

**ASSEMBLY BILL**

**No. 6**

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**Introduced by Assembly Member Gorell**

December 3, 2012

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An act to add and repeal Sections 17053.88 and 23689 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 6, as introduced, 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 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

1 maintain electrical power to provide services to the public during  
2 power outages.

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

5 17053.88. (a) For each taxable year beginning on or after  
6 January 1, 2012, and before January 1, 2017, there shall be allowed  
7 as a credit against the “net tax,” as defined in Section 17039, an  
8 amount equal to 50 percent of the amount paid or incurred during  
9 the taxable year for the purchase and installation of an emergency  
10 standby generator at a service station located in this state, not to  
11 exceed two thousand five hundred dollars (\$2,500) per emergency  
12 standby generator.

13 (b) For purposes of this section:

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

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

21 (3) “Service station” means an establishment that offers for sale  
22 or sells to the public, gasoline or other fuel to power motor vehicles  
23 and is owned by a taxpayer with worldwide gross receipts of less  
24 than one million dollars (\$1,000,000) for any taxable year for  
25 which the credit authorized by this section is claimed. The gross  
26 receipts of any trades or businesses that are treated as related under  
27 Section 267, 318, or 707 of the Internal Revenue Code shall be  
28 aggregated for purposes of determining worldwide gross receipts  
29 under this 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) If an emergency standby generator for which a credit is  
34 allowed pursuant to this section is thereafter sold, returned to the  
35 vendor, or otherwise removed from service by the taxpayer within  
36 one year from the date the emergency standby generator was placed  
37 in service, the amount of credit allowed by this section for the  
38 purchase and installation of that emergency standby generator shall  
39 be recaptured by adding that credit amount to the net tax of the

1 taxpayer for the taxable year in which the emergency standby  
2 generator is sold or removed.

3 (e) In the case where the credit allowed by this section exceeds  
4 the “net tax,” the excess may be carried over to reduce the “net  
5 tax” in the following year, and the seven succeeding years if  
6 necessary, until the credit is exhausted.

7 (f) This section shall remain in effect only until December 1,  
8 2017, and as of that date is repealed.

9 SEC. 3. Section 23689 is added to the Revenue and Taxation  
10 Code, to read:

11 23689. (a) For each taxable year beginning on or after January  
12 1, 2012, and before January 1, 2017, there shall be allowed as a  
13 credit against the “tax,” as defined in Section 23036, an amount  
14 equal to 50 percent of the amount paid or incurred during the  
15 taxable year for the purchase and installation of an emergency  
16 standby generator at a service station located in this state, not to  
17 exceed two thousand five hundred dollars (\$2,500) per emergency  
18 standby generator.

19 (b) For purposes of this section:

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

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

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

36 (c) The depreciable basis of any emergency standby generator  
37 shall be reduced by the amount of any credit allowable under this  
38 section.

39 (d) If an emergency standby generator for which a credit is  
40 allowed pursuant to this section is thereafter sold, returned to the

1 vendor, or otherwise removed from service by the taxpayer within  
2 one year from the date the emergency standby generator was placed  
3 in service, the amount of credit allowed by this section for the  
4 purchase and installation of that emergency standby generator shall  
5 be recaptured by adding that credit amount to the tax of the  
6 taxpayer for the taxable year in which the emergency standby  
7 generator is sold or removed.

8 (e) In the case where the credit allowed by this section exceeds  
9 the “tax,” the excess may be carried over to reduce the “tax” in  
10 the following year, and the seven succeeding years if necessary,  
11 until the credit is exhausted.

12 (f) This section shall remain in effect only until December 1,  
13 2017, and as of that date is repealed.

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