

AMENDED IN ASSEMBLY MARCH 24, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 340

Introduced by Assembly Member Knight

February 18, 2009

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 amended, 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, *under both laws*, 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 employer of either \$3,000 or \$5,000, as specified, for each qualified employees employee, as defined, employed by the qualified taxpayer employer 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) (1) For each taxable year beginning on or after
- 4 January 1, 2009, there shall be allowed as a credit against the "net
- 5 tax," as defined in Section 17039, equal to 5 percent of the wages
- 6 of all an amount as specified in paragraph (2) per each qualified

1 employees *employee* employed during the taxable year by a
2 qualified employer.

3 (2) *The credit allowed by paragraph (1) shall be equal to three*
4 *thousand dollars (\$3,000), or if the wage of the qualified employee*
5 *for which a tax credit authorized pursuant to this section is claimed*
6 *is 200 percent or more than the average wage in the county in*
7 *which the qualified employee is located, five thousand dollars*
8 *(\$5,000).*

9 ~~(b) For purposes of this section, “qualified employee” means~~
10 ~~an employee who is employed by the taxpayer and is a resident of~~
11 ~~California.~~

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

16 ~~(d) Any deduction otherwise allowed under this part for qualified~~
17 ~~wages shall not be reduced by the amount of the credit allowed~~
18 ~~under this section.~~

19 ~~(e) For purposes of this section:~~

20 ~~(1) (A) All employees of all corporations that are members of~~
21 ~~the same~~

22 ~~(b) For purposes of this section:~~

23 ~~(1) “Headquarters” means the principal central administrative~~
24 ~~office in California of a qualified employer that employs 30 or~~
25 ~~more qualified employees at that office.~~

26 ~~(2) “Qualified employee” means an employee who is a resident~~
27 ~~of California that is employed by the qualified employer on a~~
28 ~~qualified job.~~

29 ~~(3) “Qualified employer” means a taxpayer that is a person~~
30 ~~engaged in a trade or business within California that has either~~
31 ~~established a headquarters within California or relocated a~~
32 ~~headquarters to California.~~

33 ~~(4) “Qualified job” means employment located at the qualified~~
34 ~~employer’s headquarters that is full-time employment, as defined~~
35 ~~by law and regulation, and that pays wages that equal or exceed~~
36 ~~the average wage in the county in which the headquarters are~~
37 ~~located.~~

38 ~~(5) (A) An employee of a corporation that is a member of a~~
39 ~~controlled group of corporations shall be treated as employed by~~
40 ~~a single taxpayer.~~

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

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

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

10 ~~(2)~~

11 (6) The Franchise Tax Board may prescribe appropriate
12 regulations to carry out the purposes of this ~~paragraph~~ *section*,
13 including any regulations necessary to avoid the application of
14 this paragraph through split-ups, shell corporations, partnerships,
15 tiered ownership structures, or otherwise.

16 (c) *The credit authorized by this section shall be available to a
17 qualified employer for the first taxable year in which the qualified
18 employer’s headquarters are established within, or relocated to,
19 California, and the succeeding taxable year.*

20 (d) *In the case where the credit allowed under this section
21 exceeds the “net tax,” the excess may be carried over to reduce
22 the “net tax” in the following year, and the succeeding 10 years
23 if necessary, until the credit has been exhausted.*

24 (e) *Any deduction otherwise allowed under this part for qualified
25 wages shall not be reduced by the amount of the credit allowed
26 under this section.*

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

29 23623. (a) (1) For each taxable year beginning on or after
30 January 1, 2009, there shall be allowed as a credit against the “tax,”
31 as defined in Section 23036, ~~of 5 percent of the wages of a~~ *an*
32 *amount as specified in paragraph (2) per each* qualified employee
33 employed during the taxable year by a qualified employer.

34 (2) *The credit allowed by paragraph (1) shall not be equal to*
35 *three thousand dollars (\$3,000) or, if the average wage of the*
36 *qualified employee for which a tax credit authorized pursuant to*
37 *this section is claimed is 200 percent or more than the average*
38 *wage in the county in which the qualified employee is located, five*
39 *thousand dollars (\$5,000).*

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 ~~(e) In the case where the credit allowed under this section~~
5 ~~exceeds the “tax,” the excess may be carried over to reduce the~~
6 ~~“tax” in the following year, and succeeding years if necessary,~~
7 ~~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~~

14 ~~(b) For purposes of this section:~~

15 ~~(1) “Headquarters” means the principal central administrative~~
16 ~~office in California of a qualified employer that employs 30 or~~
17 ~~more qualified employees at that office.~~

18 ~~(2) “Qualified employee” means an employee who is a resident~~
19 ~~of California that is employed by the qualified employer on a~~
20 ~~qualified job.~~

21 ~~(3) “Qualified employer” means a taxpayer that is a person~~
22 ~~engaged in a trade or business within California that has either~~
23 ~~established its headquarters within California or relocated its~~
24 ~~headquarters to California.~~

25 ~~(4) “Qualified job” means employment located at the qualified~~
26 ~~employer’s headquarters that is full-time employment, as defined~~
27 ~~by law and regulation, and that pays wages that equal or exceed~~
28 ~~the average wage of the county in which the headquarters are~~
29 ~~located.~~

30 ~~(5) (A) An employee of a corporation that is a member of a~~
31 ~~controlled group of corporations shall be treated as employed by~~
32 ~~a single taxpayer.~~

33 ~~(B) For purposes of this paragraph, “controlled group of~~
34 ~~corporations” has the same meaning as provided in Section 1563(a)~~
35 ~~of the Internal Revenue Code, except that both of the following~~
36 ~~apply:~~

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

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

3 ~~(2)~~

4 (6) The Franchise Tax Board may prescribe appropriate
5 regulations to carry out the purposes of this ~~paragraph~~ *section*,
6 including any regulations necessary to avoid the application of
7 this paragraph through split-ups, shell corporations, partnerships,
8 tiered ownership structures, or otherwise.

9 *(c) The credit authorized by this section shall be available to a*
10 *qualified employer for the first taxable year in which the qualified*
11 *employer's headquarters are established within, or relocated to,*
12 *California, and the succeeding taxable year.*

13 *(d) In the case where the credit allowed under this section*
14 *exceeds the "tax," the excess may be carried over to reduce the*
15 *"tax" in the following year, and the succeeding 10 years if*
16 *necessary, until the credit has been exhausted.*

17 *(e) Any deduction otherwise allowed under this part for qualified*
18 *wages shall not be reduced by the amount of the credit allowed*
19 *under this section.*

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