



Summary Analysis of Amended Bill

Author: Portantino, et al.

Sponsor:

Bill Number: SB 521

Analyst: Davi Milam

Phone: (916) 845-2551

Amended: June 26, 2019

Attorney: Shane Hofeling

Related Bills: See Prior Analysis

Subject: Section 8 Housing Tax Credit

Summary

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would create a credit for qualified taxpayers whose renters or lessees receive federal housing assistance, as specified.

Recommendation – No position.

Summary of Amendments

The June 26, 2019, amendments replaced language exempting this credit from the reporting requirements applicable to newly enacted credits with uncodified reporting requirements.

As a result of the amendments, one new implementation consideration was identified. Except for the "This Bill," "Implementation Considerations," and the "Fiscal Impact" sections, the remainder of the department's analysis of the bill as amended May 21, 2019, and June 11, 2019, still applies. The "Effective/Operative Date" and "Economic Impact" sections have been restated below for convenience.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment, and would be specifically operative for taxable years beginning on or after January 1, 2020, and before January 1, 2025.

This Bill

For each taxable year beginning on or after January 1, 2020, and before January 1, 2025, this bill, under the PITL and the CTL, would allow a qualified taxpayer a tax credit, equal to 3 percent of the qualified amount per qualified property; however, the amount of credit allowed for those taxable years would be zero dollars (\$0), unless otherwise specified in any bill providing for appropriations related to the Budget Act.

This bill would define the following terms and phrases:

- “Local housing authority” means a housing authority created pursuant to Chapter 1 (commencing with Section 34200) of Part 2 of Division 4 of the Health and Safety Code.
- “Qualified amount” means the total amount of rent or lease payments received by the qualified taxpayer during the taxable year in which the credit is claimed in the form of federal housing assistance vouchers issued under Section 1437f of Title 42 of the United States Code, not including project-based vouchers as provided by Section 1437f(o)(13) of Title 42 of the United States Code (USC).
- “Qualified property” means a dwelling or unit that is rented or leased to persons receiving assistance under Section 8 of the United States Housing Act of 1937.¹
- “Qualified taxpayer” means a taxpayer that satisfies both of the following:
 - Owns qualified property.
 - Enters into a new contract or contracts to rent or lease qualified property on or after January 1, 2020.

To be eligible for the credit, the qualified taxpayer would be required to obtain verification from the appropriate local housing authority that the property is a qualified property. The qualified taxpayer would be required to provide a copy of the verification to the Franchise Tax Board (FTB).

A maximum of five qualified properties would be allowed in the determination of a qualified taxpayer’s credit for each taxable year.

Unused credits could be carried over for nine years or until exhausted.

In uncodified language, for purposes of complying with Section 41, this bill would specify the following:

- The goal of the credits is to reduce homelessness by providing a tax incentive to property owners that rent or lease property to persons receiving assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f).
- The effectiveness of the credits shall be measured by the number of taxpayers claiming the credit.

The credit would be repealed by its own terms December 1, 2025.

¹ (42 USC sec.1437f).

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.

For ease of administration and to reduce taxpayer burden, it is recommended that the bill be amended to require that the "verification" from the local housing authority include the following information, and be provided to the FTB, upon request:

- The name and taxpayer identification number of the owner of the qualified property.
- The address of the qualified property.
- The rental or lease period.

The phrase "new contract" is undefined in the bill. For example, it is unclear whether this would include contracts that are renewed with existing tenants on or after January 1, 2020. The absence of definitions to clarify this phrase could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

For clarity, and consistency with common usage within the Revenue and Taxation Code, it is recommended that the term "verification" be replaced with "certification," and the term "persons" be replaced with "individuals."

For clarity and ease of administration, it is recommended that the phrase "in any bill providing for appropriations related to the Budget Act" be replaced with the phrase "in the annual Budget Act".

The bill requires that the effectiveness of the credit will be measured by the number of taxpayers claiming the credit. Though the bill is silent as to who, when, how often, and by whom the number of taxpayers claiming the credit would be provided. To ensure consistency with the author's intent, this bill should be amended.

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 SB521 as Amended June 26, 2019
Assumed Enactment after June 30, 2019

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	-\$7.5
2020-2021	-\$19.0
2021-2022	-\$22.0

This estimate assumes a specific appropriation of funds that would be enacted beginning in fiscal years 2019-2020 through 2024-2025.

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 data from California Residential Rent and Rental Statistics and the Center on Budget and Policy Priorities, it is estimated that in taxable year 2020, there would be approximately 110,000 qualified properties. Of those, it is assumed that 50 percent, or 55,000, would meet the limitations specified in the bill. It is estimated that the average amount of assistance received under Section 8 would be \$14,500 annually. Multiplying by the credit rate of three results in an average credit of \$440, per qualified property, for a total credit generated of \$24 million in the 2020 taxable year.

It is estimated that 90 percent, or \$21 million, would be earned by taxpayers who have tax liability to offset with the credit. Of that amount, it is estimated that 75 percent, or \$16 million, would be claimed in the year generated and the remaining 35 percent would be used over the subsequent three years.

The tax year estimates are converted to fiscal year revenue estimates, rounded and reflected in the above table.

Policy Concerns

The credit would be allowed for the rental of property either inside or outside California.

Certain business-related tax credits (e.g., low-income housing credit and research credit) are limited to the tax attributable to the taxpayer's passive activities. These credits are known as passive activity credits. The purpose of this limitation is to prevent taxpayers from using a credit from a passive activity to offset tax attributable to other income. Since this credit is not included in the list of passive activity credits, taxpayers who generate this credit from a passive activity would be able to use the credit to offset tax attributable to any income.

The uncertainty regarding the credit's on-going availability resulting from the requirement for an annual appropriation in the Budget Act may reduce the incentive to rent to an individual receiving housing assistance.

Legislative Staff Contact

Davi Milam
Legislative Analyst, FTB
(916) 845-2551
davi.milam@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Jahna Carlson
Acting Legislative Director, FTB
(916) 845-5683
jahna.carlson@ftb.ca.gov