Date of Hearing: March 24, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 976 (Ávila Farías) – As Amended March 14, 2025

Majority vote. Tax levy. Fiscal committee.

**SUBJECT**: Personal Income Tax Law: Corporation Tax Law: California Retail Security Tax Credit

**SUMMARY**: Enacts the California Retail Security Tax Credit. Specifically, **this bill**:

1) Allows a credit to a "qualified taxpayer" that receives a tentative credit reservation.

2) Provides that the credit amount shall equal the taxpayer's "qualified retail theft prevention measure expenses" during the taxable year.

3) Allows the credit under both the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law for taxable years beginning on or after January 1, 2026, and before January 1, 2028.

4) Caps the maximum credit amount at $4,000 per taxable year.

5) Defines a "qualified taxpayer" as a business operating in a disadvantaged community, as described in Health and Safety Code (H&SC) Section 39711, with total gross annual receipts of no greater than $5 million that employs 25 or fewer total "full-time equivalent employees" who are employed for at least 40 weeks within the prior taxable year at one or more retail locations in the state.

6) Defines "qualified retail theft prevention measure expenses" as the purchase, that is incurred on or after the operative date of this bill, in an amount of at least $4,000, of any of the following equipment by the qualified taxpayer at a retail location in the state:

   a) Security cameras;

   b) Interior or exterior locking or hardening measures;

   c) Perimeter security lighting;

   d) Access control systems; or,

   e) Alarm systems.

7) Provides that a "full-time equivalent employee" shall be calculated as follows:

a) An employee of a qualified taxpayer who works a minimum of 36 hours per week for each week the employee is employed by the qualified taxpayer, at the qualified taxpayer's retail location in the state, shall equal one full-time equivalent employee;

b) An employee of the qualified taxpayer who works a minimum of 20 hours per week, but less than 36 hours per week, for each week the employee is employed by the qualified taxpayer, at the qualified taxpayer's retail location in the state, shall equal one-half full-time equivalent employee; and,

c) A salaried employee of the qualified taxpayer who was paid compensation during the taxable year for full-time employment, within the meaning of Labor Code Section 515, by the qualified taxpayer, at the qualified taxpayer's retail location in the state, shall equal one full-time equivalent employee.

8) Caps the total aggregate amount of credit that may be allocated by credit reservations per taxable year to all qualified taxpayers to $10 million, plus the unallocated credit amount, if any, from the preceding taxable year.

9) Provides that to be eligible for the credit, a qualified taxpayer must request a credit reservation from the California Tax Credit Allocation Committee (CTCAC), in the form and manner prescribed by the CTCAC.

10) Provides that, to obtain a credit reservation, the qualified taxpayer must provide all necessary information, as determined by the CTCAC.

11) Requires the CTCAC to do all of the following:

a) On or before January 1, 2026, publish on its internet website the application form required to obtain a credit reservation;

b) On or before March 15, 2026, approve credit reservations for taxable years beginning on or after January 1, 2026, and before January 1, 2027, with respect to qualified taxpayers who submit an application for a credit reservation on or before February 1, 2026;

c) If credit reservation request amounts received on or before February 1, 2026, exceed the $10 million aggregate cap, the CTCAC shall reduce the amount of credit on a proportional basis;

d) On or before March 15, 2026, or within 30 days of receipt of a credit reservation, whichever occurs later, notify qualified taxpayers of the credit reservation amount received; and,

e) Continue to accept and approve additional credit reservations received after February 1, 2026, for taxable years beginning on or after January 1, 2026, and before January 1, 2027, on a rolling basis until the annual $10 million cap is allocated.

12) Requires the CTCAC to repeat the process outlined above for the 2027 taxable year.

13) Provides that any deduction otherwise allowed for any amount paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed.

14) Provides that, for purposes of complying with Revenue and Taxation Code (R&TC) Section 41, the Legislature finds and declares as follows:

    a) The specific goal, purpose, and objective of the retail security tax credit is to incentivize retail establishments to install security systems to protect their employees and deter theft; and,

    b) The performance indicator for the Legislature to use in determining if the security tax credit achieves its stated purpose is the number of qualified taxpayers allocated a tax credit under this bill.

