

ASSEMBLY BILL

No. 1264

Introduced by Assembly Member Bill Campbell

February 23, 2001

An act to add Section 17052.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, as introduced, Bill Campbell. Taxation: solar energy credits.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorized for taxable years beginning before January 1, 1994, solar energy tax credits against the taxes imposed by those laws, with respect to solar devices for the individual function of the production of electricity installed on premises used for commercial purposes.

This bill would authorize under the Personal Income Tax Law, for taxable years beginning on or after January 1, 2001, and before January 1, 2006, similar solar energy tax credits with respect to those solar devices installed on premises used for residential purposes.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17052.5 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17052.5. (a) For taxable years beginning on or after January
- 4 1, 2001, and before January 1, 2006, there shall be allowed as a

1 credit against the “net tax” (as defined by Section 17039), an
2 amount equal to 75 percent of the cost of a solar energy system
3 installed on premises, used for residential purposes, that are
4 located in California and are owned by the taxpayer during the
5 taxable year. For purposes of taxpayers who lease a solar energy
6 system pursuant to subdivision (j), the tax credit shall apply only
7 to the principal recovery portion of lease payments, as defined in
8 subdivision (l), for the term of the lease not to exceed 10 years, that
9 are made during the taxable year, and to the amounts that are
10 expended on the purchased portion of the solar energy system,
11 including installation charges, during the taxable year.

12 (b) The solar energy tax credit shall be claimed on the state
13 income tax return for the taxable year in which the solar energy
14 system was installed.

15 (c) A taxpayer who claimed the solar energy tax credit in the
16 state income tax return for the taxable year in which the solar
17 energy system was installed may claim the credit in subsequent
18 years for additions to the system or additional systems in the
19 amount prescribed in subdivision (a).

20 (d) For purposes of computing the credit provided by this
21 section, the cost of any solar energy system eligible for the credit
22 shall be reduced by any grant provided by a public entity for that
23 system.

24 (e) The basis of any system for which a credit is allowed shall
25 be reduced by the amount of the credit and the amount of any grant
26 provided by a utility or public agency for the solar energy system.
27 The basis adjustment shall be made for the taxable year for which
28 the credit is allowed.

29 (f) With the exception of a husband and wife, if there is more
30 than one owner of a premises on which a solar energy system is
31 installed, each owner shall be eligible to receive the solar energy
32 tax credit in proportion to his or her ownership interests in the
33 premises. In the case of a husband or wife who files a separate
34 return, the credit may be taken by either or equally divided
35 between them.

36 (g) In the case of a partnership, the solar energy tax credit may
37 be divided between the partners pursuant to a written partnership
38 agreement.

39 (h) In the case where the credit allowed under this section
40 exceeds the “net tax,” the excess may be carried over to reduce the



1 “net tax” in the following year, and succeeding years if necessary,
2 until the credit has been exhausted.

3 (i) No tax credit may be claimed under this section for any
4 expenditures that have been otherwise claimed as a tax credit for
5 the current or any prior taxable year as energy conservation
6 measures under this part.

7 (j) Taxpayers who lease a solar energy system installed on
8 premises in California shall receive a tax credit as provided in
9 subdivision (a), if the lessee can confirm, if necessary, by a written
10 document signed by the lessor that (1) the lessor irrevocably elects
11 not to claim a state tax credit for the solar energy system, and (2)
12 if the system is installed in a locality served by a municipal solar
13 utility, that the lessor holds a valid permit from the municipal solar
14 utility. Leasing requirements may be established by the State
15 Energy Resources Conservation and Development Commission as
16 part of the solar energy system eligibility criteria.

17 (k) The State Energy Resources Conservation and
18 Development Commission shall, after one or more public
19 hearings, establish limits on the eligible costs of solar energy
20 systems in terms of dollars per kilowatt and guidelines and criteria
21 for solar energy systems that are eligible for the credit provided by
22 this section. These guidelines and criteria shall include, but are not
23 limited to, minimum requirements for safety, market readiness,
24 reliability, and durability of solar energy systems. Any solar
25 energy system with a generating capacity in excess of 100
26 kilowatts is eligible for the credit only if the owner of the solar
27 energy system first obtains a finding from the commission that the
28 system is eligible for the credit under the guidelines and criteria
29 established pursuant to this subdivision. Any solar energy system
30 certified by the commission pursuant to Chapter 6 (commencing
31 with Section 25500) of Division 15 of the Public Resources Code
32 shall be deemed eligible for the credit. The Franchise Tax Board
33 shall prescribe those regulations as may be necessary to carry out
34 the purposes of this section.

