allow a credit for qualified expenses that are currently eligible for the Child and Dependent Care Expenses Credit. Providing an additional credit on the same expense item may have the effect of providing a double benefit for the same item.

The bill would create a new credit. Although the bill mirrors the existing Child and Dependent Care Expenses Credit, the new credit provides a carryover provision, while the existing credit does not. This may make it difficult for taxpayers to keep track of eligible credits and would result in additional department resources to administer each credit separately.

LEGISLATIVE HISTORY

SB 86 (Senate Budget and Fiscal Review Committee, Chapter 14, Statutes of 2011) made the Child and Dependent Care Expenses Credit nonrefundable for taxable years beginning on or after January 1, 2011.

SB 26 (Caballero, 2019/2020) would have made the Child and Dependent Care Expenses Credit refundable. SB 26 did not pass out of the Senate Appropriations Committee.

AB 2023 (Caballero, 2017/2018) would have made the Child and Dependent Care Expenses Credit refundable, subject to an appropriation in the annual Budget Act. AB 2023 did not pass out of the Senate Appropriations Committee.

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 determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 14 as Amended March 2, 2023
Assumed Enactment after June 30, 2023

(\$ in Millions)

Fiscal Year	Revenue
2023-2024	\$0
2024-2025	-\$28
2025-2026	-\$55

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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