

ASSEMBLY BILL

No. 1326

Introduced by Assembly Members Gorell and Bradford

February 22, 2013

An act to add and repeal Sections 6376.6, 17053.83, and 23623.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1326, as introduced, Gorell. Sales and use taxes: exemptions: unmanned aerial vehicle manufacturing: income taxes: credits: hiring.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provides various exemptions from the taxes imposed by that law.

This bill would provide an exemption from those taxes for the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property, as defined, purchased for use in unmanned aerial vehicle manufacturing by a qualified person, as defined. The bill would also exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption of, tangible personal property purchased for use by a contractor, as specified, for a qualified person. The bill would require the purchaser to furnish the retailer with an exemption certificate, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and existing law authorizes districts

to impose transactions and use taxes in accordance with the Transactions and Use Tax Law which conforms to the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated into these laws. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

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

This bill would, under both laws, for taxable years beginning on or after January 1, 2014, and before January 1, 2024, allow a credit in an amount equal to a specified percentage of the qualified wages, as defined, paid or incurred by a taxpayer that manufactures unmanned aerial vehicles with respect to qualified employees, as defined, during the taxable year, not to exceed \$20,000 per year, per qualified employee.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6376.6 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6376.6. (a) On and after January 1, 2014, and before January
- 4 1, 2024, there are exempted from the taxes imposed by this part
- 5 the gross receipts from the sale of, and the storage, use, or other
- 6 consumption in this state of, any of the following:
- 7 (1) Tangible personal property purchased for use in unmanned
- 8 aerial vehicle manufacturing by a qualified person to be used
- 9 primarily in any stage of the manufacturing of property, beginning
- 10 at the point any raw materials are received by the qualified person
- 11 and introduced into the process and ending at the point at which
- 12 the manufacturing has altered property to its completed form,
- 13 including packaging, if required.
- 14 (2) Tangible personal property purchased by a contractor for
- 15 use in the performance of a construction contract for the qualified
- 16 person that will use the qualified tangible personal property as an

1 integral part of the manufacturing process, or as a facility for use
2 in connection with the manufacturing process.

3 (b) For purposes of this section:

4 (1) “Manufacturing” means the activity of converting or
5 conditioning property by changing the form, composition, quality,
6 or character of the property for ultimate sale at retail or use in the
7 manufacturing of a product to be ultimately sold at retail.
8 Manufacturing includes any improvements to tangible personal
9 property that result in a greater service life or greater functionality
10 than that of the original property.

11 (2) “Primarily” means tangible personal property used 50 percent
12 or more of the time in an activity described in subdivision (a).

13 (3) “Process” means the period beginning at the point at which
14 any raw materials are received by the qualified person and
15 introduced into the manufacturing activity of the qualified person
16 and ending at the point at which the manufacturing activity of the
17 qualified person has altered tangible personal property to its
18 completed form, including packaging, if required. Raw materials
19 shall be considered to have been introduced into the process when
20 the raw materials are stored on the same premises where the
21 qualified person’s manufacturing activity is conducted. Raw
22 materials that are stored on premises, other than where the qualified
23 person’s manufacturing activity is conducted, shall not be
24 considered to have been introduced into the manufacturing process.

25 (4) (A) “Qualified person” means a person who is engaged in
26 the line of business described in Industry Group 336411 of the
27 North American Industry Classification System (NAICS) published
28 by the United States Office of Management and Budget (OMB),
29 2012 edition, that manufactures unmanned aerial vehicles.

30 (B) An affiliate of a person qualified pursuant to subparagraph
31 (A) shall also be considered a qualified person as long as the
32 affiliate is included as a member of that person’s unitary group for
33 which a combined report is required to be filed under Article 1
34 (commencing with Section 25101) of Chapter 17 of Part”.

35 (5) (A) “Tangible personal property,” as used in this section,
36 includes, but is not limited to, all of the following:

37 (i) Machinery and equipment, including component parts and
38 contrivances such as belts, shafts, moving parts, and operating
39 structures.

1 (ii) All equipment or devices used or required to operate, control,
2 regulate, or maintain the machinery, including, without limitation,
3 computers, data processing equipment, and computer software,
4 together with all repair and replacement parts with a useful life of
5 one or more years, whether purchased separately or in conjunction
6 with a complete machine and regardless of whether the machine
7 or component parts are assembled by the qualified person or
8 another party.