35 (l) The State Energy Resources Conservation and
36 Development Commission may obtain a claimant’s social security
37 number or taxpayer identification number through its tax credit
38 application and certification process for purposes of identifying a
39 qualifying taxpayer to the Franchise Tax Board. The social



1 security number and identification number so obtained shall be
2 used exclusively for state tax administrative purposes.

3 (m) For purposes of this section, the following definitions shall
4 apply:

5 (1) “Cost” includes equipment, installation charges, and
6 compensation paid to the owner of burdened property in
7 connection with the acquisition of a solar easement, as defined in
8 Section 801.5 of the Civil Code, and the fees for the recording of
9 the easement. In the case of a system that is leased, “cost” means
10 the principal recovery portion of lease payments, which is the cost
11 incurred by the taxpayer in acquiring the solar energy system,
12 excluding interest charges and maintenance expenses.

13 “Cost” does not include interest charges and costs associated
14 with the acquisition of an easement other than a solar easement.

15 “Cost” includes all components to carry out the intended use of
16 the system if they are an integral part of the system.

17 (2) “Installed” means placed in a functionally operative state.

18 (3) “Municipal solar utility” means a city, county, or
19 municipal utility district, or agency thereof, that sells or leases
20 solar or other energy generating equipment or energy saving
21 devices for residential, commercial, agricultural, or industrial uses
22 or that issues permits to companies engaged in the leasing of this
23 equipment.

24 (4) “Owner” includes duly recorded holders of legal title,
25 lessees with at least three years remaining on their lease or
26 easement granting use of the premises, a person purchasing
27 premises under a contract of sale, or who holds shares or
28 membership in a cooperative housing corporation, the holding of
29 which is a requisite to the exclusive right of occupancy to the
30 premises, a person who is a member of a nonprofit corporation or
31 association that is a lessee with at least three years remaining on
32 its lease.

33 (5) “Premises” means the principal stationary location in
34 California where the system is installed for direct use or for
35 purposes of sale of energy, and includes land, easements, and
36 buildings or portions thereof.

37 (6) “Residential purposes” means the installation of solar
38 energy systems on single-family dwellings.

39 (7) “Single-family dwelling” means single-family residences,
40 mobilehomes, and the individual units of condominiums.



1 “Single-family dwelling” does not include cooperatives,
2 apartment buildings, or other similar multiple dwellings,
3 including buildings and any other common areas of a
4 condominium maintained by a homeowners’ association.

5 (8) “Solar device” means the equipment associated with the
6 collection, conversion, transfer, distribution, storage, or control of
7 solar energy. In the case of a solar device associated with two or
8 more solar energy systems, the credit allowed for the solar device
9 may be taken for any one of the systems, or divided equally
10 between them.

11 (9) (A) “Solar energy system” means the use of solar devices
12 designed or intended for the individual function of production of
13 electricity in excess of 30 watts per device.

14 “Solar energy system” includes, but is not limited to, solar
15 thermal electric systems and photovoltaic systems.

16 For purposes of this section, “solar energy system” does not
17 include solar devices for the individual function of wind energy for
18 the production of electricity or mechanical work.

19 (B) Eligible solar energy systems shall have a useful life of not
20 less than five years.

21 (n) This section shall remain in effect only until December 1,
22 2006, and as of that date is repealed.

23 (o) Notwithstanding subdivision (a) and paragraph (1) of
24 subdivision (b), a taxpayer who, on or before the end of a taxable
25 year, has commenced construction, or made expenditures,
26 associated with the installation of a solar energy system, shall be
27 eligible in that taxable year for the tax credit to the extent of the
28 cost paid or incurred during that taxable year for the construction
29 or expenditures for which a credit is otherwise allowable by this
30 section, if the installation is completed on or before the end of the
31 sixth month of the taxpayer’s next taxable year.

32 SEC. 2. This act provides for a tax levy within the meaning of
33 Article IV of the Constitution and shall go into immediate effect.

