



Bill Analysis

Author: Bauer-Kahan

Sponsor:

Bill Number: AB 1634

Related Bills: See Legislative
History

Amended March 23, 2023,
and March 30, 2023

SUBJECT

Qualified Childcare Deduction

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a deduction for any costs paid or incurred by a taxpayer for qualified childcare provided to a qualified dependent. The maximum total deduction that may be claimed by a taxpayer cannot exceed \$5,000 per taxable year per qualified dependent.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 23, 2023, amendments removed provisions of the bill relating to the Welfare and Institutions Code and replaced them with the provisions discussed in this analysis.

The March 30, 2023, amendments modified the operative and repeal dates, changed the definition of "qualified dependent", and added Revenue and Taxation Code (RTC) section 41 reporting requirements.

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

REASON FOR THE BILL

The reason for the bill is to incentivize more employers to offer their employees dependent care support services.

Amended March 23, 2023, and March 30, 2023

ANALYSIS

For taxable years beginning on or after January 1, 2024, and before January 1, 2029, this bill would allow a deduction for any cost paid or incurred by a taxpayer for qualified childcare provided by the taxpayer to a qualified dependent of the taxpayer's employee.

The amount of the deduction allowed would not exceed \$5,000 per taxable year per qualified dependent.

This bill would define the following terms and phrases:

- "Qualified childcare" means a licensed childcare facility or program that is owned or operated by the taxpayer and is intended to be used primarily by dependents of employees of the taxpayer.
- "Qualified dependent" means an individual who meets both of the following:
 - Is a dependent of an employee of the taxpayer.
 - Is under six years of age on the first of the taxable year.

This bill specifies that a deduction may only be allowed if qualified childcare is made equally available by the taxpayer to each of the taxpayer's employees.

The bill provides that a deduction under any other provision must be reduced by the amount taken into account of this deduction.

This bill would require the Franchise Tax Board (FTB) to issue a report to the Legislature on the number of taxpayers allowed a deduction by May 1, 2026, an annually thereafter. This bill would provide an exception to RTC section 19542 disclosure provisions applicable to FTB for purposes of providing the report.

Additionally, the bill would provide a repeal date of December 1, 2029.

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, 2024, and before January 1, 2029.

Amended March 23, 2023, and March 30, 2023

Federal/State Law

Federal Law

Federal law allows a tax credit equal to 25% of employer-provided qualified child care expenditures and 10% of employer-provided qualified child care resource and referral expenditures. The maximum total credit that may be claimed by a taxpayer cannot exceed \$150,000 per taxable year.

Qualified child care expenditures include costs paid or incurred (1) to acquire, construct, rehabilitate, or expand property that is to be used as part of the taxpayer's qualified child care facility, (2) for the operation of the taxpayer's qualified child care facility, including the costs of training and certain compensation for employees of the child care facility, and scholarship programs; or (3) under a contract with a qualified child care facility to provide child care services to employees of the taxpayer.

Existing federal law allows a Child and Dependent Care Expenses Credit for 20 to 35% (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, a dependent who is physically or mentally incapable of caring for himself or herself, 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.

State Law

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%) 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% based on the taxpayer's AGI and is limited to taxpayers with AGI of \$100,000 or less.

Amended March 23, 2023, and March 30, 2023

Implementation Considerations

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

This bill requires the FTB to prepare a report on the number of taxpayers allowed a credit by May 1, 2026, and annually thereafter. If the author's intent is to be able to review a report that contains complete information for the 2024 taxable year, it is recommended that the reporting due date be extended to May of 2027. If the due date of the report remains unchanged, the report will include the information available as of the date when the report is prepared.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 2803 (Valladares, 2021/2022) would have allowed a credit to the taxpayer or the small employer taxpayer for a percentage of the amount paid or incurred for contributions for qualified care. The amount of the credit allowed would not exceed \$250,000 in any taxable year. AB 2803 did not pass out the Assembly Appropriations Committee.

SB 670 (Jackson, 2015/2016) would have increased the state credit percentages for the Child and Dependent Care Expense Credit. In addition, this bill would have allowed credits for employer childcare facility start-up expenses and contributions to a qualified childcare plan. SB 670 did not pass out the Assembly Appropriations Committee.

AB 1282 (Mullin, Chapter 712, Statutes of 2006) extended the sunset date of the Employer Child Care Credit and the Contributions Credit to January 1, 2012.

AB 866 (Diaz, Chapter 650, Statutes of 2001) extended the sunset date of the Employer Child Care Credit and the Contributions Credit to January 1, 2007.

SB 549 (Ortiz, 1999/2000) would have increased the rate of the Employer Child Care Credit from 30 percent to 70 percent for a facility registering low-income children. SB 549 did not pass out of the Senate Appropriations Committee.

Amended March 23, 2023, and March 30, 2023

SB 722 (Chapter 1239, Statutes of 1988) enacted the Employer Child Care Credit and the Contributions Credit.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement these provisions have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

The bill as amended on March 30, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov