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1. [Cal Rev & Tax Code § 23691](#)

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Cal Rev & Tax Code § 23691

Current through Ch. 95 of the legislation from the 2025-2026 Regular Session, effective as of July 30, 2025

Deering's California Codes Annotated > *REVENUE AND TAXATION CODE (§§ 1 — 61050)* > *Division 2 Other Taxes (Pts. 1 — 32)* > *Part 11 Corporation Tax Law (Chs. 1 — 24)* > *Chapter 3.5 Tax Credits (§§ 23601 — 23698.1)*

Notice

 This section has more than one version with varying effective dates.

§ 23691. Credit against “tax” for rehabilitation of certified historic structures; Request for tax credit allocation; Office of Historic Preservation duties; California Tax Credit Allocation Committee duties; Credit allocation permissible in calendar year; Application to partnerships [Repealed effective December 1, 2027]

For each taxable year beginning on or after January 1, 2021, and before January 1, 2027, there shall be allowed to a taxpayer that receives a tax credit allocation a credit against the “tax,” as defined in Section 23036, in an amount determined in accordance with [Section 47 of the Internal Revenue Code](#), except as follows:

(a)

- (1) In lieu of the percentage specified in [Section 47\(a\) of the Internal Revenue Code](#), except as provided in paragraph (2), the applicable percentage shall be 20 percent of the qualified rehabilitation expenditures with respect to a certified historic structure.
- (2) The applicable percentage shall be 25 percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that certified historic structure meets one of the following criteria:
 - (A) The structure is located on federal surplus property, if obtained by a local agency under [Section 54142 of the Government Code](#), on surplus state real property, as defined by [Section 11011.1 of the Government Code](#), or on surplus land, as defined by subdivision (b) of [Section 54221 of the Government Code](#).
 - (B) The rehabilitated structure includes affordable housing for lower-income households, as defined by [Section 50079.5 of the Health and Safety Code](#).
 - (C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.
 - (D) The rehabilitated structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with [Section 67800 of the Government Code](#)).
 - (E) The structure is a transit-oriented development that is a higher density, mixed-use development within a walking distance of one-half mile of a transit station.

(b) For purposes of this section, the following definitions shall apply:

(1) "Certified historic structure" has the same meaning as defined in [Section 47\(c\)\(3\) of the Internal Revenue Code](#), that is a structure in this state and is listed on the California Register of Historical Resources.

(2) "Qualified rehabilitation expenditure" has the same meaning as that term is defined in [Section 47\(c\)\(2\) of the Internal Revenue Code](#), except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax-exempt use property.

(c)

(1) To be eligible for the credit allowed by this section, a taxpayer shall request a tax credit allocation from the California Tax Credit Allocation Committee, in conjunction with the Office of Historic Preservation.

(2) To obtain a tax credit allocation, the taxpayer shall provide necessary information, as determined by the Office of Historic Preservation and the California Tax Credit Allocation Committee.

(3) A tax credit allocation provided to a taxpayer shall not constitute a determination by the California Tax Credit Allocation Committee with respect to any of the requirements of this section regarding a taxpayer's eligibility for the credit authorized by this section.

(4) The Office of Historic Preservation shall establish in regulations the time period that a taxpayer who receives a tax credit allocation must commence rehabilitation after the issuance of the tax credit allocation. If rehabilitation is not commenced within the time period established by the office, the tax credit allocation shall be forfeited and the credit amount associated with the tax credit allocation shall be treated as an unused allocation tax credit amount.

(d) A deduction shall not be allowed under this part for any expense for which a credit for that expense is allowed by this section.

(e) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

(f)

(1) A credit allowed under this section shall be claimed in the first taxable year in which the structure is placed in service.

(2) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the seven succeeding years, if necessary, until the credit is exhausted.

(g) For purposes of this section, the Office of Historic Preservation shall do all of the following:

(1) Adopt regulations to implement the requirements of this section. The regulations shall comply with the requirements of the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with [Section 11340](#)) of Part 1 of Division 3 of Title 2 of the Government Code).

(2) Establish a written application, on a form jointly prescribed by the office and the California Tax Credit Allocation Committee, for the allocation of the tax credit. The written application shall require the applicant to include a summary of the expected economic benefits of the project. The economic benefits shall include, but are not limited to, all of the following:

(A) The number of jobs created by the rehabilitation project, both during and after the rehabilitation of the structure.

(B) The expected increase in state and local tax revenues derived from the rehabilitation project, including those from increased wages and property taxes.

