STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Connolly

Sponsor:

Bill Number: AB 582

Related Bills: See Legislative History

Introduced: February 9, 2023
Amended: March 13, 2023

SUBJECT

Fire-Resistant Home Tax Credits

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), provide a maximum $400 tax credit each taxable year to a qualified taxpayer with a primary residence in high or very high fire hazard zone for certain expenses paid or incurred.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 13, 2023, amendments would provide a maximum credit amount of $400 per taxable year and $2000 cumulatively for all taxable years, change the definitions of qualified expenses and qualified taxpayer, and change the carryover period.

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

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.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2023, and before January 1, 2028, allow a qualified taxpayer, as defined, a credit for an amount equal to 40% of the taxpayer's qualified expenses, subject to limitations discussed below.

This bill would provide the following definitions:

- "Qualified expenses" means costs paid or incurred by a qualified taxpayer associated with any of the following:
  - The clearing of vegetation, debris, mulch, stored combustible materials, and any and all movable combustible objects within the boundaries of the property.
  - The incorporation of noncombustible materials into any improvements to the property, including fences and gates.
  - The removal of combustible structures, including sheds and other outbuildings, on the property.
  - The building or installation of hardening measures, including, but not limited to, the following:
    - A Class A fire rated roof.
    - Enclosed eaves.
    - Fire-resistant vents.
    - At least six inches of noncombustible vertical clearance at the bottom of the exterior surface of a building on the property, measured from the ground up.
- "Qualified taxpayer" means an individual who is at least 65 years of age as of the last day of the taxable year, whose primary residence is located in a high or very high fire hazard severity zone, as identified by the State of California Fire Marshal, as defined, and who satisfies either of the following:
  - For spouses filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, adjusted gross income (AGI) is two hundred fifty thousand dollars ($250,000) or less, or
  - For other individuals, AGI is one hundred twenty-five thousand dollars ($125,000) or less.

This bill would allow a maximum credit, not to exceed $400, for each taxable year or a $2,000 cumulative total without regard to taxable year.

If the credit exceeds the $400 annual limit or the net tax, the unused credit could be carried forward for four succeeding years, until the credit is exhausted.

This bill, for purposes of complying with Section 41 of the Revenue and Taxation Code (RTC) would require the Franchise Tax Board (FTB) to provide a written report to the Legislature on or before November 1, 2028, the following information:

- The number of taxpayers who claimed the credit, and
- The average dollar amount of credits claimed.

The Section 41 reporting requirements would be treated as an exception to the disclosure provisions under the RTC.

This credit will be repealed as of December 1, 2028.

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, 2023, and before January 1, 2028.

Federal/State Law

Federal and state 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, hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise be undertaken.

Implementation Considerations

Within the definition of "qualified expenses," the undefined phrase "associated with" could cause confusion for taxpayers and the department. For consistency with terminology within the RTC, the author may want to consider replacing this phrase with "for."

Technical Considerations

The language of the bill limits the credit to 40% of expenses incurred each year, with a cumulative maximum credit of $2000. Section 17053(d) provides a carryover if the credit exceeds this amount. If the author's intent is to allow expenses in excess of the amount allowable in the computation of the credit incurred in one year to be allowed in the computation of the credit for future years, the bill should be amended to provide that if the expenses exceed $1000 in any year, the excess expenses can be carried over and used in the computation of the credit for subsequent years.

Policy Considerations

There is no requirement that the qualified expenses be paid or incurred for improvement at the qualified taxpayer's primary residence. If that is contrary to the author's intent, the bill should be amended.

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% of the qualified costs paid or incurred by the qualified taxpayer during the taxable year of the installation. AB 266 did not to pass out of the Assembly 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% of the qualified costs paid or incurred by the qualified taxpayer during the taxable year of the installation. AB 2414 did not to pass out of the Assembly by the constitutional deadline.

AB 1329 (Patterson, et al., 2015/2016) would have allowed a tax credit for certain costs paid to create defensible space on real property. AB 1329 did not pass out of the Assembly 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 determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB582 as Amended March 13, 2023
Assumed Enactment after June 30, 2023

($ in Millions)

Fiscal Year	Revenue
2023-2024	-$30
2024-2025	-$15
2025-2026	-$13

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

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