



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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June 6, 2024

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**STATE OF CALIFORNIA
OFFICE OF THE TREASURER
CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**

NOTICE OF PROPOSED RULEMAKING ACTION

The California Tax Credit Allocation Committee (CTCAC) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to anthony.zeto@treasurer.ca.gov and ricki.hammett@treasurer.ca.gov. Comments may also be submitted via mail to:

California Tax Credit Allocation Committee
Attn: Anthony Zeto/Ricki Hammett
901 P Street, Room 213A
Sacramento, CA 95814

The written comment period closes on July 22, 2024. To ensure CTCAC will consider your comment it must be received by July 22, 2024.

PUBLIC HEARING

CTCAC does not intend to conduct a Public Hearing on the matter of these regulations, unless requested. Any interested person may submit a written request for a public hearing no later than 15 days prior to the close of the written comment period.

AUTHORITY

Section 17053.91 and 23691 of the Revenue and Taxation Code authorizes CTCAC to adopt regulations relating to an allocation system to administer the allocation of State Historic Rehabilitation Tax Credits.

REFERENCE

Section 17053.91 and 23691, Revenue and Taxation Code (RTC).

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Action

CTCAC was statutorily created by Chapter 658, Statutes of 1987, in response to the 1986 Federal Tax Reform Act.

The Legislature adopted Senate Bill No. 451 (Chapter 703, Statutes of 2019), as amended by Assembly Bill No. 150 (Chapter 82, Statutes of 2021), adding Sections 17053.91 and 23691 to the Revenue and Taxation Code. This allows a taxpayer that receives a tax credit allocation to claim credit against those taxes for each taxable year beginning on or after January 1, 2021, and before January 1, 2027, for the rehabilitation of certified historic structures. The legislature finds that California's historic buildings are an important asset to communities throughout the state, and the preservation and restoration of these buildings is vital to economic development, enhancing civic pride, increasing tourism, and maintaining vibrant and inclusive neighborhoods.

There shall also be allowed a credit for qualified rehabilitation expenditures for a qualified residence determined by CTCAC and the Office of Historic Preservation (OHP) to rehabilitate the historic character and improve the integrity of the residence in the year of completion.

Revenue and Tax Code sections 17053.91 and 23691 authorize OHP to adopt regulations to implement the requirements of these sections within the bill, establish a written application in coordination with CTCAC, establish a process to determine that an applicant meets the requirements of these sections and to ensure that the rehabilitation project meets the Secretary of the Interior's Standards for Rehabilitation, and establish a process to approve or reject all historic tax credit allocation applications.

Anticipated Benefits of the Proposed Regulations

The broad objective of the legislation is to leverage dollars in private investment enabled by allocation of the credits, create construction jobs as a result of this investment, create long-term jobs associated with the use of rehabilitated historic buildings, and stimulate economic activity associated with the rehabilitation of historic buildings facilitated by the credits.

When used in conjunction with the federal historic preservation tax credits, state historic rehabilitation tax credits prove an important financial incentive for reinvestment in the historic cores of communities. Historic preservation tax incentives generate jobs, enhance property values, create affordable housing, and augment revenues for federal, state, and local governments.

States that have partnered a state incentive with the federal Historic Preservation Tax Incentives program have reaped significant economic development benefits, including construction and building industry job creation, increased state tax revenues through increased employment and wages, increased local property tax revenues through increased property values, and increase local tax revenues through state taxes and heritage tourism.

The specific benefits from the legislation are a 20% or a 25% personal income tax or corporate tax credit for the certified rehabilitation of a certified historic structure or a qualified residence.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Committee has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. Application for tax credit allocations is a nonmandatory activity and these regulations ensure a fair and efficient process for allocations as to both applicants and the Committee.

The proposed regulations are compatible with OHP's regulations, Title 14, California Code of Regulations, Division 3, Chapter 11.5 California Register of Historical Resources: Adoption of New Subchapter 1, Section 4859.01 – 4859.06. Per RTC Section 17053.91 and 23691. OHP is required to develop regulations and work with CTCAC to implement the program, adopt regulations, establish a written application and determine project requirements to ensure that the rehabilitation project meets the Standards for Rehabilitation.

OHP and CTCAC developed a joint application which will be reviewed by both OHP and CTCAC and while OHP and CTCAC regulations are compatible there are differences in the definitions that are listed between OHP and CTCAC. Though they have the same meaning, different statutes may be referenced. OHP also must determine if a structure is a certified historic structure and OHP's regulations explain what the requirements are.

DISCLOSURES REGARDING THE PROPOSED ACTION

CTCAC has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code sec. 17500 et seq: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Pursuant to the State Administrative Manual Section 6614, an Economic and Fiscal Impact Statement (Form 399) has been completed and is part of the rulemaking record.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states

As a voluntary program offering state tax credits for the rehabilitation of certified historic structures, the proposed action will have no adverse economic impact directly affecting business. Because the program is voluntary, businesses and individuals are not required to comply with the program regulations or requirements or incur any costs if they do not submit an application applying for the tax credit program.

