ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Atkins	Analyst:	Jessica Deitchman	Bill Number:	AB 1999
Related Bills:	See Legislative History	Telephone:	845-6310	Amended Date:	April 30, 2014
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Rehabilitation of Certified Historic Structure Tax Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a tax credit for a portion of the costs paid or incurred to rehabilitate certain historic structures.

RECOMMENDATION

No position.

Summary of Amendments

The April 30, 2014, amendments added language to require the Governor's Office of Business and Economic Development to allocate the credit and determine when a historic structure is qualified for the higher credit, resolved the implementation considerations discussed in the department's analysis of the bill as amended April 1, 2014, by defining the conditions necessary to qualify a certified historic structure for a higher credit percentage, and modified the credit's operative and sunset date. As a result of these amendments, a technical and an implementation consideration have been identified.

Except for the "This bill", "Implementation Consideration," "Technical Considerations," and "Economic Impact" discussions, the remainder of the department's analysis of the bill as amended April 1, 2014, still applies. The "Policy Concerns" and "Fiscal Impact" sections are restated for convenience.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

REASON FOR THE BILL

The reason for the bill is to provide an incentive to taxpayers to rehabilitate historic structures by providing a tax credit to help offset some of the costs associated with the rehabilitation.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2015, and before January 1, 2021.

Board Position:			Executive Officer	Date
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ANALYSIS

FEDERAL/STATE LAW

Federal law, Internal Revenue Code section 47, allows a two-tiered credit for the rehabilitation expenses of older and historic buildings, as follows:

- A 10 percent credit is available for the rehabilitation expenses on non-historic buildings with an additional requirement that the building must have been originally constructed before 1936, and
- A 20 percent credit is available for the rehabilitation expenses of a certified historic structure, (one listed on the National Register of Historic Places or located in a Registered Historic District and determined to be of significance to the Historical District).

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.

Existing state law lacks a tax credit for the rehabilitation of property or historical buildings.

THIS BILL

For taxable years beginning on and after January 1, 2015, and before January 1, 2021, this bill would modify the PITL and the CTL to generally conform to the federal rehabilitation credit, modified to provide that the California credit would be a two-tiered credit for the rehabilitation of a certified historic structure in this state, as follows:

- A general 25 percent credit would be allowed for the qualified rehabilitation expenses of a certified historic structure (other than expenses that qualify for the 30-percent credit), and
- A 30 percent credit would be allowed for the qualified rehabilitation expenses of a certified historic structure if that structure meets any of the following conditions:
    - The structure is located on federal, state, or local surplus property.
    - The rehabilitated structure includes affordable housing for lower-income households.[1]
    - The structure is located in a designated census tract.[2]
    - The structure is part of a military base reuse authority.[3]
    - The structure is a transit-oriented development that is higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

Unlike the federal credit, no state credit would be allowed for expenditures with respect to a qualified building unless it is a certified historic structure.

[1] As defined in Section 50079.5 of the Health and Safety Code.
[2] As defined in paragraph (7) of subdivision (b) of Section 17053.73.
[3] Established pursuant to Title 7.86 (commencing with Section 67800 of the Government Code).

A "certified historic structure" would mean a structure in this state that appears on either the National Register of Historic Places or the California Register of Historical Resources. Coordinating provisions would provide that no deduction would be allowed for any expense for which a credit is allowed, and if a credit is allowed with respect to property, the basis of that property would be reduced by the amount of the credit.

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

In addition, this bill would modify federal law by adding that the Governor's Office of Business and Economic Development would do the following:

- Allocate tax credit to applicants.
- Establish a procedure for applicants to file with the Governor's Office of Business and Economic Development a written application.
- Establish criteria consistent with the requirements of this bill.
- Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this bill.
- Process and approve, or reject, all applications.
- Allocate an aggregate amount of credits, subject to the annual cap, equal to the sum of all of the following:
    - One hundred million dollars ($100,000,000) in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the 2020 calendar year.
    - The unused allocation tax credit amount, if any, for the preceding calendar year.
- Certify tax credits allocated to taxpayers.

This bill would remain in effect only until December 1, 2021, and as of that date would be repealed.

IMPLEMENTATION CONSIDERATIONS

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

The bill lacks a requirement for the Governor's Office of Business and Economic Development to provide the Franchise Tax Board (FTB) with a list of taxpayers that received the credit. Absent such a list of, it is unclear how the department or a taxpayer could verify eligibility for and the amount of a rehabilitation credit. It is recommended that the bill be amended to require the Governor's office of Business and Economic Development to annually provide a list of the credit allocated and to whom they are allocated for each calendar year to the FTB.

TECHNICAL CONSIDERATIONS

On page 5, line 10, strike "17053.86" and insert "23686"

On page 5, line 14, strike "17053.86" and insert "23686"

LEGISLATIVE HISTORY

AB 166 (Cedillo, 2001/2002) would have allowed a tax credit in an amount determined in accordance with provisions of the federal rehabilitation credit. Additionally, the bill would have allowed a 25 percent credit for any certified rehabilitation of a certified historic structure within a redevelopment area. AB 166 failed to pass out of the Assembly Revenue and Taxation Committee.

SB 875 (Marks, 1995/1996) would have allowed a tax credit for an amount equal to 10 percent of the costs for rehabilitating a residential historic building, and 20 percent of the costs for rehabilitating a commercial historic building. SB 875 failed to pass out of the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida and *Michigan* lacks a credit comparable to the one created in this bill.

Illinois offers a 25 percent credit for eligible expenditures on the rehabilitation of properties in certain designated zones throughout the state. The minimum investment must be the greater of $5,000 or 50 percent of the purchase price.

Massachusetts provides a credit equal to 20 percent for income-producing properties and 25 percent credit for projects with affordable housing of the qualified rehabilitation costs. The program is limited to $50 million, statewide, per year. The minimum investment must be 25 percent of the adjusted basis of the property.

Minnesota allows a credit equal to 100 percent of the federal credit allowed for the rehabilitation of certified commercial property, or a grant equal to 90 percent of the federal credit allowed. The credit is fully refundable, but the applicant must register for the credit before beginning the rehabilitation. The credit sunsets in fiscal year 2015.

New York provides a credit for the rehabilitation of both commercial and residential properties of 20 percent of the costs. The commercial rehabilitation is limited to $5 million in credits per project. The residential credit is limited to $50,000 per project and may be refundable depending on the Adjusted Gross Income of the homeowner. This credit must be claimed in conjunction with the federal credit and will sunset on December 31, 2014.

FISCAL IMPACT

The costs to administer this bill have yet to be determined. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1999 As Amended April 30, 2014 Assumed Enactment After June 30, 2014 ($ in Millions)		
2014-15	2015-16	2016-17
- $27	- $70	- $95

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

SUPPORT/OPPOSITION

Support: California Preservation Foundation (co-sponsor) and American Institute of Architects CA Council (co-sponsor).

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that providing a tax incentive would encourage taxpayers to rehabilitate historic structures.

Opponents: Some may argue that providing a tax credit for the rehabilitation of historic structures may be overly narrow and inadvertently exclude other noteworthy buildings in California in need of restoration.

POLICY CONCERNS

This bill would provide a state credit in an amount greater than the federal credit for the rehabilitation expenses for a historic structure. In general, a taxpayer's federal income tax liability is significantly higher than his or her state income tax liability. As a result, a state tax credit equal in amount or exceeding the federal credit could be considered to provide a greater proportionate benefit for state tax purposes than for federal tax purposes.

LEGISLATIVE STAFF CONTACT

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