
Introduced by Senator Dutton

February 26, 2009

An act to add Sections 17053.76 and 23622.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as introduced, Dutton. Taxes: credits: qualified employees.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAS, subject to specified criteria.

This bill would, for taxable years beginning on or after January 1, 2009, authorize a hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined.

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 17053.76 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.76. (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, an amount equal to the sum of
- 6 the following percentages of wages paid or incurred by the taxpayer
- 7 during the taxable year to each qualified employee of the taxpayer:

1 (1) Twenty-five percent for each qualified employee employed
2 by the qualified taxpayer for at least 120 hours, but less than 400
3 hours, during the taxable year.

4 (2) Forty percent for each qualified employee employed by the
5 qualified taxpayer for at least 400 hours during the taxable year.

6 (b) The credit under subdivision (a) shall be allowed only with
7 respect to the first six thousand dollars (\$6,000) of wages paid or
8 incurred during the taxable year to each qualified employee.

9 (c) For purposes of this section, all of the following definitions
10 apply:

11 (1) "Qualified employee" means an individual who is any of
12 the following, as documented by the Employment Development
13 Department:

14 (A) A recipient of CalWORKs benefits.

15 (B) A parolee.

16 (C) A veteran, as defined in Section 980 of the Military and
17 Veterans Code.

18 (D) Eligible for receipt of unemployment insurance benefits or
19 currently receiving unemployment insurance benefits.

20 (2) "Qualified taxpayer" means a taxpayer that is a person or
21 entity engaged in a trade or business within California that has its
22 principal office located in California.

23 (d) For purposes of this section the qualified taxpayer shall do
24 both of the following:

25 (1) Obtain a certificate from the Employment Development
26 Department certifying that a qualified employee is employed by
27 the qualified taxpayer.

28 (2) Retain a copy of the certification and provide it upon request
29 to the Franchise Tax Board.

30 (e) (1) For purposes of this section:

31 (A) All employees of trades or businesses, which are not
32 incorporated, that are under common control shall be treated as
33 employed by a single qualified taxpayer.

34 (B) The credit, if any, allowable by this section with respect to
35 each trade or business shall be determined by reference to its
36 proportionate share of the expense of the qualified wages giving
37 rise to the credit, and shall be allocated in that manner.

38 (C) Principles that apply in the case of controlled groups of
39 corporations, as specified in subdivision (e) of Section 23622.9,
40 shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section, other than subdivision (f), for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) Any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g).

(g) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

SEC. 2. Section 23622.9 is added to the Revenue and Taxation Code, to read:

23622.9. (a) For each taxable year beginning on or after January 1, 2009, there shall be allowed a credit against the “tax,” as defined in Section 23036, an amount equal to the sum of the following percentages of wages paid or incurred by the taxpayer during the taxable year to each qualified employee of the taxpayer.

(1) Twenty-five percent for each qualified employee employed by the qualified taxpayer for at least 120 hours, but not less than 400 hours, during the taxable year.

(2) Forty percent for each qualified employee employed by the qualified taxpayer for at least 400 hours during the taxable year.

(b) The credit under subdivision (a) shall be allowed only with respect to the first six thousand dollars (\$6,000) of wages paid or incurred during the taxable year to each qualified employee.

(c) For purposes of this section, all of the following definitions apply:

(1) “Qualified employee” means an individual who is any of the following, as documented by the Employment Development Department:

(A) A recipient of CalWORKs benefits.

1 (B) A parolee.

2 (C) A veteran, as defined in Section 980 of the Military and
3 Veterans Code.

4 (D) Eligible for receipt of unemployment insurance benefits or
5 currently receiving unemployment insurance benefits.

6 (2) “Qualified taxpayer” means a taxpayer that is a person or
7 entity engaged in a trade or business within California that has its
8 principal office located in California.

9 (d) For purposes of this section the qualified taxpayer shall do
10 both of the following:

11 (1) Obtain a certificate from the Employment Development
12 Department certifying that a qualified employee is employed by
13 the qualified taxpayer.

14 (2) Retain a copy of the certification and provide it upon request
15 to the Franchise Tax Board.

16 (e) (1) For purposes of this section:

17 (A) All employees of trades or businesses, which are not
18 incorporated, that are under common control shall be treated as
19 employed by a single qualified taxpayer.

20 (B) The credit, if any, allowable by this section with respect to
21 each trade or business shall be determined by reference to its
22 proportionate share of the expense of the qualified wages giving
23 rise to the credit, and shall be allocated in that manner.

24 (C) Principles that apply in the case of controlled groups of
25 corporations, as specified in subdivision (e) of Section 23622.9,
26 shall apply with respect to determining employment.

27 (2) If an employer acquires the major portion of a trade or
28 business of another employer (hereafter in this paragraph referred
29 to as the “predecessor”) or the major portion of a separate unit of
30 a trade or business of a predecessor, then, for purposes of applying
31 this section, other than subdivision (f), for any calendar year ending
32 after that acquisition, the employment relationship between a
33 qualified employee and an employer shall not be treated as
34 terminated if the employee continues to be employed in that trade
35 or business.

36 (f) Any deduction otherwise allowed under this part for the
37 wages or salaries paid or incurred by the qualified taxpayer upon
38 which the credit is based shall be reduced by the amount of the
39 credit, prior to any reduction required by subdivision (g).

1 (g) In the case where the credit otherwise allowed under this
2 section exceeds the “tax” for the taxable year, that portion of the
3 credit that exceeds the “tax” may be carried over and added to the
4 credit, if any, in succeeding taxable years, until the credit is
5 exhausted. The credit shall be applied first to the earliest taxable
6 years possible.

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

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