15) Provides that, no later than June 30, 2027, and each June 30 thereafter, the Franchise Tax Board (FTB) shall submit a report to the Legislature, in accordance with Government Code Section 9795, detailing the number of taxpayers that claimed the tax credit for the most recent taxable year.

16) Takes immediate effect as a tax levy.

17) Sunsets the credit's statutory provisions on December 1, 2027.

**EXISTING LAW**:

1) Allows various tax credits under both the PIT Law and the CT Law. These credits are generally designed to encourage socially beneficial behavior or to provide relief to taxpayers that incur specified expenses. (R&TC Sections 17001 *et seq.* and 23001 *et seq*.)

2) Requires any bill that authorizes a tax expenditure to contain all of the following:

    a) Specific goals, purposes, and objectives that the tax expenditure will achieve;

    b) Detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets the goals, purposes, and objectives stated in the bill; and,

    c) Specified data collection requirements to enable the Legislature to determine whether the tax expenditure is meeting, failing to meet, or exceeding those specific goals, purposes, and objectives. (R&TC Section 41.)

3) Requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities for investment opportunities under the Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act. These communities are to be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, which may include either of the following:

    a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation; or,

    b) Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment. (H&SC Section 39711.)

**FISCAL EFFECT**: The FTB estimates that this bill would reduce General Fund revenues by $2.7 million in fiscal year (FY) 2025-26, by $6.3 million in FY 2026-27, and by $3.2 million in FY 2027-28.

**COMMENTS**:

1) The author has provided the following statement in support of this bill:

> California is experiencing a wave of retail crime that not only robs businesses and consumers, but also fuels in-store violence that costs victims their lives. In response to recent increases in retail theft, the Legislature enacted a series of bipartisan bills to address retail crime and stop retail crime rings while preserving criminal justice reforms that make communities safer and avoid the mass incarceration policies of the past.
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> However, penalties for those convicted of theft are only one part of the solution. Small retail businesses – particularly those in disadvantaged communities where criminal activity tends to be higher – struggle to implement measures needed to protect their employees, their merchandise and their livelihoods.
>
> It is estimated that only 23% of small businesses have installed monitored security alarm systems, and it's reasonable to believe that that number is lower among small businesses that operate in disadvantaged communities due to the upfront cost of new equipment.
>
> AB 976 establishes a tax credit program to provide a nonrefundable tax credit to small retailers in disadvantaged communities, who purchase or install security equipment.

2) This bill is supported by the Security Industry Association, which notes the following:

> California has been grappling with a surge in retail crime, impacting not only businesses but also the safety and well-being of our communities. Small retailers struggle to afford security systems that can help deter theft because of the upfront costs often needed to install effective systems.
>
> The statistics are alarming:
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> - 90% of small retailers nationwide have experienced theft.
> - Retail theft costs the average family over $500 annually in the higher costs of goods.
> - Organized retail crime (ORC) fuels dangerous criminal activities like drug smuggling and human trafficking.
>
> While recent legislative efforts and voter-approved propositions have sought to address the criminal aspect of retail theft, they do not alleviate the financial burden on small businesses to protect themselves. This is where AB 976 plays a vital role.

3) Committee Staff Comments:

   a) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S.

Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

b) *What would this bill do*? This bill would establish a new tax expenditure program in the form of a credit available to a qualified taxpayer that incurs qualified retail theft prevention measure expenses during the taxable year. Qualified expenses would include the purchase of security cameras, locking measures, perimeter security lighting, and alarm systems. This bill defines a "qualified taxpayer", in turn, as a business operating in a disadvantaged community, as defined, with total gross annual receipts of no more than $5 million that employs 25 or fewer full-time equivalent employees, as specified. Each credit would be capped at $4,000 per taxable year. Additionally, this bill would cap the total aggregate amount of credit allocated via credit reservations per taxable year to $10 million, as specified. In support of this new credit, the author's office notes:

> California has experienced a wave of crime against retail businesses that not only robs businesses and consumers but also fuels in-store violence. Small retailers are more vulnerable to the impacts of crime than large retailers due to the cost of installing a monitored security alarm system that is often unaffordable for them.

