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Revitalizing Downtowns Act S. 2511 (117th Congress)

Tam Nguyen
San Jose State University

MST Students BUS 223A Fall 2021
San Jose State University

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By: Tam Nguyen, MST Student and MST Students in BUS 223A Tax Research, Fall 2021

On July 28, 2021, U.S. Senator Debbie Stabenow (D-MI) introduced the Revitalizing Downtowns Act (S. 2511, 117th Congress), to create the Qualified Office Conversion Tax Credit. This 20 percent credit applies to qualified expenditures related to converting an office building into a residential, retail, or other commercial use property. The COVID-19 pandemic forced businesses to adapt to employees working from home and this shift away from offices is likely to stay. Per sponsor Senator Stabenow: "As our workplaces change because of the COVID-19 crisis, we will see more unused buildings in our downtowns. Converting these buildings to residential and mixed-use properties will benefit families and our cities. Our bill will help with this transition, support the economic growth of our cities, help small businesses and provide people affordable places to live."[1]

The Revitalizing Downtowns Act's name might appear to only apply to buildings within a specific area, but it actually applies to any building that meets specified requirements. These building requirements are as follows:

- Prior to conversion, the building was nonresidential real property that was leased, or available to lease, to office tenants;
- The building was substantially converted from office use to residential, retail, or other commercial use;
- If converted to residential use, the building must meet requirements detailed later in the bill;
- The building was initially placed in service at least 25 years before the beginning of the conversion; and
- Depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

This following section analyzes S. 2511, Revitalizing Downtowns Act, using the twelve principles set out in the AICPA's Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals.[2]

[1] Senator Stabenow, "Senators Stabenow, Peters and Congressman Kildee Introduce New Bill to Invest in Michigan's Downtowns," July 28, 2021; https://www.stabenow.senate.gov/news/senators-stabenow-peters-and-congressman-kildee-introduce-new-bill-to-invest-in-michigans-downtowns.
[2] American Institute of Certified Public Accountants (AICPA) Tax Division. (January 2017). Tax Policy Concept Statement 1 - Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals; available at:

Application of the Principles of Good Tax Policy

Criteria	Does the proposal satisfy the criteria? (explain)	Result
Equity and Fairness – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer's income for different income levels of taxpayers.	Horizontal equity: Taxpayers with similar abilities to pay should pay the same amount of tax. The Revitalizing Downtowns Act proposes a 20 percent tax credit on expenditures for taxpayers that satisfy the requirements of converting an office building to a residential or other commercial use property. The amount of credit provided would be higher or lower depending on how much is spent to convert the office building. For two eligible taxpayers with the same level of income, the benefit of the credit will be the same if spending the same amount on renovations. Therefore, this bill meets the principle of horizontal equity. However, if similar taxpayers engage in building renovations where one building doesn't qualify under the specifics of S. 2511, only the qualified property generates a tax credit. For example, the 25-year use requirement will cause some buildings not to qualify even though the use of the building has changed. Vertical Equity: Vertical equity is satisfied when taxpayers with higher income pay more tax than taxpayers with lower income. There is no cap on the 20 percent tax credit on expenditures allowed by the tax credit. This would allow more affluent taxpayers to likely receive a larger tax credit as they would have more resources to convert their properties. Therefore, this bill does not meet the principle of vertical equity.	-
Certainty – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly.	The proposal clearly states that taxpayers can claim a credit on their tax returns in the tax year expenditures related to converting a qualified office building occur. The tax credit is equal to 20 percent of expenses accumulated toward the office conversion. The bill also includes that more than half of the expenditures must be paid by the taxpayer. If the taxpayer follows the necessary requirements for the credit, they will receive the tax credit when filing their tax return. Therefore, this bill meets the principle of certainty.	+

https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf.

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Convenience of payment – Does the rule result in tax being paid at a time that is convenient for the payor?	A tax payment should be convenient for the taxpayer to pay at a time or in a manner. The more difficult a tax is to pay, the more likely that payment will not happen. The Qualified Office Conversion Tax Credit is a general business credit which may be claimed on a tax return. Taxpayers can estimate the amount of this credit before filing their tax return, so the bill satisfies the convenience principle. If the bill is approved, the IRS would create a new form to input necessary information required of the credit. This bill does not add any extra burden on taxpayers to pay their taxes because it only involves the additional credit which does not affect the due date or methods to pay taxes. The benefit of the credit will not be received until the taxpayers file their tax return but they can estimate its benefit in their estimated tax payments.	**+**
Effective Tax Administration – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers?	This tax credit proposal would have new administration costs such as the IRS writing rules on how this credit is computed, creating new tax forms, and conducting audits to ensure that taxpayers are calculating the credit correctly. These initial costs are incurred with any new proposal and would be minimal after implemented. With a well-drawn up tax form to be submitted with annual tax returns, identifying taxpayers not in compliance would become a routine part of verification of returns. This bill would meet the effective tax administration principle.	**+**
Information Security – Will taxpayer information be protected from both unintended and improper disclosure?	There are no specific reporting requirements to disclose additional personal information for taxpayers to receive this credit. Any personal information would already be provided in the tax return submitted to receive the credit. It is unlikely that this information will be misused due to unintended and improper disclosure. Therefore, this bill meets the principal of information security.	**N/A**
Simplicity – Can taxpayers understand the rule and comply with it correctly and in a cost-efficient manner?	S. 2511 includes many special rules to determine if expenditures or projects qualify for the credit and numerous special definitions. The most complex inclusion in the bill is the requirements for the tax credit when converting the office building to a residential property. The requirements if the building is converted to a residential property is that 20 percent of the units must be rent-restricted and occupied by individuals whose income is 80 percent or less of the area median income. Another requirement is that the building must have been placed in	

