STATE OF CALIFORNIA
Franchise Tax Board

Analysis of Amended Bill

Author: Glazer, et al.	Sponsor:	Bill Number: SB 248
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Subject: Taxation: Renter's Credit

Summary

This bill would, under the Personal Income Tax Law (PITL), increase the amount of the Renter's Credit available to qualified renters, unless suspended, and allow the credit to be refundable.

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

Recommendation – No position.

Summary of Amendments

As introduced on February 11, 2019, this bill would modify the Renter's Credit as discussed in this analysis.

The March 18, 2019, amendments added coauthors, modified the credit amount, and made several nonsubstantive technical changes.

The April 24, 2019, amendments removed one of the two provisions that would trigger suspension of the increased credit amount.

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

Reason for the Bill

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

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, 2019.

State Law

Current state law allows qualified renters a nonrefundable Renter's Credit as follows for tax year 2018:

- $120 for married filing jointly, head of household, or qualified widow or widower with an adjusted gross income (AGI) of $83,282 or less, and
- $60 for single or married filing separately with an AGI of $41,641 or less.

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

This Bill

For taxable years beginning on or after January 1, 2019, this bill would, under the PITL, increase and make refundable upon appropriation the Renter's Credit as follows:

- For taxpayers with filing status of married filing jointly, head of household, or qualified widow/widower, and AGI of $50,000 or less:
  - $220 for taxpayers with no dependents[1]
  - $434 for taxpayers with one or more dependents
- For taxpayers with filing status of single or married filing separately, and AGI of $25,000 or less:
  - $220 for taxpayers with no dependents
  - $434 for taxpayers with one or more dependents

Annual indexing of the AGI amounts would remain in place and would continue without regard to suspension of the increased credit amount as discussed below.

Suspension of Increased Credit Amount

For taxable years beginning on or after January 1, 2020, the increased credit amount would be subject to suspension by the Governor due to an economic emergency. The Governor's proclamation would be required to include the taxable year of the suspension, and the suspension period's expiration date, among other things as specified. The Governor would be allowed to issue additional proclamations if an economic emergency continues to exist and all other requirements continue to apply.

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[1] The bill would use Revenue and Taxation Code section 17056 for the definition of dependent. This section states that "dependent" has the same meaning as Internal Revenue Code section 152.

During a suspension period the credit amounts would be reduced to:

- $120 for taxpayers with a filing status of married filing jointly, head of household, or qualified widow(er)
- $60 for taxpayers with a filing status of single or married filing separately.

Credit Amount Re-computation (Indexing for Inflation)

For taxable years beginning on or after January 1, 2020, unless the increased credit is suspended, the credit amounts would be subject to indexing annually for inflation for the change in the California Consumer Price Index, relative to the prior year, as specified.

Upon expiration of the suspension period, the credit amounts for the taxable year would revert to the amounts calculated for the taxable year immediately preceding the taxable year in which no suspension occurred. The annual recomputation (or indexing) would restart in the following taxable year.

Refundability

For taxable years beginning on or after January 1, 2019, this bill would allow, upon appropriation, credit amounts in excess of the tax liability and any other balance due to be refunded to the qualified renter.

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.

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

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. Refunds in excess of the appropriation would be denied pending an additional appropriation, resulting in taxpayer uncertainty and confusion.

If the Governor suspends the Renter's Credit, pursuant to the provisions of this bill, in late September or October of the taxable year before the suspension is in effect, the department would have developed the forms and instructions for the taxable year of suspension. Thus, the department may incur additional costs to develop alternative forms and instructions in the short time frame necessary to ensure they are available for taxpayers to comply with the reporting requirement.

Legislative History

AB 399 (Brough, 2019/2020) would, contingent upon an appropriation, increase the amounts of the Renter's Credit. AB 399 is pending before the Assembly Committee on Revenue and Taxation.

AB 181 (Lackey, et al., 2017/2018) would have, increased the amounts of the Renter's Credit. AB 181 failed to pass out of the Assembly by the constitutional deadline.

