

**ASSEMBLY BILL**

**No. 340**

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**Introduced by Assembly Member Knight**

February 18, 2009

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An act to add Sections 17053.80 and 23623 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 340, as introduced, Knight. Income taxes: credits: hiring credit. The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, for taxable years beginning on and after January 1, 2009, authorize a credit to a qualified taxpayer equal to 5% of the wages of all qualified employees, as defined, employed by the qualified taxpayer during the taxable year.

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 17053.80 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.80. (a) For each taxable year beginning on or after
- 4 January 1, 2009, there shall be allowed a credit against the "net
- 5 tax," as defined in Section 17039, equal to 5 percent of the wages
- 6 of all qualified employees employed during the taxable year by a
- 7 qualified employer.

1 (b) For purposes of this section, “qualified employee” means  
 2 an employee who is employed by the taxpayer and is a resident of  
 3 California.

4 (c) In the case where the credit allowed under this section  
 5 exceeds the “net tax,” the excess may be carried over to reduce  
 6 the “net tax” in the following year, and succeeding years if  
 7 necessary, until the credit has been exhausted.

8 (d) Any deduction otherwise allowed under this part for qualified  
 9 wages shall not be reduced by the amount of the credit allowed  
 10 under this section.

11 (e) For purposes of this section:

12 (1) (A) All employees of all corporations that are members of  
 13 the same controlled group of corporations shall be treated as  
 14 employed by a single taxpayer.

15 (B) For purposes of this paragraph, “controlled group of  
 16 corporations” has the same meaning as provided in Section 1563(a)  
 17 of the Internal Revenue Code, except that both of the following  
 18 apply:

19 (i) “More than 50 percent” shall be substituted for “at least 80  
 20 percent” each place it appears in Section 1563(a)(1) of the Internal  
 21 Revenue Code.

22 (ii) Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal  
 23 Revenue Code shall not apply.

24 (2) The Franchise Tax Board may prescribe appropriate  
 25 regulations to carry out the purposes of this paragraph, including  
 26 any regulations necessary to avoid the application of this paragraph  
 27 through split-ups, shell corporations, partnerships, tiered ownership  
 28 structures, or otherwise.

29 SEC. 2. Section 23623 is added to the Revenue and Taxation  
 30 Code, to read:

31 23623. (a) For each taxable year beginning on or after January  
 32 1, 2009, there shall be allowed a credit against the “tax,” as defined  
 33 in Section 23036, of 5 percent of the wages of a qualified employee  
 34 employed during the taxable year by a qualified employer.

35 (b) For purposes of this section, “qualified employee” means  
 36 an employee who is employed by the taxpayer and is a resident of  
 37 California.

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

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

3 (d) Any deduction otherwise allowed under this part for qualified  
4 wages shall not be reduced by the amount of the credit allowed  
5 under this section.

6 (e) For purposes of this section:

7 (1) (A) All employees of all corporations that are members of  
8 the same controlled group of corporations shall be treated as  
9 employed by a single taxpayer.

10 (B) For purposes of this paragraph, “controlled group of  
11 corporations” has the same meaning as provided in Section 1563(a)  
12 of the Internal Revenue Code, except that both of the following  
13 apply:

14 (i) “More than 50 percent” shall be substituted for “at least 80  
15 percent” each place it appears in Section 1563(a)(1) of the Internal  
16 Revenue Code.

17 (ii) Sections 1563(a)(4) and 1563(e)(3)(C) of the Internal  
18 Revenue Code shall not apply.

19 (2) The Franchise Tax Board may prescribe appropriate  
20 regulations to carry out the purposes of this paragraph, including  
21 any regulations necessary to avoid the application of this paragraph  
22 through split-ups, shell corporations, partnerships, tiered ownership  
23 structures, or otherwise.

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