Applicants for the state tax credits described in the regulations may incur costs including but not limited to application fees, consultant and project team fees, project and/or development reports, application preparation including photograph compilation, drawing preparation, and reproduction.

SB 451 cites that OHP and CTCAC may charge a reasonable fee in an amount that does not exceed the reasonable costs incurred by fulfilling its responsibilities under SB 451.

OHP Fees include the following:

Qualified Residence fees are set at a flat rate of \$900. \$450 is paid with the Initial Project Application and \$450 is paid with the Completed Project Application.

All income-producing properties incur a fee of 1% of the Completed Qualified Rehabilitation Expense (QRE) up to the first \$125,000. An additional 0.15% for the QRE expenses above \$125,000 is added to the 1% base fee. Fees are capped at \$6000.

The Initial Project Application fee is one half of the estimated QRE cost declared on the Initial Project Application.

The Completed Project Application fee is the balance of the final fee calculated from the final total QRE cost declared on the form minus the Initial Application fee.

CTCAC Fees include the following:

A processing fee in the amount of \$500 for Qualified Residence projects and \$1,000 for all other projects submitted when the Initial Project Application is forwarded to the CTCAC.

An administrative fee in the amount of 2% of the tax allocation credit due within 10 calendar days of the allocation award at project completion.

Significant effect on housing costs: The proposed changes will ensure the award of allocation for the rehabilitation of qualified residences.

Cost impacts on a representative private person or business: CTCAC is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations.

Results of the Economic Impact Analysis/Assessment

Program regulations will require an applicant to submit an application for approval, establish the economic benefits of the project and pay a fee that has been approved by the OHP and CTCAC.

There will be some cost involved in applying for and receiving the credits, including fees. The fees are considered reasonable to support the staff time to review applications, as there are no administrative funds available for the allocation of this credit. Any costs should be easily offset by the state tax credit issued to lower the applicant's state tax obligation.

Beyond the fees to apply for the program, these regulations do not create any costs or benefits. Based on the legislation that created the tax credit program, however, OHP and CTCAC concludes that it is:

1. Unlikely that the program will eliminate any jobs.
2. Likely that the program will create an unknown number of jobs.
3. Likely that the program may create an unknown number of new businesses to cater to the creation of a new state tax credit.
4. Unlikely that the program will eliminate any existing businesses.
5. Likely that the program will affect the expansion of businesses currently doing business in the state.
6. Likely that the public and private benefits of the program will include long term jobs associated with the use of rehabilitated historic buildings and the overall economic activity associated with the rehabilitation of historic buildings facilitated by the state credits, and a 20% or 25% state tax credit for the certified rehabilitation of a certified historic structure.

Despite the fact that these regulations do not create any economic impacts beyond the fees being charged to apply for the tax credits, the specific goals, purposes, and objectives that the tax credits authorized by this legislation are anticipated to achieve over the five-year term of the credit are as follows:

- Leveraging two hundred eighty-seven million (\$287,000,000) in private investment.
- Creating 1,300 construction jobs and an additional 2,140 ongoing jobs.
- Creating eight hundred million dollars (\$800,000,000) in economic activity.
- Reusing existing culturally contributing buildings that lower the cost of construction compared to new construction and lower construction-related greenhouse gas production associated with procurement and transportation of new materials.

Returning many underused or vacant properties to a useful life through the repair and restoration of vintage materials and features that were the product of now rare skilled trades brought by diverse cultures and which contributed to California's own unique culture and community fabric.

The proposed regulations are not expected to affect worker safety or the state's environment.

Small Business Determination

CTCAC has determined there is no cost impact on small businesses. Federal tax credit program history has shown that small businesses benefit by the tax credit program. Many of the tax credits go to entities that utilize small businesses when they purchase goods and services or lease space to small businesses.

The proposed regulation may also positively affect small businesses in the rehabilitation of a certified historic structure under their ownership. Small business owners of certified historic structures may benefit by an eight million dollar (\$8,000,000) set aside for taxpayers with qualified rehabilitation expenditures of less than one million dollars (\$1,000,000).

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), CTCAC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, as effective and less burdensome to affected private persons than the proposed action, or more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CTCAC invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

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or

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AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

CTCAC will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address and online at <https://www.treasurer.ca.gov/ctcac/programreg/regulations.asp>. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, and the STD. 399. Please direct requests to inspect or copy the rulemaking file to the contact person(s) listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, CTCAC may adopt the proposed regulations substantially as described in this notice. If CTCAC makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. Please direct requests for copies of any modified regulations to the contact person(s) listed above. If substantive modifications are made, CTCAC will accept written comments on the modified regulations for the duration of the period of public availability.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, CTCAC will make copies of the Final Statement of Reasons available. Please direct requests for copies to the contact person(s) listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, may be accessed via CTCAC's website at <https://www.treasurer.ca.gov/ctcac/programreg/regulations.asp>.