STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Seyarto, et al.

Sponsor:

Bill Number: SB 221

Related Bills: See Legislative History

Introduced January 19, 2023, and Amended March 7, 2023, and April 24, 2023

SUBJECT

Credit for Qualified Rental Property for Domestic Violence Survivor

SUMMARY

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would allow a qualified taxpayer a credit for leasing property to a qualified nonprofit that provides housing to survivors of domestic violence.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 7, 2023, amendments limited the credit to $500 per qualified taxpayer per taxable year, added the definitions of “qualified taxpayer” and “fair market rent,” added Revenue and Taxation Code (RTC) section 41 reporting requirements, added a carryover provision for any unused credit, and added a certification requirement.

The April 24, 2023, amendments added coauthors, increased the credit amount, modified the definitions for “qualified nonprofit,” “qualified rental property,” and “qualified taxpayer,” added a new definition for “qualified lease,” changed the reporting date for the RTC section 41 requirements, and created an additional technical consideration.

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

REASON FOR THE BILL

To help increase the number of affordable rental units for domestic violence survivors and their families.

ANALYSIS

This bill, under PITL and CTL, would create a $5,000 credit per qualified lease for a qualified taxpayer that owns, and rents qualified rental property to a qualified nonprofit.

This bill would provide the following definitions:

- "Qualified taxpayer" means a taxpayer that owns, and rents qualified rental property to a qualified nonprofit pursuant to a qualified lease.
- "Domestic violence" is defined by reference to Family Code section 6211 and means abuse perpetrated against any of the persons enumerated in that code section.
- "Fair market rent" means the fair market rent for the qualified rental property as of January 1 of the taxable year, as determined by the United States Department of Housing and Urban Development (HUD) in accordance with Section 888.113 of Title 24 of the Code of Federal Regulations. The Code of Federal Regulations describes how fair market rent is determined and HUD provides a searchable database by, state, county, and zip code to determine the fair market rent amount.
- "Qualified lease" means a lease of qualified rental property between a qualified taxpayer and a qualified nonprofit that satisfies both of the following conditions:
    - The rental rate is at least 20% lower than the fair market rent.
    - The term of the lease is at least 12 months.
- "Qualified nonprofit" means a nonprofit organization exempt from federal income taxation pursuant to Internal Revenue Code (IRC) section 501(c)(3) that is dedicated to assisting survivors of domestic violence by offering housing below market rates.
- "Qualified rental property" means real property located in the state leased by a qualified taxpayer to a qualified nonprofit for the purpose of providing housing below market rates to survivors of domestic violence.

Unused credits could be carried forward for five years, until the credit is exhausted.

This bill would require a qualified taxpayer to receive from a qualified nonprofit a written certification under penalty of perjury that that the qualified rental property will be used to provide housing to survivors of domestic violence. This certification may be part of a qualified lease or a separate agreement. The qualified taxpayer would be required to provide a copy of the certification to the Franchise Tax Board (FTB), upon request.

This bill would require the FTB to submit a report by November 1, 2026, and annually thereafter, to the Legislature on the number of taxpayers allowed this credit and the average dollar value of the credits allowed.

The reporting requirement would be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

This credit would 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 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

None noted.

Technical Considerations

For consistency of terminology, the following changes are recommended:

- Replace “value” in Sections 17053.35(e)(1)(B) and (e)(2)(A) with “amount”.
- Replace “located in **the** state” in Sections 17053.35(b)(5) and 23625(b)(5) with “located in **this** state”.

Policy Considerations

The definition of “qualified nonprofit” refers to IRC section 501(c)(3). Under the RTC, exempt organizations are described in Section 23701, and this definition may include more organizations that are exempt from California income tax than those described in IRC section 501(c)(3). If the author’s intent is to provide a credit for qualified taxpayers that lease property to exempt organizations under California law, the author may want to amend the bill.

LEGISLATIVE HISTORY

No legislation similar to this bill has been identified.

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 SB 221 as Amended on April 24, 2023
Assumed Enactment after June 30, 2023

($ in Millions)

Fiscal Year	Revenue
2023-2024	-$140
2024-2025	-$120
2025-2026	-$120

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