

AMENDED IN ASSEMBLY MAY 24, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1339**

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**Introduced by Assembly ~~Member Gorell~~ *Members Gorell and Chesbro***

February 18, 2011

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An act to add and repeal Sections 17053.88 and 23688 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1339, as amended, Gorell. Income tax credits: emergency standby generators.

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

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2012, and before January 1, 2017, in an amount equal to 50% of the amount paid or incurred during the taxable year, *up to \$2,500*, for the purchase and installation of an emergency standby generator, as defined, at a service station, as defined, located in this state. This bill would, if, in any calendar year, the State Air Resources Board or the State Energy Resources Conservation and Development Commission establishes a certification standard for energy efficient or low emission emergency standby generators, limit this credit to emergency standby generators that satisfy that certification standard, as specified. This bill would require the State Air Resources Board or the State Energy Resources Conservation and Development Commission to notify the Franchise Tax Board of the establishment of a certification

standard, as provided, and would require the Franchise Tax Board to post, on its Internet Web site, a notice to taxpayers, as provided.

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. It is the intent of this act to provide an incentive  
2 for a taxpayer that operates a service station to purchase and install  
3 an emergency standby generator at a service station located in this  
4 state in order for the service station to be able to continue to  
5 maintain electrical power to provide services to the public during  
6 power outages.

7 SEC. 2. Section 17053.88 is added to the Revenue and Taxation  
8 Code, to read:

9 17053.88. (a) For each taxable year beginning on or after  
10 January 1, 2012, and before January 1, 2017, there shall be allowed  
11 as a credit against the “net tax,” as defined in Section 17039, an  
12 amount equal to 50 percent of the amount paid or incurred during  
13 the taxable year for the purchase and installation of an emergency  
14 standby generator at a service station located in this state, *not to*  
15 *exceed two thousand five hundred dollars (\$2,500) per emergency*  
16 *standby generator.*

17 (b) For purposes of this section:

18 (1) “Emergency standby generator” means an electrical  
19 generator that is rated by the manufacturer to generate at least 30  
20 kilowatts of electricity and whose sole function is to automatically  
21 provide electric power when electric power from a utility service  
22 is interrupted.

23 (2) “Gross receipts” shall have the same meaning as set forth  
24 in Section 25120.

25 (2)

26 (3) “Service station” means an ~~independently owned and~~  
27 ~~operated~~ establishment that offers for sale or sells to the public,  
28 gasoline or other fuel to power motor vehicles *and is owned by a*  
29 *taxpayer with worldwide gross receipts of less than one million*  
30 *dollars (\$1,000,000) for any taxable year for which the credit*  
31 *authorized by this section is claimed. The gross receipts of any*  
32 *trades or businesses that are treated as related under Section 267,*

1 318, or 707 of the Internal Revenue Code shall be aggregated for  
2 purposes of determining worldwide gross receipts under this  
3 paragraph.

4 (c) The depreciable basis of any emergency standby generator  
5 shall be reduced by the amount of any credit allowable under this  
6 section.

7 (d) (1) If, in any calendar year, the State Air Resources Board  
8 or the State Energy Resources Conservation and Development  
9 Commission establishes a certification standard for energy efficient  
10 or low emission emergency standby generators, the credit allowed  
11 by this section shall be limited, for taxable years beginning on and  
12 after January 1 immediately following the calendar year in which  
13 the certification standard is established, to emergency standby  
14 generators that satisfy that certification standard.

15 (2) The State Air Resources Board or the State Energy Resources  
16 Conservation and Development Commission shall notify the  
17 Franchise Tax Board of the establishment of a certification standard  
18 as specified in paragraph (1), within 10 working days of  
19 establishing that standard.

20 (3) The Franchise Tax Board shall post, on its Internet Web  
21 site, a notice to taxpayers that a certification standard for energy  
22 efficient or low emission emergency standby generators has been  
23 established, and that the credit allowed by this section shall be  
24 limited to emergency standby generators that satisfy that  
25 certification standard.