9 (iii) Property used in pollution control that meets standards
10 established by this state or any local or regional governmental
11 agency within this state.

12 (iv) Special purpose buildings and foundations used as an
13 integral part of the manufacturing process, or that constitute a
14 research or storage facility used during the manufacturing process.
15 Buildings used solely for warehousing purposes after completion
16 of the manufacturing process are not included.

17 (v) Fuels used or consumed in the manufacturing process.

18 (B) “Tangible personal property” shall not include any of the
19 following:

20 (i) Consumables with a normal useful life of less than one year,
21 except as provided in clause (v) of subparagraph (A).

22 (ii) Furniture, inventory, and equipment used in the extraction
23 process, or equipment used to store finished products that have
24 completed the manufacturing process.

25 (iii) Tangible personal property used primarily in administration,
26 general management, or marketing.

27 (c) An exemption shall not be allowed under this section unless
28 the purchaser furnishes the retailer with an exemption certificate,
29 completed in accordance with any instructions or regulations as
30 the board may prescribe, and the retailer subsequently furnishes
31 the board with a copy of the exemption certificate. The exemption
32 certificate shall contain the sales price of the machinery or
33 equipment, the sale of, or the storage, use, or other consumption
34 of which is exempt pursuant to subdivision (a).

35 (d) Notwithstanding subdivision (a), the exemption provided
36 by this section shall not apply to any sale or use of property which,
37 within one year from the date of purchase, is removed from
38 California, converted from an exempt use under subdivision (a)
39 to some other use not qualifying for the exemption, or used in a
40 manner not qualifying for the exemption.

1 (e) If a purchaser certifies in writing to the seller that the
2 property purchased without payment of the tax will be used in a
3 manner entitling the seller to regard the gross receipts from the
4 sale as exempt from the sales tax, and within one year from the
5 date of purchase, the purchaser removes that property outside
6 California, converts that property for use in a manner not qualifying
7 for the exemption, or uses that property in a manner not qualifying
8 for the exemption, the purchaser shall be liable for payment of
9 sales tax, with applicable interest, as if the purchaser were a retailer
10 making a retail sale of the property at the time the property is so
11 removed, converted, or used, and the sales price of the property
12 to the purchaser shall be deemed the gross receipts from that retail
13 sale.

14 (f) This section shall remain in effect only through and including
15 December 31, 2023, and is repealed on January 1, 2024.

16 SEC. 2. Section 17053.83 is added to the Revenue and Taxation
17 Code, to read:

18 17053.83. (a) For each taxable year beginning on or after
19 January 1, 2014, and before January 1, 2024, there shall be allowed
20 as a credit against the “net tax,” as defined in Section 17039, an
21 amount equal to the following:

22 (1) Fifty percent of qualified wages paid or incurred during any
23 taxable year beginning on or after January 1, 2014, and before
24 January 1, 2016.

25 (2) Forty percent of qualified wages paid or incurred during any
26 taxable year beginning on or after January 1, 2016, and before
27 January 1, 2018.

28 (3) Thirty percent of qualified wages paid or incurred during
29 any taxable year beginning on or after January 1, 2018, and before
30 January 1, 2020.

31 (4) Twenty percent of qualified wages paid or incurred during
32 any taxable year beginning on or after January 1, 2020, and before
33 January 1, 2022.

34 (5) Ten percent of qualified wages paid or incurred during any
35 taxable year beginning on or after January 1, 2022, and before
36 January 1, 2024.

37 (b) For purposes of this section:

38 (1) “Qualified taxpayer” means any taxpayer who is engaged
39 in the line of business described in Industry Group 336411 of the
40 North American Industry Classification System (NAICS) published

1 by the United States Office of Management and Budget (OMB),
2 2012 edition, that manufactures unmanned aerial vehicles.

3 (2) “Qualified employee” means an individual whose services
4 for the qualified taxpayer are performed in this state and are at
5 least 90 percent directly related to the qualified taxpayer’s line of
6 business described in Industry Group 336411 of the North
7 American Industry Classification System (NAICS) published by
8 the United States Office of Management and Budget (OMB), 2012
9 edition, manufacturing unmanned aerial vehicles.