c) *Retail theft in California*: The subject of retail theft in California has received widespread attention in recent years. According to the Public Policy Institute of California (PPIC), "[r]ecently released crime statistics for 2023 show continued growth in shoplifting statewide; reported incidents are 28% higher than in 2019." The PPIC also notes that commercial burglaries actually dropped 9% in 2023, but remain roughly 6% above their pre-pandemic level. The PPIC's analysis finds that "while most large counties saw increases in retail theft (both shoplifting and commercial burglary) from 2019 to 2023, more than 90% of the statewide rise occurred in just four counties: Alameda, Los Angeles, Sacramento, and San Mateo." The PPIC notes that retail theft data are limited to incidents actually reported to law enforcement agencies. These incidents, especially those involving low-value thefts, are likely underreported. Finally, the PPIC states:

> It is also important to note that the recent increase in shoplifting is not unique to California. An analysis by the Council for Criminal Justice of crime data for the first half of 2024 – covering 39 cities throughout the country – found that shoplifting jumped in 2024, and is now about 10% higher than 2019.

(Lofstrom and Martin, *Commercial Burglaries Fell in 2023, but Shoplifting Continued to Rise*, Public Policy Institute of California (August 2, 2024).)

d) *New York State Commercial Security Tax Credit*: This bill's credit appears at least partially modeled after the New York State Commercial Security Tax Credit. The New York program, administered by the Division of Criminal Justice Services, provides a tax credit to small retail businesses that operate one or more physical locations in the state and incur costs associated with retail theft prevention measures. Businesses may be eligible for a $3,000 credit per retail location, depending on the business size and the expenses incurred. The credit covers a wide range of expenses, including security guards, cameras, locking devices, alarm systems, and exterior license plate reader technology.

e) *CalEnviroScreen*: As noted above, to qualify for this bill's credit, a qualified taxpayer must be operating in a disadvantaged community, as described in H&SC Section 39711. According to the author's office, the CalEPA has been charged with identifying these communities as part of its "CalEnviroScreen" program, which is a screening methodology that can be used to help identify California communities disproportionately burdened by multiple sources of pollution. It is not entirely clear to Committee staff, however, how often these community maps are updated and, for this reason, the Committee may wish to consider specifying a date within the taxable year when a qualifying taxpayer must be operating in such a community.

f) *Why the California Tax Credit Allocation Committee*? This bill provides that, to be eligible for a credit, a qualified taxpayer must request a credit reservation from the CTCAC. Additionally, the CTCAC would be charged with publishing an application form for credit reservations, and approving credit reservations. The CTCAC, however, is primarily responsible for administering the federal and state Low-Income Housing Tax Credit Programs. Given the specialized scope of the CTCAC, the Committee may wish to consider whether the CTCAC is the appropriate entity to oversee and administer this bill's tax credit program.

g) *Committee's tax expenditure policy*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

In its current form, this bill states that the credit is designed to incentivize retail establishments to install security systems to protect their employees and deter theft. In addition, this bill provides that the credit's effectiveness shall be measured by the number of taxpayers allocated a credit. The Committee may wish to consider whether credit utilization, in and of itself, is a sufficient rubric by which to measure this credit's effectiveness.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years. This bill, as currently drafted, complies with the Committee's policy on sunset dates.

h) *Related legislation*:

   i) SB 665 (Choi) would allow a credit to a qualified taxpayer, as defined, for retail theft prevention measures, as specified. Additionally, SB 665 would limit the credit allowed to a taxpayer to no more than $10,000 per taxable year. SB 665 is pending hearing by the Senate Committee on Revenue and Taxation.

   ii) SB 666 (Choi) would allow a credit equal to the amount paid or incurred, not to exceed $250, during the taxable year for the purchase and installation of a security surveillance system at the taxpayer's principal single-family residence located in the state. SB 666 is pending hearing by the Senate Committee on Revenue and Taxation.

i) *Prior legislation*: AB 2219 (Wallis), of the 2023-24 Legislative Session, contained provisions substantially similar to SB 666 above. AB 2219 was held on this Committee's Suspense File.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

ADT Security Services
California Retailers Association
Family Business Association of California
NFIB California
Security Industry Association

**Opposition**

None on file

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