STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Choi	Sponsor:	Bill Number: AB 834
	Related Bills: See Legislative History	Amended: January 3, 2022

SUBJECT

Landlord Rental Credit for Renting to Tenants that Receive Housing Services or Assistance

SUMMARY

This bill would, under Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), allow a property owner a tax credit of $500 per qualified property, up to $5,000 per taxable year, when rented to qualified persons.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The January 3, 2022, amendments revised the operative dates from taxable years beginning on or after January 1, 2021, and before January 1, 2026, to taxable years beginning on or after January 1, 2022, and before January 1, 2027, and extended the repeal date from December 1, 2026, to December 1, 2027.

REASON FOR THE BILL

The reason for the bill is to incentivize property owners to rent or lease property at below market rates to persons receiving housing services or assistance from nonprofit organizations.

ANALYSIS

This bill would, under the PITL and the CTL, for each of the taxable year beginning on or after January 1, 2022, and before January 1, 2027, allow a $500 tax credit for each qualified property owned by the taxpayer, not to exceed $5,000 per taxable year. For purposes of this bill, the following definitions apply:

1) "Qualified property" is defined as a unit rented to, or leased by, qualified persons at below market rates.
2) "Qualified persons" are defined as persons receiving housing services or assistance from a nonprofit organization.

This bill would allow the tax credit to be proportioned to each qualified owner, based on their ownership share of the qualified property.

Unused credits could be carried over until exhausted.

For purposes of complying with Section 41, the goal of this credit is to reduce homelessness, and the effectiveness of the credit would be measured by the number of taxpayers claiming the credit.

This bill would require the Franchise Tax Board (FTB) to submit an annual report to the Legislature providing the number of taxpayers claiming this credit. The reporting requirements of this bill would be treated as an exception to the disclosure rules under Revenue and Taxation Code section 19542.

This bill would remain in effect until December 1, 2027, and be repealed as of that date.

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, 2022, and before January 1, 2027.

Federal/State Law

The federal Low-Income Housing Credit Program was established to encourage new construction and rehabilitation of existing buildings as low-income rental housing for households with income at or below specified income levels.

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

Implementation Considerations

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

This bill uses the terms "below market rates," "housing services," and "unit" that are undefined. The absence of definitions to clarify terms could lead to disputes. The author may want to amend the bill to define these terms.

The bill's definition of "qualified persons" refers to the phrase "assistance from a nonprofit organization." It is unclear if the phrase means housing assistance from a nonprofit organization or any assistance from a nonprofit organization. These are broad terms that may allow a person that receives any assistance, not limited to housing assistance, to qualify for this credit. If this is not the author's intent, the author may want to amend the bill to more specifically define this phrase.

FTB would not have the information needed to determine if a property is a qualified property or if a person has received assistance. Typically, credits involving properties, for which the department does not readily have the necessary information, are certified by another agency or agencies that possess the relevant information. Certification language would also specify the responsibilities of both the certifying agency or agencies and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

This bill would require the department to provide a report on the utilization of this credit, however, the bill is silent on the timing of that report. The author may wish to amend the bill to add a due date for this report.

Technical Considerations

For clarity, the following revision is recommended in Section 23681(d), "In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "tax" in the following…"

Policy Considerations

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same rental property. In addition, this bill does not provide a specific threshold amount or percentage below market value to qualify for this credit. Furthermore, the bill is silent as to the impact should the taxpayer be receiving housing services or assistance from the city, county, state, or federal government. Without clarity, unintended results could occur. If this is contrary to the author's intent, this bill should be amended.

This bill would also allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Credits are generally enacted with a limited carryover period because experience shows credits typically are exhausted within eight years of being earned.

LEGISLATIVE HISTORY

SB 1410 (Caballero and Bradford, 2019/2020), under the PITL, Administration of Franchise and Income Tax Laws, CTL, Code of Civil Procedure, and the Civil Code, would have allowed tenants and property owners to enter into a tenant-owner

COVID-19 eviction relief agreement (eviction relief agreement) to allow rents by the tenant to be deferred during the COVID-19 state of emergency plus an unspecified number of days. This bill would have allowed for rent deferral pursuant to eviction relief agreements for tenants, and would have created a COVID-19 eviction relief agreement tax credit for landlords. SB 1410 did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

AB 1229 (Campos, 2015/2016) would have established the Senior Citizen Rent Increase Exemption (SCRIE) Program, and under the PITL, would have created a tax credit for taxpayers whose tenants participate in the SCRIE Program. AB 1229 did not pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

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 of Amended January 3, 2022.
Assumed Enactment after June 30, 2022.

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$100
2023-2024	-$85
2024-2025	-$85

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov