



Bill Analysis

Author: Glazer, et al.

Sponsor:

Bill Number: SB 569

Related Bills: See Legislative
History

Introduced: February 15, 2023

SUBJECT

Renter's Credit Indexing

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), require the Franchise Tax Board (FTB) to make annual inflation adjustments to the amount of the Renter's Credit, allow the credit to be refundable, upon appropriation, include Revenue and Taxation Code (RTC) section 41 requirements, and make other nonsubstantive changes.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to increase the existing renter's credit.

ANALYSIS

This bill would provide that the credit amount would be subject to indexing for inflation based on the change in the California Consumer Price Index, for taxable years beginning on or after January 1, 2023, and before January 1, 2028.

Subject to an appropriation by the Legislature, this bill would allow the credit amounts that exceed the tax liability and any other balance due to be refunded to the qualified renter for taxable years beginning on or after January 1, 2023, and before January 1, 2028.

Introduced: February 15, 2023

This bill would, for purposes of complying with Section 41 of the RTC, require the FTB to annually prepare and provide a written report. The report would be required to be submitted no later than May 15 each year and include the following:

- The number of taxpayers claiming the credit during the most recent year.
- The average credit amount during the most recent year on tax returns claiming the credit.

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

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. The refundable provision would be operative upon appropriation for taxable years beginning on or after January 1, 2023, and before January 1, 2028.

Federal/State Law

Federal Law

No comparable credit in federal law.

State Law

Current state law allows qualifying renters that meet certain adjusted gross income limitations a nonrefundable credit of \$60 or \$120, based on filing status. The amount of the credit is unrelated to the amount of rent paid.

A "qualified renter" is defined as an individual who:

- 1) Is a California resident for all or part of the tax year, and
- 2) Rented and occupied California premises constituting his or her principal place of residence for at least 50% of the taxable year.

The definition of "qualified renter" does not include individuals:

- 1) Who, for more than 50% of the taxable year, rented and occupied premises that with certain exceptions were exempt from property taxes.
- 2) Whose principal place of residence, for more than 50% of the taxable year, is with any other person who claimed that individual as a dependent for income tax purposes.
- 3) Who have been granted or whose spouse has granted the homeowner's property tax exemption during the taxable year, as specified.

Introduced: February 15, 2023

Any qualified renter who is a nonresident for a portion of the taxable year is allowed 1/12 of the Renter's Credit for each full month that the individual resided in the state for the taxable year, once the requirement of renting in California for more than 50% of the taxable year has been met.

A "resident" is defined as every individual:

- 1) Who is in this state for an "other than" temporary or transitory purpose, or
- 2) Is domiciled in this state but is outside the state for a temporary or transitory purpose.

Current state law allows qualified renters a nonrefundable Renter's Credit as follows for tax year 2022:

- \$120 for married filing jointly, head of household, or qualified widow or widower with an adjusted gross income (AGI) of \$98,440 or less, and
- \$60 for single or married filing separately with an AGI of \$49,220 or less.

The credit amounts are not adjusted for inflation, while the AGI limits are annually adjusted.

Implementation Considerations

This bill requires the FTB to prepare an annual report on the performance of the credit allowed by this bill no later than May 15 each year. If the author's intent is to be able to review a report that contains complete information for the 2023 taxable year, it is recommended that the report due date be extended. For instance, the due date for the 2023 personal income tax return is April 15, 2024, with extension that becomes October 15, 2024. The FTB needs approximately six months to complete return processing and to compile the needed data to prepare a report. As a result, it is recommended that the reporting due date be no earlier than May of 2025 to provide information for the 2023 taxable year. If the reporting due date remains unchanged, the report would include the information available up to six months prior to the publication date.

This bill would require appropriations by the Legislature to pay for the refundable portion of this credit. However, appropriations are made by fiscal budget year and tax credits apply by tax year. Specific language explaining how the appropriated funds would be applied by tax year would be required for this credit to be implemented.

Introduced: February 15, 2023

For example, the language should specify how the appropriation funds are to be distributed and if the amount appropriated would serve as a cap on payments that can be made, and what would occur if the appropriation amount is fully expended prior to the end of a fiscal year and before all returns are processed. Lack of this language could cause different treatment of tax returns for the same tax year filed or processed in different fiscal years. If a subsequent appropriation is required when claimed credits exceed the appropriated amount, interest may have to be paid to refund recipients for the period the refund was delayed. This delay would result in additional contacts to the FTB by refund recipients, which would likely increase FTB costs. This would also cause uncertainty for taxpayers and FTB. The author should amend this bill to provide clarity as to rules of payments.

Technical Considerations

The author may want to include operative language to (a)(1)(A)(i) and (a)(1)(B)(i) for clarity.

Policy Considerations

Historically, at a national level, refundable tax credits have had significant problems with attempts by bad actors to file invalid or fraudulent claims. If a refund is erroneously made and is later determined to likely be fraudulent, the refunds commonly cannot be recovered.

LEGISLATIVE HISTORY

AB 59 (Gallagher, et al., 2023/2024) would expand eligibility for the Renter's Credit by increasing the amount of the credit and the AGI threshold amounts and require the FTB to make annual inflation adjustments. AB 59 has been referred to the Assembly Committee on Revenue and Taxation.

AB 399 (Brough, 2019/2020) would have, contingent upon an appropriation, increased the amounts of the Renter's Credit. AB 399 did not pass by the constitutional deadline.

SB 843 (Glazer, et al., 2021/2022) would have, under the PITL, added a reporting requirement for the FTB. SB 843 did not pass by the constitutional deadline.

SB 248 (Glazer, et al., 2019/2020) would have increased the Renter's Credit amounts to \$220 for certain taxpayers with no dependents and \$434 for certain taxpayers with one or more dependents and make the credit refundable. SB 248 did not pass by the constitutional deadline.

AB 181 (Lackey, et al., 2017/2018) would have increased the amounts of the Renter's Credit. AB 181 did not pass out of the Assembly by the constitutional deadline.

Introduced: February 15, 2023

PROGRAM BACKGROUND

Since 1973 California has provided some form of the Renter’s Credit. The credit started as a refundable credit allowed to qualified individuals except for a suspension period between 1993 through 1997. Qualified taxpayers could claim the credit on their California income tax return while qualified renters, who were not required to file an income tax return, could file a Form 540A to claim a renter's credit refund.

The credit is \$60 for single and married filing separate/Registered Domestic Partner (RDP) renters; and \$120 for renters that are married filing joint/RDPs, head of household, or a qualifying widow(er) with a dependent. Since 1992, the AGI limitation amounts have been adjusted annually for inflation.

In 1998, the Renter's Credit was reinstated as a nonrefundable credit with certain AGI limits, and the AGI amounts continue to be adjusted for inflation annually. For the 2022 taxable year, the AGI limits were increased to \$49,220 for single and married filing separate/RDP renters; and to \$98,440 for renters that are married filing joint/RDPs, head of household, or a qualifying widow(er) with a dependent. Information about the Renter’s Credit is also available on the FTB website, Nonrefundable renter’s credit.

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 SB569 as Introduced February 15, 2023
 Assumed Enactment after June 30, 2023

(\$ in Millions)

Fiscal Year	Revenue
2023-2024	-\$130
2024-2025	-\$140
2025-2026	-\$150

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.

Introduced: February 15, 2023

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the April 7, 2023, Senate Committee on Governance and Finance analysis of SB 569, the following organizations are in support of this bill.

Support

- California Fire Chiefs Association
- Fire Districts Association of California
- Rural County Representatives of California
- Small Business California

Opponents

None on file.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov