STATE OF CALIFORNIA
Franchise Tax Board

Analysis of Amended Bill

Author: McGuire, et al.	Sponsor:	Bill Number: SB 295
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Subject: Fire Safe Home Tax Credits

Summary

This bill would create, under the Personal Income Tax Law (PITL), two home fire safety tax credits.

Recommendation – No position.

Summary of Amendments

The August 19, 2019, amendments removed provisions under the Government Code (GC) that dealt with a city or county's local hazard mitigation plan and replaced them with the provisions discussed in this analysis.

This is the department's first analysis of the bill and only addresses the provisions that impact the department.

Reason for the Bill

The reason for the bill is to encourage California residents to make their properties more fire-safe by offering credits to offset the cost of those safety measures.

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, 2020, and before January 1, 2025.

Federal/State Law

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 comparable credits to the credits this bill would create.

This Bill

This bill would, under the PITL, create two tax credits, the Qualified Home Hardening credit and the Qualified Vegetation Management credit, collectively known as the Fire Safe Home Tax Credits.

Qualified Home Hardening

This bill would, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, allow a tax credit to qualified taxpayers who incur qualified costs, while performing qualified home hardening on a qualified property.

The credit amount would be equal to:

- Fifty percent of qualified costs incurred while performing qualified home hardening, not to exceed $2,500, if the qualified property is located in a moderate fire hazard severity zone, per taxable year.
- Fifty percent of qualified costs incurred while performing qualified home hardening, not to exceed $5,000, if the qualified property is located in a high fire hazard severity zone, per taxable year.
- Fifty percent of qualified costs incurred while performing qualified home hardening, not to exceed $10,000, if the qualified property is a very high fire severity zone, per taxable year.

The bill would define the following for purposes of this credit:

- "Qualified costs" means any actual out of pocket expense incurred and paid by the qualified taxpayer during the taxable year in which the credit allowed by this section is claimed, documented by receipt, for performing qualified home hardening.
    - Qualified costs would specifically exclude:
        - Costs of any inspection or certification fees, in-kind contributions, donations, or incentives.
        - Expenses paid by the qualified taxpayer by any grants awarded to the qualified taxpayer for performing qualified home hardening.

- "Qualified taxpayer" means a taxpayer who satisfies the following requirements:
    - Has an adjusted gross income for the taxable year in which the credit allowed by this section is claimed of either:
        - $400,000 in the case of spouses filing a joint return, or
        - $200,000 for all other individuals.
    - Owns a qualified property.
    - Is not a trust or an estate.
- "Qualified home hardening" means the replacement or repair of structural features that are affixed to the qualified property and performed or implemented for the primary purpose of reducing risk to structures from wildland fire.
    - "Structural feature" includes roofs, external walls, vents, eave assemblies, decks, fences, driveways, and chimneys that meet the requirements for Construction Methods for Exterior Wildfire Exposure in the California Building Code.
- "Qualified Property" means a dwelling or housing unit that is located in a moderate, high, or very high fire hazard severity zone for which a homeowner's exemption, pursuant to Section 218, has been granted to the qualified taxpayer in the taxable year for which the credit allowed by this section is claimed.
- "Moderate fire hazard severity zone" means land classified by the director of forestry and fire protection, pursuant to Section 4202 of the Public Resources Code, as within a moderate fire hazard severity zone.
- "High fire hazard severity zone" means land classified by the director of forestry and fire protection, pursuant to Section 4202 of the Public Resources Code (PRC), as within a high fire hazard severity zone.
- "Very high fire hazard severity zone" means land classified by the director of forestry and fire protection, pursuant to Section 4202 of the PRC, as within a very high fire hazard severity zone or an area designated by the Director of Forestry and Fire Protection pursuant to Section 51178 of the GC that is not a state responsibility area.

Upon request, a qualified taxpayer would be required to provide receipts and documentation verifying the costs paid or incurred while performing qualified home hardening to the Franchise Tax Board (FTB).

The credit may be carried over for up to nine years, or until exhausted.

In the case of two taxpayers filing a joint return, only one credit may be claimed. In the case of two taxpayers who may legally file a joint return, but file separate returns, only one of the taxpayers may claim the credit.

This credit would remain in effect only under December 1, 2025, and be repealed as of that date.

Qualified Vegetation Management

This bill would, for taxable years beginning on or after January 1, 2020, and before January 1, 2025, allow a tax credit to a qualified taxpayer in an amount equal to 50 percent of qualified costs incurred by the taxpayer, not to exceed $1,000 per taxable year, while performing qualified vegetation management on qualified property.

