STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Glazer, et al.

Sponsor:

Related Bills: See Legislative History

Bill Number: SB 843

Introduced: January 11, 2022
Amended: March 21, 2022

SUBJECT

Renters' Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), increase the amount of the Renters' Credit available to qualified renters, subject to an appropriation in the annual Budget Act, and allow the credit to be refundable.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 21, 2022, amendments reduced the increased Renters' credit amount from $1000 to $500 for individuals not filing as married filing joint, head of household, or surviving spouse.

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

REASON FOR THE BILL

The reason for this bill is to provide financial relief for low and middle income renters by increasing the Renters' Credit.

ANALYSIS

This bill would, for taxable years beginning on or after January 1, 2022, and before January 1, 2027, under the PITL, only if specified in any bill providing for appropriations related to the Budget Act, increase the Renters' Credit to:

- $1,000 for taxpayers with filing status of married filing jointly, head of household, or surviving spouse, with Adjusted Gross Income (AGI) of $50,000 or less, as adjusted for inflation, and
- $500 for taxpayers with filing status of single or married filing separately, with AGI of $25,000, as adjusted for inflation, or less.

This bill would require the current Renters' Credit amounts to remain unchanged if the appropriations were not specified in a bill providing for appropriations related to each year's Budget Act.

This bill would provide that the credit amount would be subject to indexing annually for inflation based on the change in the California Consumer Price Index, for the prior year, as specified.

This bill would allow, upon appropriation, credit amounts in excess of the sum of the tax liability and any other balance due to be refunded to the qualified renter.

This bill, for purposes of complying with Section 41 of the Revenue and Taxation Code (RTC) would provide:

- The following specific goals and objectives:
  - To compensate low- and middle-income renters for the increasing rates of rent throughout the State of California.
  - To restructure the credit to reflect the disproportionate burden of high rents on single-parent families.
  - To stimulate consumer spending and economic growth by providing more disposable income to reinvest in the economy.
- The Franchise Tax Board (FTB)would be required to prepare and provide a written report, as specified no later than January 15 of the year following the year relevant to the report on the following:
  - The number of taxpayers claiming the credit.
  - The average credit amount on tax returns claiming the credit.

This bill would also makes several nonsubstantive changes.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment. The credit increase would be specifically operative for taxable years beginning on or after January 1, 2022, and before January 1, 2027, contingent on a specific appropriation of funds in a bill related to the annual budget bill. The refundability of the credit would be specifically operative for taxable years beginning on or after January 1, 2022, and before January 1, 2027, contingent on an appropriation by the Legislature. The recomputation of specified credit amounts due to annual indexing would be operative for taxable years beginning on or after January 1, 2023, and before January 1, 2027.

Federal/State Law

Federal Law

In federal law, there is no provision comparable to the California Renters' Credit.

State Law

Current state law allows qualifying renters who 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:

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

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

1. Who, for more than 50 percent 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 percent 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.

Any qualified renter who is a nonresident for a portion of the taxable year is allowed 1/12 of the Renters' 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 percent of the taxable year has been met.

A "resident" is defined as every individual:

1. Who is in this state for a purpose other than a 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 2021

- $120 for married filing jointly, head of household, or qualified widow or widower with an Annual Gross Income (AGI) of $87,066 or less, and
- $60 for single or married filing separately with an AGI of $43,533 or less.

The credit amounts are fixed and the AGI limits are adjusted annually for inflation.

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.

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. If there are insufficient funds available to cover all of the refunds due and payable, the department would suspend payment until additional funds were appropriated, unless directed otherwise. 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 department by refund recipients, which would likely increase departmental costs.

The credit increase would not be effective absent a bill providing for appropriations in the annual Budget Act. This could cause uncertainty for taxpayers and the department regarding the amount of the credit allowed each taxable year and result in additional contacts to the department.

In order to allow the FTB the needed time to gather applicable data and to prepare the report under Section 41, a report date of April 1 or later is suggested.

Implementing this bill would require changes to existing tax forms and instructions, robust education and outreach, and substantial changes to information systems to prevent improper payments.

Technical Considerations

To simplify the indexing language, the author may want to use the same method that is used to index income tax brackets, subdivision (h) of RTC 17041. This is currently done with other credits, such as the Earned Income Tax Credit under RTC section 17052.

The author may want to modify the operative date in Section 17053.5(a)(1)(A)(i) and (ii) by striking out "For taxable years beginning before January 1, 2022" and including that these provisions would apply for taxable years beginning on or after the first year the Renter's credit was operative, to ensure that the application of these provisions only go back to the first taxable year this credit was operative.

Policy Considerations

Historically, refundable credits (such as the state renters' credit and the federal Earned Income Tax Credit,) have resulted in attempts to file invalid or fraudulent returns.

LEGISLATIVE HISTORY

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

SB 248 (Glazer, et al., 2019/2020) would have increased the Renters' 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 Renters' Credit. AB 181 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, but are expected to be significant. 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 843 as Amended on March 21, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$2,000
2023-2024	-$2,100
2024-2025	-$2,200

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

Using FTB Renters' Credit data for the 2019 taxable year, the amount of credit for taxpayers currently claiming the credit was recalculated using the proposed credit amounts, and then reduced by the amount currently allowed. This estimate assumes that the share of returns filed claiming the Renters' Credit in future years would be similar to those currently claiming the credit. Because the credit is refundable for taxable years 2022 to 2026, the amount of additional credit each taxpayer could use would not be limited by their current tax liability. An adjustment was made to account for taxpayers who are not currently claiming the credit, but would be able to do so if the credit were refundable. As a result, it is estimated the revenue loss from the increase in the available Renters' Credit would be $1.7 billion for taxable year 2019. The estimate was then adjusted to reflect changes in the economy over time, resulting in an estimated revenue loss of $2 billion in the 2022 taxable year.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov