STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Glazer, et al.

Sponsor:

Bill Number: SB 843

Related Bills: See Legislative History

Amended: June 22, 2022

SUBJECT

Renters' Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), increase the amount of the Renters' Credit available to qualified renters, subject to an appropriation in the annual Budget Act, and allow the credit to be refundable.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 22, 2022, amendments added coauthors, modified the operative date for the credit to add language requiring an appropriation, modified the operative dates for provisions related to refundability and indexing, modified the Section 41 reporting requirements, and made other nonsubstantive changes.

The June 22, 2022, amendments also resolved one implementation consideration and one technical consideration and added a new technical consideration. In addition, several implementation considerations, and some technical and policy considerations as discussed in the analysis of this bill dated January 11, 2022, and March 21, 2021, still remain.

REASON FOR THE BILL

The reason for this bill is to provide financial relief for low and middle income renters by increasing the Renters' Credit.

ANALYSIS

This bill would, for taxable years beginning on or after January 1 of the taxable year that includes the date on which an appropriation is first made, and for the four succeeding years, for a total of five years, only if specified in any bill providing for appropriations related to the Budget Act, increase the Renters' Credit to:

- $1,000 for taxpayers with filing status of married filing jointly, head of household, or surviving spouse, with Adjusted Gross Income (AGI) of $50,000 or less, as adjusted for inflation, and
- $500 for taxpayers with filing status of single or married filing separately, with AGI of $25,000, as adjusted for inflation, or less.

This bill would require the current Renters' Credit amounts to remain unchanged if the appropriations were not specified in a bill providing for appropriations related to each year's Budget Act.

This bill would provide that the increased credit amount would be subject to indexing for inflation based on the change in the California Consumer Price Index, beginning the taxable year after the increase is operative, and the succeeding three taxable years.

This bill would allow credit amounts in excess of the sum of the tax liability and any other balance due to be refunded to the qualified renter in the years in which the increased credit amount is operative.

This bill, for purposes of complying with Section 41 of the Revenue and Taxation Code (RTC) would provide:

- The following specific goals and objectives:
  - To compensate low- and middle-income renters for the increasing rates of rent throughout the State of California.
  - To restructure the credit to reflect the disproportionate burden of high rents on single-parent families.
  - To stimulate consumer spending and economic growth by providing more disposable income to reinvest in the economy.
- The Franchise Tax Board (FTB)would be required to prepare and provide a written report, as specified no later than April 1 of the year following the year relevant to the report on the following:
  - The number of taxpayers claiming the credit.
  - The average credit amount on tax returns claiming the credit.

The Section 41 reporting requirements would be treated as an exception to the disclosure provisions under the RTC.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment. Subject to an annual appropriation in the Budget Act, the credit increase and refundability of the credit would be specifically operative for taxable years beginning on or after January 1 of the year a specific appropriation of funds is made for the increased credit in a bill related to the annual budget bill, and for the succeeding four years. The indexing of increased credit amounts would be operative for each taxable year beginning on or after the date one year after an appropriation is first made in the Budget Act, and for the following three years.

Federal/State Law

Federal Law

In federal law, there is no provision comparable to the California Renters' Credit.

State Law

Current state law allows qualifying renters who meet certain adjusted gross income limitations a nonrefundable credit of $60 or $120, based on filing status. The amount of the credit is unrelated to the amount of rent paid.

A "qualified renter" is defined as an individual who:

- Is a California resident for all or part of the tax year, and
- Rented and occupied California premises constituting his or her principal place of residence for at least 50 percent of the taxable year.

The definition of "qualified renter" does not include individuals:

1. Who, for more than 50 percent of the taxable year, rented and occupied premises that with certain exceptions were exempt from property taxes.
2. Whose principal place of residence, for more than 50 percent of the taxable year, is with any other person who claimed that individual as a dependent for income tax purposes.
3. Who have been granted or whose spouse has granted the homeowner's property tax exemption during the taxable year, as specified.

Any qualified renter who is a nonresident for a portion of the taxable year is allowed 1/12 of the Renters' Credit for each full month that the individual resided in the state for the taxable year, once the requirement of renting in California for more than 50 percent of the taxable year has been met.

A "resident" is defined as every individual:

1. Who is in this state for a purpose other than a temporary or transitory purpose, or
2. Is domiciled in this state but is outside the state for a temporary or transitory purpose.

Current state law allows qualified renters a nonrefundable Renters' Credit as follows for tax year 2021:

- $120 for married filing jointly, head of household, or qualified widow or widower with an AGI of $87,066 or less, and
- $60 for single or married filing separately with an AGI of $43,533 or less.

The credit amounts are fixed and the AGI limits are adjusted annually for inflation.

