

AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY MAY 12, 2009

AMENDED IN ASSEMBLY MARCH 24, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 340**

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**Introduced by Assembly Member Knight**

February 18, 2009

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An act to add and repeal Sections 17053.81 and 23623.2 of 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~~ 2010, and before January 1, ~~2013~~ 2014, authorize a credit to a qualified employer of either \$3,000 or \$5,000, as specified, for each qualified employee, as defined, employed by the qualified 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 17053.81 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.81. (a) (1) For each taxable year beginning on or after  
 2 January 1, ~~2009~~ 2010, and before January 1, ~~2013~~ 2014, there shall  
 3 be allowed as a credit against the “net tax,” as defined in Section  
 4 17039, an amount as specified in paragraph (2) per each qualified  
 5 employee employed during the taxable year by a qualified  
 6 employer.

7 (2) The credit allowed by paragraph (1) shall be equal to three  
 8 thousand dollars (\$3,000), or if the wage of the qualified employee  
 9 for which a tax credit authorized pursuant to this section is claimed  
 10 is 200 percent or more than the average wage in the county in  
 11 which the qualified employee completes ~~a majority, or at least 50~~  
 12 ~~percent, at least 50 percent~~ of his or her work, five thousand dollars  
 13 (\$5,000).

14 (b) For purposes of this section:

15 (1) “Average wage” means the wage average of each county,  
 16 as determined by the Employment Development Department.

17 (2) “Headquarters” means the principal ~~administrative~~  
 18 *administrative* office in California of a qualified employer that  
 19 employs 30 or more qualified employees at that office.

20 (3) “Qualified employee” means an employee who was paid  
 21 qualified wages by the qualified employer for services rendered  
 22 for not less than an average of 35 hours per week *and not less than*  
 23 *1700 hours per annum.*

24 (4) “Qualified employer” means a taxpayer that is a person  
 25 engaged in a trade or business within California that, *on or after*  
 26 *January 1, 2010*, has either established a headquarters within  
 27 California or relocated a headquarters to California, and, as of the  
 28 last day of the preceding taxable year, employed a total of 30 or  
 29 more employees *who are located in California.*

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

35 (6)

36 (5) “Qualified wages” means the amount of wages subject to  
 37 Chapter 6 (commencing with Section 13000) of Part 6 of Division  
 38 6 of the Unemployment Insurance Code.

1 ~~(7) (A) An employee of a corporation that is a member of a~~  
2 ~~controlled group of corporations shall be treated as employed by~~  
3 ~~a single taxpayer.~~

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

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

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

13 ~~(8)~~

14 (6) The Franchise Tax Board may prescribe appropriate  
15 regulations to carry out the purposes of this section, including any  
16 regulations necessary to prevent the avoidance of the purposes of  
17 this section through split-ups, shell corporations, partnerships,  
18 tiered ownership structures, or otherwise.

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

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

27 (e) The credit allowed by this section shall be in lieu of any  
28 other credit or deduction that the taxpayer may otherwise claim  
29 pursuant to this part with respect to qualified wages.

30 (f) This section shall remain in effect only until December 1,  
31 ~~2013~~ 2014, and as of that date is repealed.

32 SEC. 2. Section 23623.2 is added to the Revenue and Taxation  
33 Code, to read:

34 23623.2. (a) (1) For each taxable year beginning on or after  
35 January 1, ~~2009~~ 2010, and before January 1, ~~2013~~ 2014, there shall  
36 be allowed as a credit against the “tax,” as defined in Section  
37 23036, an amount as specified in paragraph (2) per each qualified  
38 employee employed during the taxable year by a qualified  
39 employer.

1 (2) The credit allowed by paragraph (1) shall be equal to three  
2 thousand dollars (\$3,000) or, if the ~~average~~ wage of the qualified  
3 employee for which a tax credit authorized pursuant to this section  
4 is claimed is 200 percent or more than the average wage in the  
5 county in which the qualified employee completes ~~a majority, or~~  
6 ~~at least 50 percent, at least 50 percent~~ of his or her work, five  
7 thousand dollars (\$5,000).

8 (b) For purposes of this section:

9 (1) “Average wage” means the wage average of each county,  
10 as determined by the Employment Development Department.

11 (2) “Headquarters” means the principal ~~administrative~~  
12 *administrative* office in California of a qualified employer that  
13 employs 30 or more qualified employees at that office.

14 (3) “Qualified employee” means an employee who was paid  
15 qualified wages by the qualified employer for services rendered  
16 for not less than an average of 35 hours per week *and not less than*  
17 *1700 hours per annum*.

18 (4) “Qualified employer” means a taxpayer that is a person  
19 engaged in a trade or business within California that, *on or after*  
20 *January 1, 2010*, has either established its headquarters within  
21 California or relocated its headquarters to California, and, as of  
22 the last day of the preceding taxable year, employed a total of 30  
23 or more employees *who are located in California*.

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

29 ~~(6)~~

30 (5) “Qualified wages” means the amount of wages subject to  
31 Chapter 6 (commencing with Section 13000) of Part 6 of Division  
32 6 of the Unemployment Insurance Code.

33 ~~(7) (A) An employee of a corporation that is a member of a~~  
34 ~~controlled group of corporations shall be treated as employed by~~  
35 ~~a single taxpayer.~~

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

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

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

6 ~~(8)~~

7 (6) The Franchise Tax Board may prescribe appropriate  
8 regulations to carry out the purposes of this section, including any  
9 regulations necessary to prevent the avoidance of the purposes of  
10 this section through split-ups, shell corporations, partnerships,  
11 tiered ownership structures, or otherwise.

12 (c) The credit authorized by this section shall be allowable to a  
13 qualified employer for the first taxable year in which the qualified  
14 employer’s headquarters are established within, or relocated to,  
15 California, and the succeeding taxable year.

16 (d) In the case where the credit allowed under this section  
17 exceeds the “tax,” the excess may be carried over to reduce the  
18 “tax” in the following year, and the succeeding 10 years if  
19 necessary, until the credit has been exhausted.

20 (e) The credit allowed by this section shall be in lieu of any  
21 other credit or deduction that the taxpayer may otherwise claim  
22 pursuant to this part with respect to qualified wages.

23 (f) This section shall remain in effect only until December 1,  
24 ~~2013~~ 2014, and as of that date is repealed.

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