

ASSEMBLY BILL

No. 30

Introduced by Assembly Member Charles Calderon

September 5, 2008

An act to amend Sections 17681 and 24831 of, and to repeal Sections 17052.8, 17681.6, 23604, and 24831.6 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as introduced, Charles Calderon. Income and corporation taxes: oil producers.

The Personal Income Tax Law and the Corporation Tax Law allow various deductions and credits in computing the income that is subject to the taxes imposed by those laws, including deductions for percentage depletion and credits for enhanced oil recovery.

This bill would disallow those deductions and credits for taxpayers engaged in the business of oil production.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 10, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 10, 2008, pursuant to the California Constitution.

This bill would take effect immediately as a tax levy.

Vote: 2/3. 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 17052.8 of the Revenue and Taxation
2 Code is repealed.

3 17052.8. For each taxable year beginning on or after January
4 1, 1996, there shall be allowed as a credit against the “net tax” (as
5 defined by Section 17039) an amount determined as follows:

6 (a) ~~(1) (A) The amount of the credit shall be equal to one-third~~
7 ~~of the federal credit computed in accordance with Section 43 of~~
8 ~~the Internal Revenue Code.~~

9 (B) If a taxpayer elects, under Section 43(e) of the Internal
10 Revenue Code, not to apply Section 43 for federal tax purposes,
11 this election is binding and irrevocable for state purposes, and for
12 purposes of subparagraph (A), the federal credit shall be zero.

13 (2) “Qualified enhanced oil recovery project” shall include only
14 projects located within California.

15 (3) The credit allowed under this subdivision shall not be
16 allowed to any taxpayer for whom a depletion allowance is not
17 permitted to be computed under Section 613 of the Internal
18 Revenue Code by reason of paragraphs (2), (3), or (4) of subsection
19 (d) of Section 613A of the Internal Revenue Code.

20 (b) Section 43(d) of the Internal Revenue Code shall apply.

21 (e) In the case where the credit allowed by this section exceeds
22 the “net tax,” the excess may be carried over to reduce the “net
23 tax” for the succeeding 15 years.

24 (d) In the case where property which qualifies as part of the
25 taxpayer’s “qualified enhanced oil recovery costs” also qualifies
26 for a credit under any other section in this part, the taxpayer shall
27 make an election on its original return as to which section applies
28 to all costs allocable to that item of qualified property. Any election
29 made under this section, and any specification contained in that
30 election, may not be revoked except with the consent of the
31 Franchise Tax Board.

32 (e) No deduction shall be allowed as otherwise provided in this
33 part for that portion of any costs paid or incurred for the taxable

1 year which is equal to the amount of the credit allowed under this
2 section attributable to those costs.

3 (f) ~~The basis of any property for which a credit is allowed under
4 this section shall be reduced by the amount of the credit attributable
5 to the property. The basis adjustment shall be made for the taxable
6 year for which the credit is allowed.~~

7 (g) ~~No credit may be claimed under this section with respect to
8 any amount for which any other credit has been claimed under this
9 part.~~

10 SEC. 2. Section 17681 of the Revenue and Taxation Code is
11 amended to read:

12 17681. (a) Subchapter I of Chapter 1 of Subtitle A of the
13 Internal Revenue Code, relating to natural resources, shall apply,
14 except as otherwise provided.

15 (b) *This section shall not apply to any trade or business engaged
16 in the business of oil production.*

17 SEC. 3. Section 17681.6 of the Revenue and Taxation Code
18 is repealed.

19 ~~17681.6. Section 613A(c)(6)(H) of the Internal Revenue Code,
20 relating to temporary suspension of taxable income limit with
21 respect to marginal production, shall not apply.~~

22 SEC. 4. Section 23604 of the Revenue and Taxation Code is
23 repealed.

24 ~~23604. For each taxable year beginning on or after January 1,
25 1996, there shall be allowed as a credit against the "tax" (as defined
26 by Section 23036) an amount determined as follows:~~

27 (a) (1) (A) ~~The amount of the credit shall be equal to one-third
28 of the federal credit computed in accordance with Section 43 of
29 the Internal Revenue Code.~~

30 (B) ~~If a taxpayer elects, under Section 43(e) of the Internal
31 Revenue Code, not to apply Section 43 for federal tax purposes,
32 this election is binding and irrevocable for state purposes, and for
33 purposes of subparagraph (A), the federal credit shall be zero.~~

34 (2) ~~"Qualified enhanced oil recovery project" shall include only
35 projects located within California.~~

36 (3) ~~The credit allowed under this subdivision shall not be
37 allowed to any taxpayer for whom a depletion allowance is not
38 permitted to be computed under Section 613 of the Internal
39 Revenue Code by reason of paragraphs (2), (3), or (4) of subsection
40 (d) of Section 613A of the Internal Revenue Code.~~

1 ~~(b) Section 43(d) of the Internal Revenue Code shall apply.~~

2 ~~(c) In the case where the credit allowed by this section exceeds~~
 3 ~~the “tax,” the excess may be carried over to reduce the “tax” for~~
 4 ~~the succeeding 15 years.~~

5 ~~(d) In the case where property which qualifies as part of the~~
 6 ~~taxpayer’s “qualified enhanced oil recovery costs” also qualifies~~
 7 ~~for a credit under any other section in this part, the taxpayer shall~~
 8 ~~make an election on its original return as to which section applies~~
 9 ~~to all costs allocable to that item of qualified property. Any election~~
 10 ~~made under this section, and any specification contained in that~~
 11 ~~election, may not be revoked except with the consent of the~~
 12 ~~Franchise Tax Board.~~

13 ~~(e) No deduction shall be allowed as otherwise provided in this~~
 14 ~~part for that portion of any costs paid or incurred for the taxable~~
 15 ~~year which is equal to the amount of the credit allowed under this~~
 16 ~~section attributable to those costs.~~

17 ~~(f) The basis of any property for which a credit is allowed under~~
 18 ~~this section shall be reduced by the amount of the credit attributable~~
 19 ~~to the property. The basis adjustment shall be made for the taxable~~
 20 ~~year for which the credit is allowed.~~

21 ~~(g) No credit may be claimed under this section with respect to~~
 22 ~~any amount for which any other credit has been claimed under this~~
 23 ~~part.~~

24 SEC. 5. Section 24831 of the Revenue and Taxation Code is
 25 amended to read:

26 24831. (a) Subchapter I of Chapter 1 of Subtitle A of the
 27 Internal Revenue Code, relating to natural resources, shall apply,
 28 except as otherwise provided.

29 (b) *This section shall not apply to any trade or business engaged*
 30 *in the business of oil production.*

31 SEC. 6. Section 24831.6 of the Revenue and Taxation Code
 32 is repealed.

33 24831.6. Section 613A(e)(6)(H) of the Internal Revenue Code,
 34 relating to temporary suspension of taxable income limit with
 35 respect to marginal production, shall not apply.

36 SEC. 7. This act addresses the fiscal emergency declared by
 37 the Governor by proclamation on January 10, 2008, pursuant to
 38 subdivision (f) of Section 10 of Article IV of the California
 39 Constitution.

1 SEC. 8. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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