DRAFT

STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	**4/28/04**	Bill No:	**AB 2846**
Tax:	**Property**	Author:	**Salinas**
Board Position:		Related Bills:	

BILL SUMMARY

This bill would specify that when valuing properties financed with low-income housing tax credits using the income approach to value, the benefit of the tax credits is not to be considered income.

Summary of Amendments

The amendments to the bill since the prior analysis clarify that its provisions apply to projects receiving federal and/or state income tax credits.

Current Law

Revenue and Taxation Code Section 402.9 prohibits the assessor, when appraising rental housing for persons of low and moderate income that was financed under Section 236 or Section 515 of the federal Housing Act, under the income method of appraisal, from considering as income certain subsidy payments made by the federal government to a lender that financed that property.

Proposed Law

This bill would add Section 402.95 to the Revenue and Taxation Code to expressly prohibit the assessor, when appraising any property under the income method of appraisal, from considering as income the benefit of federal and state low-income housing tax credits allocated by the California Tax Credit Allocation Committee pursuant to Section 42 of the Internal Revenue Code and Sections 12206, 17058, and 23610.5 of the Revenue and Taxation Code.

In General

Investors purchase or develop low-income housing projects in anticipation of periodic monetary benefits. That is to say, investors are motivated by the expectation that their financial rewards, including income tax credits, will significantly outpace their operating expenses. Since low-income properties are acquired in anticipation of monetary income, and since these properties have restrictions on resale which effectively limit the availability of reliable sales data for comparable properties, the income method of appraising is preferred by property tax assessors.

The Low Income Housing Tax Credit program, put in place by the Tax Reform Act of 1986, is intended to provide incentives for private investment in housing for low-income families. Under the program, low-income housing projects developed after 1986 may be awarded tax credits in amounts up to 9% of the development costs, excluding land.

Each year, the federal government allocates a fixed amount of low-income tax credits to each state. The annual allocation provides a 10-year stream of tax credits in the amount of the annual monetary amount allocated. That is, if a state's allocation of tax credits were $10 million for a given year, that year's allocation would produce 10 years of credits at $10 million per year.

There are two federal tax credit rates—one of approximately 9 percent and another of approximately 4 percent. These credits are commonly called the "9-percent tax credits" and the "4-percent tax credits". The 9-percent tax credits can be used for new construction or major rehabilitation in cases where the project does not receive any other form of federal subsidy. The 4-percent tax credits can be used for new construction or rehabilitation projects that also involve some other form of federal subsidy or for the acquisition costs of improvements that will be rehabilitated.

Shortly after the federal program was enacted, the California Legislature authorized a state low-income housing tax credit to augment the federal program. The state low-income housing tax credit program is codified in several California statutes and accompanying regulations. State low-income housing tax credits can only be used to offset a California State income tax liability.

The state program does not stand alone; rather, it is designed to supplement the federal tax credit program, with state tax credits used to bridge a project's remaining financing gap. State tax credits are available only to projects that also have received federal tax credits. The state program allows limited partners/investors to take the state tax credits over a 4-year period in contrast to the 10-year federal period.

COMMENTS:

1. **Sponsor and Purpose.** This bill is sponsored by the State Controller to provide statewide uniformity in the assessment of low-income housing that receives tax credits.

2. **April 28 Amendments.** The April 28 amendments clarify that the provisions of this bill apply to both federal and state income tax credits.

3. **Low Income and Moderate Income Rental Housing Exemption.** About 60% of the properties receiving income tax credits are already exempt from property tax under the welfare exemption.

4. **Federal and State Credits.** Low income housing tax credits may be used for the acquisition, development, or substantial rehabilitation of low-income, multi-family housing; both federal and state tax credits are available. The California Tax Credit Allocation Committee, a unit of the State Treasurer's Office, allocates each year's available federal and state credits among competing projects based on criteria adopted by the committee.

5. **Income Tax Implications.** The limited partners/investors in a tax credit project receive the credits, which can be used to reduce the investors' income taxes payable on a dollar-for-dollar basis, in exchange for investing equity funds in a project. Tax credit projects are subject to a regulatory agreement that, among other restrictions, limits project rents for a prescribed period.

6. **Current Law is Silent on the Valuation of these Projects.** In practice, some assessors are not aware that low-income housing projects are receiving tax credits, and therefore do not capitalize the income from tax credits. Others value these projects by (1) capitalizing the project's restricted income and (2) adding the present value of the remaining tax credits to the capitalized restricted income value.

7. **Treats tax credits and interest subsidies similarly.** Revenue and Taxation Code Section 402.9 provides that when appraising housing for persons of low and moderate income financed under Section 236 or Section 515 of the Federal Housing Act, interest subsidy payments made by the federal government are not to be included as income. This bill would specify comparable treatment for low and moderate income housing that receives income tax credits.

COST ESTIMATE

The Board would incur insignificant costs (less than $10,000) in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE

To determine the revenue impact of this bill, the Property Tax Department compiled a spreadsheet of the present value of all outstanding Low Income Housing Tax Credits (LIHTC) as of 2003. The present value of outstanding 9% LIHTC amounted to $2.167 billion, the present value of the 4% LIHTC amounted to $1.737 billion, while the present value of State LIHTC amounted to $0.474 billion. The total of all LIHTC amounts to $4.378 billion. However, 60% of these projects are eligible and qualify for the full welfare exemption. Therefore, the value of outstanding LIHTC, affected by this bill, amounts to $1.75 billion ($4.378 billion x 40%). The revenue impact of this bill would amount to at most $17.5 million ($1.75 billion x 1%) in property tax revenue loss.

REVENUE SUMMARY

This bill would exclude $1.75 billion in LIHTC as a factor in the income method of appraisal of property. This would result in a property tax revenue loss of at most $17.5 million annually.

QUALIFYING REMARKS

As noted above, some assessors are not aware that low-income housing projects are receiving tax credits, and therefore do not capitalize the income from tax credits. Consequently, the revenue estimate reflects the loss that would occur if every assessor capitalized the income from tax credits.

Analysis prepared by:	Rose Marie Kinnee	(916) 445-6777	5/03/04
Revenue estimate by:	Bill Benson	(916) 445-0840	
Contact:	Margaret S. Shedd	(916) 322-2376	

ls 2857-2rk.doc