- (C)** Any additional incentives or contributions included in the rehabilitation project from federal, state, or local governments.
- (3)** Establish a process to determine that applicants meet the requirements of this section and to ensure that the rehabilitation project meets the Secretary of the Interior's Standards for Rehabilitation, as found in Part 67 of Title 36 of the Code of Federal Regulations.
- (4)** Establish a process to approve, or reject, all tax credit allocation applications.
- (h)** For purposes of this section, the California Tax Credit Allocation Committee shall do all of the following:
- (1)** Establish a process jointly with the Office of Historic Preservation to implement the provisions of this section.
- (2)**
- (A)** Subject to the annual cap established as provided in subdivision (i), allocate on a first-come-first-served basis an aggregate amount of credits under this section and Section 17053.91, and allocate any carryover of unallocated credits from prior years.
- (B)** A taxpayer shall be allocated a tax credit pursuant to the taxpayer's tax credit allocation upon receipt by the California Tax Credit Allocation Committee of a cost certification for the qualified rehabilitation expenditures. For projects with qualified rehabilitation expenditures in excess of two hundred fifty thousand dollars (\$250,000), the cost certification shall be issued by a licensed certified public accountant.
- (3)** Certify tax credits allocated to taxpayers.
- (4)** Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section 17053.91 including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.
- (i)**
- (1)** The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section 17053.91 shall be an amount equal to the sum of all of the following:
- (A)** Fifty million dollars (\$50,000,000) in tax credits for the 2021 calendar year and each calendar year thereafter, through and including the 2027 calendar year.
- (B)** The unused allocation tax credit amount, if any, for the preceding calendar year.
- (2)** Notwithstanding the foregoing, the California Tax Credit Allocation Committee shall set aside eight million dollars (\$8,000,000) of tax credits that may be allocated each calendar year for taxpayers in the aggregate, pursuant to this paragraph and subparagraph (B) of paragraph (2) of subdivision (i) of Section 17053.91, with qualified rehabilitation expenditures of less than one million dollars (\$1,000,000). After providing for the reallocation pursuant to subparagraph (C) of paragraph (2) of subdivision (i) of Section 17053.91, to the extent that this amount is not fully allocated in any calendar year, the unused portion shall become available in subsequent calendar years for allocation to other taxpayers, except those taxpayers subject to subparagraph (A) of paragraph (2) of subdivision (i) of Section 17053.91.
- (j)** In the case of any application for tax credits by an entity treated as a partnership for income tax purposes:
- (1)** Credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the partnership agreement has substantial economic effect, within the meaning of [Section 704\(b\) of the Internal Revenue Code](#).

(2) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the tax credit recapture period for the project described in paragraph (1) shall not be allowed in the taxable year in which the sale or other disposition occurs, but shall instead be deferred until, and treated as if, it occurred in the first taxable year immediately following the taxable year in which the tax credit recapture period expires for the project described in paragraph (1). The credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement.

(k) For purposes of this section, the provisions of subsection (a) of [Section 50 of the Internal Revenue Code](#) shall apply.

(l) Notwithstanding any other provision of this part, a credit allowed pursuant to this section may reduce the "tax" below the tentative minimum tax, as defined by paragraph (1) of subdivision (a) of Section 23455.

(m) This section shall remain in effect regardless of the expiration or repeal of [Section 47 of the Internal Revenue Code](#), relating to rehabilitation credit.

(n) The California Tax Credit Allocation Committee and the Office of Historic Preservation may charge a reasonable fee in an amount that does not exceed the reasonable costs incurred by the California Tax Credit Allocation Committee and the Office of Historic Preservation in fulfilling the responsibilities described in paragraphs (4) and (5) of subdivision (g) and subdivision (h) and paragraphs (4) and (5) of subdivision (g) and subdivision (h) of Section 17053.91.

(o)

(1) This section shall remain in effect only until December 1, 2027, and as of that date is repealed.

(2) Unless otherwise specified in any bill providing for appropriations related to the Budget Act, for taxable years beginning on or after January 1, 2021, and before January 1, 2027, the amount of credit allowed pursuant to this section shall be zero dollars (\$0).

History

Added [Stats 2019 ch 703 § 4 \(SB 451\)](#), effective October 9, 2019, repealed January 1, 2026. Amended [Stats 2021 ch 82 § 20 \(AB 150\)](#), effective July 16, 2021, repealed December 1, 2027; [Stats 2025 ch 17 § 18 \(SB 132\)](#), effective June 27, 2025, repealed December 1, 2027.

Annotations

Notes

Editor's Notes—

Amendments:

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For legislative findings and declarations, see the 2019 Note following *Rev & Tax C § 38.10*

Amendments:

2021 Amendment (ch 82):

Substituted “January 1, 2027” for “January 1, 2026” in the introductory language; substituted “2027 calendar year” for “2026 calendar year” in (i)(1)(A); substituted “December 1, 2027” for “December 1, 2026” in (o)(1); and substituted “January 1, 2027” for “January 1, 2026” in (o)(2).

2025 Amendment (ch 17):

Added “After providing for the reallocation pursuant to subparagraph (C) of paragraph (2) of subdivision (i) of Section 17053.91” in (i)(2).

Research References & Practice Aids

Hierarchy Notes:

[Cal Rev & Tax Code Div. 2](#)

[Cal Rev & Tax Code Div. 2, Pt. 11](#)

Deering's California Codes Annotated
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