26 (e) If an emergency standby generator for which a credit is  
27 allowed pursuant to this section is thereafter sold, returned to the  
28 vendor, or otherwise removed from service by the taxpayer within  
29 one year from the date the emergency standby generator was placed  
30 in service, the amount of credit allowed by this section for the  
31 purchase and installation of that emergency standby generator shall  
32 be recaptured by adding that credit amount to the net tax of the  
33 taxpayer for the taxable year in which the emergency standby  
34 generator is sold or removed.

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

39 (g) This section shall remain in effect only until December 1,  
40 2017, and as of that date is repealed.

1 SEC. 3. Section 23688 is added to the Revenue and Taxation  
 2 Code, to read:

3 23688. (a) For each taxable year beginning on or after January  
 4 1, 2012, and before January 1, 2017, there shall be allowed as a  
 5 credit against the “tax,” as defined in Section 23036, an amount  
 6 equal to 50 percent of the amount paid or incurred during the  
 7 taxable year for the purchase and installation of an emergency  
 8 standby generator at a service station located in this state, *not to*  
 9 *exceed two thousand five hundred dollars (\$2,500) per emergency*  
 10 *standby generator.*

11 (b) For purposes of this section:

12 (1) “Emergency standby generator” means an electrical  
 13 generator that is rated by the manufacturer to generate at least 30  
 14 kilowatts of electricity and whose sole function is to automatically  
 15 provide electric power when electric power from a utility service  
 16 is interrupted.

17 (2) “*Gross receipts*” shall have the same meaning as set forth  
 18 in Section 25120.

19 (2)

20 (3) “Service station” means an ~~independently owned and~~  
 21 ~~operated~~ establishment that offers for sale or sells to the public,  
 22 gasoline or other fuel to power motor vehicles *and is owned by a*  
 23 *taxpayer with worldwide gross receipts of less than one million*  
 24 *dollars (\$1,000,000) for any taxable year for which the credit*  
 25 *authorized by this section is claimed. The gross receipts of any*  
 26 *trades or businesses that are treated as related under Section 267,*  
 27 *318, or 707 of the Internal Revenue Code shall be aggregated for*  
 28 *purposes of determining worldwide gross receipts under this*  
 29 *paragraph.*

30 (c) The depreciable basis of any emergency standby generator  
 31 shall be reduced by the amount of any credit allowable under this  
 32 section.

33 (d) (1) If, in any calendar year, the State Air Resources Board  
 34 or the State Energy Resources Conservation and Development  
 35 Commission establishes a certification standard for energy efficient  
 36 or low emission emergency standby generators, the credit allowed  
 37 by this section shall be limited, for taxable years beginning on and  
 38 after January 1 immediately following the calendar year in which  
 39 the certification standard is established, to emergency standby  
 40 generators that satisfy that certification standard.

1 (2) The State Air Resources Board or the State Energy Resources  
2 Conservation and Development Commission shall notify the  
3 Franchise Tax Board of the establishment of a certification standard  
4 as specified in paragraph (1), within 10 working days of  
5 establishing that standard.

6 (3) The Franchise Tax Board shall post, on its Internet Web  
7 site, a notice to taxpayers that a certification standard for energy  
8 efficient or low emission emergency standby generators has been  
9 established, and that the credit allowed by this section shall be  
10 limited to emergency standby generators that satisfy that  
11 certification standard.

12 (e) If an emergency standby generator for which a credit is  
13 allowed pursuant to this section is thereafter sold, returned to the  
14 vendor, or otherwise removed from service by the taxpayer within  
15 one year from the date the emergency standby generator was placed  
16 in service, the amount of credit allowed by this section for the  
17 purchase and installation of that emergency standby generator shall  
18 be recaptured by adding that credit amount to the tax of the  
19 taxpayer for the taxable year in which the emergency standby  
20 generator is sold or removed.

21 (f) In the case where the credit allowed by this section exceeds  
22 the “tax,” the excess may be carried over to reduce the “tax” in  
23 the following year, and the seven succeeding years if necessary,  
24 until the credit is exhausted.

25 (g) This section shall remain in effect only until December 1,  
26 2017, and as of that date is repealed.

27 SEC. 4. This act provides for a tax levy within the meaning  
28 of Article IV of the Constitution and shall go into immediate effect.

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