AB 1100 (Chen, et al., 2017/2018) would have increased the amount of the homeowners' property tax exemption and modified the Renter's Credit. AB 1100 failed to pass out of the Assembly by the constitutional deadline.

AB 1582 (Bonta, 2017/2018) would have modified the AGI limitation for purposes of determining the Renter's Credit. AB 1582 failed to pass out of the Assembly by the constitutional deadline.

AB 2833 (Santiago, 2017/2018) would have temporarily increased the Renter's Credit based on median rent amounts. AB 2833 failed passage out of the Assembly by the constitutional deadline.

SB 1182 (Glazer, et al., 2017/2018) would have, contingent upon an appropriation, increased the amount of the Renter's Credit. SB 1182 failed to pass by the constitutional deadline.

SB 1212 (Anderson, 2017/2018) would have increased the amount of the Renter's Credit. SB 1212 failed to pass out of the Senate by the constitutional deadline.

AB 476 (Chang, 2015/2016) would have increased the amount of homeowners' property tax exemption and increased the Renter's Credit. AB 476 failed to pass out of the Assembly by the constitutional deadline.

AB 2694 (Lackey, et al., 2015/2016) would have increased the Renter's Credit and temporarily eliminated the AGI thresholds for 2016-2019. AB 2694 failed to pass out of the Assembly by the constitutional deadline.

SB 1103 (Cannella, 2015/2016) would have increased the Renter's Credit. SB 1103 failed to pass out of the Senate by the constitutional deadline.

Other States' Information

The states surveyed include *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.

Massachusetts allows a refundable credit for qualified owners or renters that are 65 years old or older and meet income thresholds. The credit is based on actual real estate taxes or rent paid and is limited to $1,100 for tax year 2018. The credit limitation is adjusted annually based on the cost of living and the cost of housing.

Michigan allows owners of a homestead with taxable value of $135,000 or less and renters of a homestead, and some veterans and blind people, a property tax credit based on property taxes levied and filing status. Taxpayers with total household resources of more than $60,000 do not qualify, and the credit is reduced for taxpayers with total household resources of more than $51,000. The maximum credit is $1,500 for 2018.

New York allows a refundable real property tax credit for residents who have household gross income of $18,000 or less and pay either real property taxes on homes with property valued under $85,000, or rent not exceeding $450. If all members of the household are under age 65, the maximum credit is $75. If at least one member of the household is age 65 or older, the maximum credit is $375. An additional enhanced credit is available for tax years 2014 through 2019 for homeowners and renters residing in New York City with household gross income of less than $200,000.

Illinois and Minnesota lack a comparable credit.

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 identified.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact as Amended April 24, 2019
Assumed Enactment after June 30, 2019

($ in Millions)

Fiscal Year	Revenue
2019-2020	-$550
2020-2021	-$600
2021-2022	-$600

This estimate assumes the Renter's Credit would not be suspended.

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

Based on Franchise Tax Board (FTB) Renter's Credit data for 2016, the amount of the Renter's Credit that taxpayers currently claim was recalculated using the proposed credit amounts specified in this bill, and to account for the credit being refundable. The credits were then reduced by the amount of Renter's Credit currently claimed resulting in an estimated revenue loss of $500 million in 2016. The estimate was then adjusted to reflect changes in the economy over time resulting in an estimated revenue loss of $550 million in 2019.

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

Policy Concerns

The department is concerned that another refundable credit could increase the trend in refund fraud and identity theft. Historically, both the Internal Revenue Service and the FTB have experienced fraud and improper claims with refundable credits. These concerns are heightened because if a refund is determined to be fraudulent, the refund commonly cannot be recovered.

Generally credit amounts are less for single and married filing separate filers as compared with the amount allowed to married filing jointly, head of household, and qualified widow/widower filers. The increased credit amounts this bill would allow are the same for all filers regardless of the existence of a dependent.

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

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