Implementation Considerations

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

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. If there are insufficient funds available to cover all of the refunds due and payable, the department would suspend payment until additional funds were appropriated, unless directed otherwise. Interest may have to be paid to refund recipients for the period the refund was delayed. This delay would result in additional contacts to the department by refund recipients, which would likely increase departmental costs.

The credit increase would not be effective absent a bill providing for appropriations in the annual Budget Act. This could cause uncertainty for taxpayers and the department regarding the amount of the credit allowed each taxable year and result in additional contacts to the department.

Implementing this bill would require changes to existing tax forms and instructions, robust education and outreach, and substantial changes to information systems to prevent improper payments.

Technical Considerations

To simplify the indexing language, the author may want to use the same method that is used to index income tax brackets, subdivision (h) of RTC 17041. This is currently done with other credits, such as the Earned Income Tax Credit under RTC section 17052.

The author may want to modify subdivision (k) (1) "For each taxable year beginning on or after the date one year after *the date specified in clause* (ii) of subparagraphs (A) and (B) of paragraph (1) of subdivision (a), and for the succeeding three taxable years, the Franchise Tax Board shall recompute the credit amount for the immediately preceding taxable year under clause (ii) of subparagraphs (A) and (B) of paragraph (1) of subdivision (a). The computation shall be made as follows:"

Policy Considerations

Historically, refundable credits such as the state's Renters' credit, the federal Earned Income Tax Credit, and the federal credit for gasoline used for farming have had significant problems with attempts to file invalid and fraudulent claims.

LEGISLATIVE HISTORY

AB 399 (Brough, 2019/2020) would have, contingent upon an appropriation, increased the amounts of the Renters' Credit. AB 399 did not pass by the constitutional deadline.

SB 248 (Glazer, et al., 2019/2020) would have increased the Renters' Credit amounts to $220 for certain taxpayers with no dependents and $434 for certain taxpayers with one or more dependents, and make the credit refundable. SB 248 did not pass by the constitutional deadline.

AB 181 (Lackey, et al., 2017/2018) would have increased the amounts of the Renters' Credit. AB 181 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would significantly impact the department's systems, resulting in programming, processing, and form revisions as well as the need for taxpayer outreach. The department's costs to implement this bill are estimated to be up to $5 million per year for start-up and ongoing costs. The department will pursue a budget change proposal if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 843 as Amended on June 22, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	**Revenue**
2022-2023	-$2,000
2023-2024	-$2,100
2024-2025	-$2,200

*This estimate assumes a bill providing appropriations related to the Budget Act would allocate funds to this credit beginning in taxable year 2022.

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.

Revenue Discussion

Using FTB Renters' Credit data for the 2019 taxable year, the amount of credit for taxpayers currently claiming the credit was recalculated using the proposed credit amounts, and then reduced by the amount currently allowed. This estimate assumes that the share of returns filed claiming the Renters' Credit in future years would be similar to those currently claiming the credit. Because the credit would be refundable for taxable years 2022 to 2026, the amount of additional credit each taxpayer could use would not be limited by their current tax liability. An adjustment was made to account for taxpayers who are not currently claiming the credit, but would be able to do so if the credit were refundable. As a result, it is estimated the revenue loss from the increase in the available Renters' Credit would be $1.7 billion for taxable year 2019. The estimate was then adjusted to reflect changes in the economy over time, resulting in an estimated revenue loss of $2 billion in the 2022 taxable year.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Per the June 29, 2022, Assembly Committee on Revenue and Taxation analysis of SB 843, the following organizations support or oppose this bill.

Support

Aids Healthcare Foundation
Apartment Association of Greater Los Angeles
California Catholic Conference
California Community Action Partnership Association
California Rental Housing Association
California Yimby
City of Concord
City of Glendora
City of Half Moon Bay
City of Santa Monica
Contra Costa County Board of Supervisors
County of Marin
Democratic Party of Contra Costa County
Howard Jarvis Taxpayers Association (HJTA)
League of California Cities
Madera County
Monterey County Board of Supervisors
National Association of Social Workers, California Chapter
New Livable California Dba Livable California Path
United Ways of California (UWCA)

Opposition

California Federation of Teachers

ARGUMENTS

The August 1, 2022, Assembly Committee on Appropriations analysis provided the following arguments in support and opposition of SB 843.

Support

The United Ways of California states, “While the Legislature passed temporary relief through the Golden State Stimulus and the eviction moratorium, the affordable housing crisis for renters existed before the pandemic and will exist after if we don’t take steps to provide permanent relief.”

Opposition

The “California Federation of Teachers, which sees the good intentions of assisting renters, but argues providing a tax credit reduces revenue and lowers Proposition 98 education funding in the state budget.”

LEGISLATIVE CONTACT

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