10 (3) “Qualified wages” means that portion of wages paid or
11 incurred by the qualified taxpayer during the taxable year with
12 respect to qualified employees that are direct costs as defined in
13 Section 263A of the Internal Revenue Code allocable to property
14 manufactured in this state by the qualified taxpayer.

15 (c) The credit allowed by this section shall not exceed twenty
16 thousand dollars (\$20,000) per year, per qualified employee. For
17 employees that are qualified employees for part of a taxable year,
18 the credit shall not exceed twenty thousand dollars (\$20,000)
19 multiplied by a fraction, the numerator of which is the number of
20 months of the taxable year that the employee is a qualified
21 employee and the denominator of which is 12.

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

26 (e) The Franchise Tax Board may prescribe rules, guidelines,
27 or procedures necessary or appropriate to carry out the purposes
28 of this section.

29 (f) This section shall remain in effect only until December 1,
30 2024, and as of that date is repealed.

31 SEC. 3. Section 23623.3 is added to the Revenue and Taxation
32 Code, to read:

33 23623.3. (a) For each taxable year beginning on or after
34 January 1, 2013, and before January 1, 2023, there shall be allowed
35 as a credit against “tax,” as defined in Section 23036, an amount
36 equal to the following:

37 (1) Fifty percent of qualified wages paid or incurred during any
38 taxable year beginning on or after January 1, 2014, and before
39 January 1, 2016.

1 (2) Forty percent of qualified wages paid or incurred during any
2 taxable year beginning on or after January 1, 2016, and before
3 January 1, 2018.

4 (3) Thirty percent of qualified wages paid or incurred during
5 any taxable year beginning on or after January 1, 2018, and before
6 January 1, 2020.

7 (4) Twenty percent of qualified wages paid or incurred during
8 any taxable year beginning on or after January 1, 2020, and before
9 January 1, 2022.

10 (5) Ten percent of qualified wages paid or incurred during any
11 taxable year beginning on or after January 1, 2022, and before
12 January 1, 2024.

13 (b) For purposes of this section:

14 (1) “Qualified taxpayer” means any taxpayer who is engaged
15 in the line of business described in Industry Group 336411 of the
16 North American Industry Classification System (NAICS) published
17 by the United States Office of Management and Budget (OMB),
18 2012 edition, that manufactures unmanned aerial vehicles.

19 (2) “Qualified employee” means an individual whose services
20 for the qualified taxpayer are performed in this state and are at
21 least 90 percent directly related to the qualified taxpayer’s line of
22 business described in Industry Group 336411 of the North
23 American Industry Classification System (NAICS) published by
24 the United States Office of Management and Budget (OMB), 2012
25 edition, manufacturing unmanned aerial vehicles.

26 (3) “Qualified wages” means that portion of wages paid or
27 incurred by the qualified taxpayer during the taxable year with
28 respect to qualified employees that are direct costs as defined in
29 Section 263A of the Internal Revenue Code allocable to property
30 manufactured in this state by the qualified taxpayer.

31 (c) The credit allowed by this section shall not exceed twenty
32 thousand dollars (\$20,000) per year, per qualified employee. For
33 employees that are qualified employees for part of a taxable year,
34 the credit shall not exceed twenty thousand dollars (\$20,000)
35 multiplied by a fraction, the numerator of which is the number of
36 months of the taxable year that the employee is a qualified
37 employee and the denominator of which is 12.

38 (d) In the case where the credit allowed by this section exceeds
39 the “net tax,” the excess may be carried over to reduce the “net

1 tax” in the following year, and seven succeeding years if necessary,
2 until the credit is exhausted.

3 (e) The Franchise Tax Board may prescribe rules, guidelines,
4 or procedures necessary or appropriate to carry out the purposes
5 of this section.

6 (f) This section shall remain in effect only until December 1,
7 2024, and as of that date is repealed.

8 SEC. 4. Notwithstanding Section 2230 of the Revenue and
9 Taxation Code, no appropriation is made by this act and the state
10 shall not reimburse any local agency for any sales and use tax
11 revenues lost by it under this act.

12 SEC. 5. This act provides for a tax levy within the meaning of
13 Article IV of the Constitution and shall go into immediate effect.

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