The bill would define the following for purposes of this credit:

- "Qualified costs" means any actual out of pocket expense incurred and paid by the qualified taxpayer during the taxable year in which the credit allowed by this section is claimed, documented by receipt, for qualified vegetation management.
    - Qualified costs would specifically exclude:
        - Costs of any inspection or certification fees, in-kind contributions, donations, or incentives.
        - Expenses paid by the qualified taxpayer by any grants awarded to the qualified taxpayer for performing qualified vegetation management.
- "Qualified taxpayer" means a taxpayer who satisfies the following requirements:
    - Has an adjusted gross income for the taxable year in which the credit allowed by this section is claimed of either:
        - $400,000 in the case of spouses filing a joint return, or
        - $200,000 for all other individuals.
    - Owns a qualified property.
    - Is not a trust or an estate.
- "Qualified vegetation management" means any of the following activities that meet the requirements of Section 4291 of the PRC performed by the qualified taxpayer for the primary purpose of reducing risk to structures from wild land fire including:
    - The creation of defensible space around structures.
    - The establishment of fuel breaks.
    - The thinning of woody vegetation.
    - The secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from site, or prescribed burning.

- "Qualified Property" means a dwelling or housing unit that is located in a moderate, high, or very high fire hazard severity zone for which a homeowner's exemption, pursuant to Section 218, has been granted to the qualified taxpayer in the taxable year for which the credit allowed by this section is claimed.
- "Moderate fire hazard severity zone" means land classified by the director of forestry and fire protection, pursuant to Section 4202 of the PRC, as within a moderate fire hazard severity zone.
- "High fire hazard severity zone" means land classified by the director of forestry and fire protection, pursuant to Section 4202 of the PRC, as within a high fire hazard severity zone.
- "Very high fire hazard severity zone" means land classified by the Director of Forestry and Fire Protection, pursuant to Section 4202 of the PRC, as within a very high fire hazard severity zone or an area designated by the Director of Forestry and Fire Protection pursuant to Section 51178 of the GC that is not a state responsibility area.

Upon request, a qualified taxpayer would be required to provide receipts and documentation verifying the costs paid or incurred while performing qualified to the FTB.

The credit may be carried over for up to nine years, or until exhausted.

In the case of two taxpayers filing a joint return, only one credit may be claimed. In the case of two taxpayers who may legally file a joint return, but file separate returns, only one of the taxpayers may claim the credit.

This credit would remain in effect only under December 1, 2025, and be repealed as of that date.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

It is unclear whether the, $2,500, $5,000, and $10,000 under the home hardening credit, and the $1,000 limitation under the vegetation management credit, would apply to the costs paid or to the maximum amount of credit allowed. To avoid disputes between taxpayers and the department, this bill should be amended to clarify these amounts.

The bill specifies, under both credits, that individuals eligible to file a joint return may only claim one credit. However, the bill fails to make the same limitation on two or more unrelated individuals that own the same property. Thus, those taxpayers that share ownership in a property but are ineligible to file a joint return may claim more than one credit on the same property. If this is contrary to the author's intent, the bill should be amended.

Technical Considerations

To correct two cross references, the following amendments are suggested:

On page 3, line 25, after "very high fire" insert "hazard"

On page 5, line 3, after "very high fire" insert "hazard"

For consistency, any references to "taxpayer" should be amended to read "qualified taxpayer" throughout the bill.

Legislative History

AB 266 (Choi, 2019/2020) would have allowed a tax credit to a qualified taxpayer that installed an attic vent closure in a residential property in an amount equal to 40 percent of the qualified costs paid or incurred by the qualified taxpayer during the taxable year of the installation. AB 266 failed to pass out of the house of origin by the constitutional deadline.

AB 2414 (Choi, 2017/2018), would have allowed a tax credit to a qualified taxpayer that installed an attic vent closure in a residential property in an amount equal to 40 percent of the qualified costs paid or incurred by the qualified taxpayer during the taxable year of the installation. AB 2414 failed to pass out of the house of origin by the constitutional deadline.

Other States' Information

Review of, *Illinois, Massachusetts, Michigan*, *Minnesota*, and *New York* laws found no comparable tax credits to the tax credits that would be created by this bill. These states were selected and reviewed due to their similarities to California's economy, business entity types, and tax laws.

Fiscal Impact

This bill would not significantly impact the department's costs.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 295 as Amended on August 19, 2019
Assumed Enactment after June 30, 2019

($ in Millions)

Fiscal Year	Revenue
2019-2020	-$700
2020-2021	-$1,200
2021-2022	-$1,200

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 wildfire risk data for California, it is estimated that approximately 2.1 million homes are located in moderate to very high fire hazard severity zones and would be owned by qualified taxpayers. It is assumed that qualified costs would vary by fire hazard severity zone. It is estimated that qualified taxpayers who incur qualified expenses would spend an average of $4,000 on qualified home hardening costs over the period beginning in taxable year 2020 through 2024. It is further estimated that qualified taxpayers would spend an average of $1,400 annually on qualified vegetation management costs. Multiplying qualified expenses by a credit rate of 50 percent results in a total estimated credit generated of $3.1 billion in the 2020 taxable year.

It is estimated that 60 percent or $1.8 billion, would be earned by taxpayers with sufficient tax liability to offset with the credit. Of that amount 65 percent, or $1.2 billion, would be claimed in the year generated and the remaining credit would be used over the subsequent nine years.

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

Policy Concerns

The bill lists only two types of filers, however there are more types of filing statuses available to taxpayers. If the author wishes to other these types of fling statuses special treatment to these other filing types, the bill should be amended.

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