

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY MAY 10, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1651

Introduced by Assembly Member Arambula

February 23, 2007

An act to add and repeal Sections 17053.97 and 23665 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1651, as amended, Arambula. Taxation: tax credits: qualified capital equipment.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, authorize a credit against those taxes for each taxable year beginning on or after January 1, 2008, and before January 1, 2013, in an amount equal to a specified percentage of the amount paid or incurred *by a qualified taxpayer, as defined*, during the taxable year for qualified capital equipment certified by the California Climate Action Registry or the State Air Resources Board to result in measurable reductions in greenhouse gases, *as specified*.

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 17053.97 is added to the Revenue and
2 Taxation Code, to read:

3 17053.97. (a) For taxable years beginning on or after January
4 1, 2008, and ~~ending~~ before January 1, 2013, there shall be allowed
5 as a credit against the “net tax,” as defined in Section 17039, to a
6 qualified taxpayer an amount as provided in subdivision (b) for
7 the qualified costs paid or incurred for qualified capital equipment
8 placed in service in this state.

9 (b) The credit allowed by subdivision (a) shall be in an amount
10 as follows:

11 (1) For taxable years beginning on or after January 1, 2008, and
12 before January 1, 2010, 15 percent of the qualified costs.

13 (2) For taxable years beginning on or after January 1, 2010, and
14 before January 1, 2012, 8 percent of the qualified costs.

15 (3) For taxable years beginning on or after January 1, 2012, and
16 before January 1, 2013, 3 percent of the qualified costs.

17 (c) For purposes of this section:

18 (1) “Capitalized labor costs” means costs for labor directly
19 allocable to the construction or installation of qualified capital
20 property that is properly charged to the capital account of the
21 taxpayer.

22 (2) “Eligible greenhouse gas reduction” means a measurable
23 reduction in the greenhouse gas emissions of the facility in which
24 the qualified capital equipment is placed in service and maintained,
25 beyond the reductions in the qualified taxpayer’s greenhouse gas
26 ~~emission~~ *emissions* of that facility as required by law.

27 (3) “Greenhouse gas” has the same meaning as defined in
28 Section 38505 of the Health and Safety Code.

29 (4) *“Measurable reduction in the greenhouse gas emissions”*
30 *means a reduction in the greenhouse gas emissions of the facility*
31 *by more than 5 percent, as certified by either the California*
32 *Climate Registry or the State Air Resources Board.*

33 ~~(4)~~

34 (5) “Purchase” means any transaction that is treated as a sale
35 under Part 1 (commencing with Section 6001) of Division 2.

36 ~~(5)~~

37 (6) “Qualified capital equipment” means equipment that meets
38 all of the following requirements:

1 (A) Is tangible personal property as defined in Section
2 1245(a)(3)(A) of the Internal Revenue Code.

3 (B) Is newly constructed or fabricated and not reconstructed or
4 refabricated.

5 (C) Is used exclusively in California by the qualified taxpayer
6 who first placed the equipment in service.

7 (D) Is certified by the California Climate Action Registry or
8 the State Air Resources Board that it has been placed in service
9 and is operational.

10 (E) Is certified by the California Climate Action Registry or the
11 State Air Resources Board that its operation will result in
12 measurable reductions in greenhouse *gas* emissions.

13 (F) Produces an eligible greenhouse gas reduction.

14 (G) The original use of the equipment commences with the
15 qualified taxpayer.

16 ~~(6)~~

17 (7) “Qualified cost” means any ~~costs~~ *cost* that satisfies all of
18 the following conditions:

19 (A) Is a cost paid or incurred on or after January 1, 2008, and
20 before January 1, 2013, for the construction or purchase, including,
21 installation costs, of qualified capital equipment during the taxable
22 year.

23 (B) Is an amount, other than capitalized labor costs, upon which
24 the qualified taxpayer has paid, directly or indirectly, as a
25 separately stated contract amount or as determined from the records
26 of the taxpayer, sales or use tax imposed under Part 1 (commencing
27 with Section 6001) of Division 2.

28 (C) Is properly charged to the capital account of the taxpayer.

29 ~~(7) “Qualified taxpayer” means a taxpayer who reports their
30 greenhouse gas emissions, either on a voluntary or mandatory
31 basis, to the California Climate Action Registry or the State Air
32 Resources Board.~~

33 (8) “Qualified taxpayer” means a taxpayer that satisfies all of
34 the following requirements:

35 (A) Has fewer than 150 employees, including the employees of
36 any of the taxpayer’s affiliate.

37 (B) Its total average annual gross receipts over the last three
38 taxable years are ten million dollars (\$10,000,000) or less.

39 (C) Reports its greenhouse gas emissions, either on a voluntary
40 or a mandatory basis, to the California Climate Action Registry

1 or the State Air Resources Board. A taxpayer that reports
 2 voluntarily must do so pursuant to procedures and guidelines
 3 prescribed by the State Air Resources Board or the California
 4 Climate Action Registry, as applicable.

5 (d) For qualified capital equipment that produces measurable
 6 reductions in greenhouse gas emissions as both required by law
 7 and beyond those requirements, the amount of the credit allowed
 8 by this section is limited to an amount in excess of standard costs
 9 for equipment required to meet existing *emissions* law or
 10 regulations. The State Air Resources Board shall promulgate a
 11 ~~rule or regulation~~ *rules or regulations* necessary to establish a
 12 standard cost for equipment that meets existing *emissions*
 13 requirements, whether in law or by regulation.

14 (e) In the case where the credit allowed by this section exceeds
 15 the “net tax,” the excess may be carried over to reduce the “net
 16 tax” in the following year, and the succeeding seven years if
 17 necessary, until the credit is exhausted.