	service at least 25 years prior before the conversion begins. Details like this in the proposal makes it complex for taxpayers to ensure they are qualified to receive the tax credit. This complexity reduces confidence that a building owner is eligible and if they meet all the requirements. Therefore, this bill fails to meet the principle of simplicity. Another detail taxpayers need to be cautious of when claiming the tax credit is to not double dip with other similar tax credits. A couple of credits the bill specifically mentions are section 42 (low-income housing credit) and section 47 (rehabilitation credit). Taxpayers will have to be cognizant to not calculate any tax credit for expenditures that are also being allowed under other existing legislation. With all of these factors to consider, this bill does not meet the principle of simplicity.	-
Neutrality – Is the rule unlikely to change taxpayer behavior?	The Revitalizing Downtowns Act will affect a taxpayer's decision about how to utilize their property. The proposal encourages taxpayers to convert their existing office building to a residential, retail, or other commercial use property. This affects decisions on what the property will be converted to. This will deter taxpayers from converting their office building to a school or government office space even if that would be a better use for the property. Therefore, this bill does not meet the principle of neutrality.	-
Economic growth and efficiency – Will the rule not unduly impede or reduce the productive capacity of the economy?	This bill would have a positive impact on growing the economy. As office work transitions to working from home, nearby businesses are missing out on the workers that usually commute past there stores. Whether it be restaurants, gyms, or day cares, businesses are not benefitting from an empty office with no foot traffic towards the stores. Converting these empty office buildings to bring new businesses to the area would bring more customers and stimulate economic activity. Therefore, this bill meets the principle of economic growth and efficiency.	+
Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others?	City officials in areas that believe this bill will benefit their town will likely promote this to eligible taxpayers. As this tax credit mostly benefits big city's downtown areas this is likely not going to be publicized nationwide. Only taxpayers with buildings 25 years or older and inside big metro areas would be able to benefit their local community with this tax credit. With little benefit to other locations there is no guarantee	-

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	this would be a well-known tax credit. Therefore, this bill would not meet the principle of transparency and visibility.	
Minimum tax gap – Is the likelihood of intentional and unintentional non-compliance likely to be low?	The complexity of calculating the correct amount of tax credit could cause unintentional non-compliance. The multiple requirements for existing office buildings to be eligible for conversion could result in taxpayers claiming the credit for office buildings that comply to some but not all of the requirements for the tax credit. The various uses office buildings can convert to have differing requirements to qualify for the credit, such as the residential property and the requirement for a certain amount of low-income occupants. Ensuring that the tax credit is not double dipped with other tax credits can create claiming too much in tax credits. These details that must be carefully complied with makes this bill not meet the principle of minimum tax gap.	-
Accountability to taxpayers – Will taxpayers know the purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule?	This bill aims to ensure efficient use of buildings and enable new businesses to enter high traffic areas. However, taxpayers may be confused why it is limited to old buildings as that can limit several buildings that would be beneficial to also convert. A downtown area might only have a small number of old buildings, leaving many office buildings still empty after the migration to work from home. Also, this tax credit is complex and eligible building owners might not pursue the conversion and leave the office buildings as currently constructed. This bill does not meet the principle of accountability to taxpayers as people are unlikely to understand the age and some other qualifications for the credit given the purpose stated by the sponsors.	-
Appropriate government revenues – Will the government be able to determine how much tax revenue will likely be collected and when?	The government would have access to data on taxpayers that have owned and rented out office buildings at certain addresses and for how long. It would be difficult to forecast how many of these taxpayers would convert their office buildings due to this tax credit and how much they would spend to convert these buildings. As there is no cap on how much expenditures can be spent to convert these office buildings, the tax credit could be extremely large for some taxpayers and likely difficult for the government to estimate. Therefore, this bill does not meet the principle of appropriate government revenues.	-

Based on this analysis, the Revitalizing Downtowns Act has a positive rating for the principle of certainty, convenience of payment, effective tax administration, and economic growth and efficiency. Several key principles including equity and fairness, simplicity, neutrality, transparency and visibility, minimum tax gap, accountability to taxpayers, and appropriate government revenues are not met.

Suggestions for improvement (although overall principles of good tax policy are not well met for the proposal):

1. Consider including converting taxpayers' office buildings to government office spaces or schools. This will improve how the proposal meets the principle of neutrality.
2. Adjusted gross income (AGI) limitations can help better meet the principle of vertical equity. For example, if the taxpayer's AGI exceeds a certain threshold, the credit must be reduced. This limitation will allow taxpayers with a lower AGI to receive a higher tax credit and pay less taxes than taxpayers with a higher AGI.

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