ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Nazarian	Analyst:	Jessica Deitchman	Bill Number:	AB 1510
Related Bills:	See Legislative History	Telephone:	845-6310	Amended Date:	April 1, 2014
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Seismic Retrofit of At-Risk Property Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), allow a credit for costs to seismically retrofit “at-risk” buildings.

RECOMMENDATION

No position.

Summary of Amendments

The April 1, 2014, amendments removed intent language, and replaced it with the provisions discussed in this analysis. This is the department’s first analysis of the bill. This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

REASON FOR THE BILL

The reason for the bill is to address the state’s need to retrofit buildings for earthquake safety, and to provide additional tax incentive programs to encourage taxpayers to make these upgrades on buildings.

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, 2015.

ANALYSIS

FEDERAL/STATE LAW

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

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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 economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current federal and state laws lack a credit comparable to the one that would be created by this bill.

THIS BILL

For taxable years beginning on or after January 1, 2015, this bill would allow a qualified taxpayer a credit in an amount equal to 30 percent of the qualified taxpayer's qualified costs.

The bill would define the following phrases:

- "Qualified taxpayer" means a taxpayer that is an owner of a qualified building located in this state. A taxpayer that owns a proportional share of a qualified building in this state may claim the credit allowed by this bill based on the taxpayer share of the qualified costs.
- "Qualified costs" means the costs paid or incurred by the taxpayer for the seismic retrofit of a qualified building, not to include ordinary repair or replacement of existing fixtures or items on or in the qualified building.
- "Qualified building" means a building that has been certified as an at-risk property by the local housing authority for the area within which the building is located.
- "At-risk property" means a building that is deemed hazardous and in danger of collapse in the event of a major earthquake, including, but not limited to, soft story buildings, concrete residential buildings, and pre-1980 concrete residential buildings.
- "Local housing authority" means a housing authority created within the health and safety code.[1]

To be eligible for the credit both of the following must apply:

- The qualified taxpayer must obtain certification from the appropriate local housing authority, upon a review of the building, that the building is an at risk property. Upon request, the qualified taxpayer would be required to provide a copy of the certification to the Franchise Tax Board.
- The local housing authority in which a qualified building is located has entered into an agreement with the state to provide certifications pursuant to this section and to not seek reimbursement from the state for any costs incurred in providing those certifications.

The qualified taxpayer may claim one-fifth of the credit amount for the taxable year in which the credit is allocated and one-fifth of the credit amount for each of the subsequent four taxable years.

This bill would allow unused credits to be carried over for five years, if necessary, until exhausted.

[1] Pursuant to Chapter 1, Part 2 of Division 24

IMPLEMENTATION CONSIDERATIONS

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

The bill is silent on the following issues, and raises the following questions:

- The bill requires that the taxpayer get "certification" from the "appropriate housing authority" in order to claim the credit. What must the "certification" include? What department or agency is the "appropriate housing authority?"
- Who determines what is a "qualified cost?" And what is "ordinary repair or replacement?"

It is recommended that the bill be amended to specify these conditions to clarify the author's intentions.

The bill states that the credit should be "allocated" but lacks language necessary to describe an allocation. If it is the author's intent that credit be claimed in the year "earned", or when the costs were incurred, it is recommended the bill be amended to specify when the credit may be claimed.

LEGISLATIVE HISTORY

SB 677 (McPherson, 2001/2002) would have allowed a credit equal to an unspecified percentage of the final cost of seismic retrofitting to comply with the seismic retrofit building standards for hospitals. SB 677 failed to pass out of the Senate Revenue and Taxation Committee by the constitutional deadline.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved. As the bill continues to move through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1510* As Amended April 1, 2014 Assumed Enactment After June 30, 2014 ($ in Millions)		
2014-15	2015-16	2016-17
- $1.6	- $6.2	- $11.0

*This estimate assumes that there will be no new mandates requiring retrofitting activities anywhere in the state. The costs could increase significantly if a state-wide mandate is put in place.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that the bill would encourage taxpayers to make necessary upgrades to existing buildings to make them earthquake safe, and thus improving safety for all Californians.

Opponents: Some may argue that providing a tax credit limited to retrofitting buildings may be overly narrow and inadvertently exclude other safety issues in California that need assistance.

POLICY CONCERNS

This bill would allow a credit for repairs that retrofit a building that are currently deductible as business expenses. Generally, a credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

LEGISLATIVE STAFF CONTACT

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