18 (f) This section shall remain in effect only until December 1,
 19 2013, unless a later enacted statute, which is enacted before
 20 December 1, 2013, deletes or extends that date.

21 SEC. 2. Section 23665 is added to the Revenue and Taxation
 22 Code, to read:

23 23665. (a) For taxable years beginning on or after January 1,
 24 2008, and ~~ending~~ before January 1, 2013, there shall be allowed
 25 as a credit against the “tax,” as defined in Section 23036, to a
 26 qualified taxpayer an amount as provided in subdivision (b) for
 27 the qualified costs paid or incurred for qualified capital equipment
 28 placed in service in this state.

29 (b) The credit allowed by subdivision (a) shall be in an amount
 30 as follows:

31 (1) For taxable years beginning on or after January 1, 2008, and
 32 before January 1, 2010, 15 percent of the qualified costs.

33 (2) For taxable years beginning on or after January 1, 2010, and
 34 before January 1, 2012, 8 percent of the qualified costs.

35 (3) For taxable years beginning on or after January 1, 2012, and
 36 before January 1, 2013, 3 percent of the qualified costs.

37 (c) For purposes of this section:

38 (1) “Capitalized labor costs” means costs for labor directly
 39 allocable to the construction or installation of qualified capital

1 property that is properly charged to the capital account of the
2 taxpayer.

3 (2) “Eligible greenhouse gas reduction” means a measurable
4 reduction in the greenhouse gas emissions of the facility in which
5 the qualified capital equipment is placed in service and maintained,
6 beyond the reductions in the qualified taxpayer’s greenhouse gas
7 ~~emission~~ *emissions* of that facility as required by law.

8 (3) “Greenhouse gas” has the same meaning as defined in
9 Section 38505 of the Health and Safety Code.

10 (4) *“Measurable reduction in the greenhouse gas emissions”*
11 *means a reduction in the greenhouse gas emissions of the facility*
12 *by more than 5 percent, as certified by either the California*
13 *Climate Registry or the State Air Resources Board.*

14 ~~(4)~~

15 (5) “Purchase” means any transaction that is treated as a sale
16 under Part 1 (commencing with Section 6001) of Division 2.

17 ~~(5)~~

18 (6) “Qualified capital equipment” means equipment that meets
19 all of the following requirements:

20 (A) Is tangible personal property as defined in Section
21 1245(a)(3)(A) of the Internal Revenue Code.

22 (B) Is newly constructed or fabricated and not reconstructed or
23 refabricated.

24 (C) Is used exclusively in California by the qualified taxpayer
25 who first placed the equipment in service.

26 (D) Is certified by the California Climate Action Registry or
27 the State Air Resources Board that it has been placed in service
28 and is operational.

29 (E) Is certified by the California Climate Action Registry or the
30 State Air Resources Board that its operation will result in
31 measurable reductions in greenhouse *gas* emissions.

32 (F) Produces an eligible greenhouse gas reduction.

33 (G) The original use of the equipment commences with the
34 qualified taxpayer.

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36 (7) “Qualified cost” means ~~any-costs~~ *cost* that satisfies all of
37 the following conditions:

38 (A) Is a cost paid or incurred on or after January 1, 2008, and
39 before January 1, 2013, for the construction or purchase, including,

1 installation costs, of qualified capital equipment during the taxable
 2 year.

3 (B) Is an amount, other than capitalized labor costs, upon which
 4 the qualified taxpayer has paid, directly or indirectly, as a
 5 separately stated contract amount or as determined from the records
 6 of the taxpayer, sales or use tax imposed under Part 1 (commencing
 7 with Section 6001) of Division 2.

8 (C) Is properly charged to the capital account of the taxpayer.

9 ~~(7) “Qualified taxpayer” means a taxpayer who reports their
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 11 basis, to the California Climate Action Registry or the State Air
 12 Resources Board.~~

13 (8) *“Qualified taxpayer” means a taxpayer that satisfies all of
 14 the following requirements:*

15 (A) *Has fewer than 150 employees, including the employees of
 16 any of the taxpayer’s affiliate.*

17 (B) *Its total average annual gross receipts over the last three
 18 taxable years are ten million dollars (\$10,000,000) or less.*

19 (C) *Reports its greenhouse gas emissions, either on a voluntary
 20 or a mandatory basis, to the California Climate Action Registry
 21 or the State Air Resources Board. A taxpayer that reports
 22 voluntarily must do so pursuant to procedures and guidelines
 23 prescribed by the State Air Resources Board or the California
 24 Climate Action Registry, as applicable.*

25 (d) For qualified capital equipment that produces measurable
 26 reductions in greenhouse gas emissions as both required by law
 27 and beyond those requirements, the amount of the credit allowed
 28 by this section is limited to an amount in excess of standard costs
 29 for equipment required to meet existing *emissions* law or
 30 regulations. The State Air Resources Board shall promulgate ~~a~~
 31 ~~rule or regulation~~ *rules or regulations* necessary to establish a
 32 standard cost for equipment that meets existing *emissions*
 33 requirements, whether in law or by regulation.

34 (e) In the case where the credit allowed by this section exceeds
 35 the “tax,” the excess may be carried over to reduce the “tax” in
 36 the following year, and the succeeding seven years if necessary,
 37 until the credit is exhausted.

38 (f) This section shall remain in effect only until December 1,
 39 2013, unless a later enacted statute, which is enacted before
 40 December 1, 2013, deletes or extends that date.

1 SEC. 3. This act provides for a tax levy within the meaning
2 of Article IV of the Constitution and shall go into immediate effect.

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