

AMENDED IN ASSEMBLY MAY 6, 2014
AMENDED IN ASSEMBLY APRIL 22, 2014
AMENDED IN ASSEMBLY APRIL 8, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1564

Introduced by Assembly Member V. Manuel Pérez

January 29, 2014

~~An act to add Article 4.5 (commencing with Section 12097) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, and to amend Sections 17052.12 and 23609 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1564, as amended, V. Manuel Pérez. Income taxes: research and development credit: ~~credit sale and purchase:~~ *credit*.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit for a percentage of specified research expenses.

This bill would increase that percentage by 3% each taxable year for 5 taxable years and then return to the current rate. ~~This bill would create a Research and Development Tax Credit Trade Program, which the Treasurer's office would administer to authorize taxpayers to purchase and sell the credits. This bill would limit the total amount of credits sold to \$100 million per taxable year. This bill would appropriate a portion of the money made from the sale of the credits to the Treasurer's office and the Franchise Tax Board for the costs incurred by the agencies in administering the program.~~

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares the following:

2 (a) California’s greatest economic asset is its diverse economy

3 that supports key industry clusters that rely upon innovation to

4 compete globally.

5 (b) California is uniquely situated to benefit from increasing

6 research and development tax credits because of California’s world

7 renowned academic institutions, industry clusters, and diverse

8 population that attracts worldwide talent.

9 (c) Recent studies conducted by the Public Policy Institute of

10 California ranked California fourth in the nation in entrepreneurial

11 energy and second in the nation in innovation capacity. However,

12 California was ranked as having only the 43rd most favorable

13 corporate tax structure. This low ranking artificially reduces the

14 capacity of research and development that could occur in the state

15 because companies are more likely to expand to other states or

16 countries where they will be taxed at a lower level.

17 (d) Creating an environment rich in research and development

18 spawns the growth of manufacturing. In the last 10 years, California

19 has declined from the sixth largest economy in the world to the

20 ninth, which is behind Brazil. During that time, manufacturing

21 declined in California from 1.865 million jobs to 1.257 million

22 jobs.

23 (e) California needs to invest in the innovation economy by

24 eliminating the roadblocks in state law and regulations and by

25 developing a tax system that rewards capital expenditures in order

26 to ensure that the private sector will invest financial capital and

27 intellectual capital in California.

28 (f) California needs to support the creation of new manufacturing

29 jobs created by the private sector in the innovation economy with

30 a highly skilled workforce.

31 SEC. 2. It is the intent of the Legislature to incrementally

32 increase the research and development tax credits under the

33 Personal Income Tax Law and the Corporation Tax Law ~~up to~~

34 *from 15 percent to 30 percent for the general research credit and*

1 *from 24 percent to 39 percent for the university basic research*
2 *credit for a five-year period.*

3 ~~SEC. 3. Article 4.5 (commencing with Section 12097) is added~~
4 ~~to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government~~
5 ~~Code, to read:~~

6
7 ~~Article 4.5. The Research and Development Tax Credit Trade~~
8 ~~Program~~
9

10 ~~12097. The Treasurer's office shall develop and administer a~~
11 ~~program to allow the sale or purchase of research and development~~
12 ~~tax credits allowed under Sections 17052.12 and 23609 of the~~
13 ~~Revenue and Taxation Code. The Treasurer's office shall create~~
14 ~~an Internet Web site through which approved taxpayers may, by~~
15 ~~January 1, 2017, make such sale or purchase.~~

16 ~~(a) The Franchise Tax Board shall notify the Treasurer's office~~
17 ~~quarterly of all taxpayers that claim a credit under Sections~~
18 ~~17052.12 and 23609 of the Revenue and Taxation Code, and the~~
19 ~~amount of credit claimed.~~

20 ~~(b) A taxpayer may request approval by the Treasurer's office~~
21 ~~to sell or purchase a credit.~~

22 ~~(c) The Treasurer's office shall approve a taxpayer before that~~
23 ~~taxpayer may sell or purchase the credits.~~

24 ~~(1) The Treasurer's office shall approve a taxpayer to sell its~~
25 ~~credits if that taxpayer has all of the following:~~

26 ~~(A) A facility in which research and development occurs in the~~
27 ~~state.~~

28 ~~(B) Less than fifty million dollars (\$50,000,000) in earnings~~
29 ~~before income tax, depreciation, and amortization.~~

30 ~~(C) Unused research and development tax credits from a~~
31 ~~previous taxable year.~~

32 ~~(D) A determination from the Franchise Tax Board that the~~
33 ~~credits to be sold are valid.~~

34 ~~(2) The Treasurer's office shall approve a taxpayer to purchase~~
35 ~~a research and development tax credit if all of the following~~
36 ~~requirements are met:~~

37 ~~(A) The taxpayer has had qualified research expenses, as defined~~
38 ~~in Sections 17052.12 and 23609 of the Revenue and Taxation Code~~
39 ~~and Section 41 of the Internal Revenue Code, within the past five~~
40 ~~years.~~

1 ~~(B) The taxpayer conducts a trade or business in the state.~~
2 ~~(d) If a taxpayer is approved, the Treasurer’s office shall create~~
3 ~~an online account for the taxpayer to allow the taxpayer to log into~~
4 ~~the Internet Web site to sell or purchase the credits.~~
5 ~~(e) A taxpayer shall not be approved to sell or purchase more~~
6 ~~than five million dollars (\$5,000,000) in unused research and~~
7 ~~development tax credits per taxable year.~~
8 ~~(f) If the taxpayer does not reinvest the money received from~~
9 ~~the sale of the credit into the taxpayer’s trade or business or if the~~
10 ~~purchased credits reduce the taxpayer’s tax liability by more than~~
11 ~~50 percent, any remaining unapplied credit shall be canceled and~~
12 ~~any previously applied credit that was not reinvested or that~~
13 ~~exceeds 50 percent of the taxpayer’s tax liability shall be~~
14 ~~recaptured, and the taxpayer shall be liable for any increase in tax~~
15 ~~attributable to the recapture of any credit previously allowed under~~
16 ~~this section.~~
17 ~~(g) The price of the credit shall be based on the open-market~~
18 ~~demand, but shall not be less than 75 percent of the face value of~~
19 ~~the credit.~~
20 ~~(h) The Treasurer's office shall notify the Franchise Tax Board~~
21 ~~of each sale or purchase of a credit, the identity of the taxpayer~~
22 ~~selling the credit, the identity of the taxpayer that purchased the~~
23 ~~credit, and the amount of the credit sold quarterly. The Franchise~~
24 ~~Tax Board shall review this information to ensure that a credit is~~
25 ~~not being used multiple times.~~
26 ~~(i) The total amount of the credits sold shall not exceed one~~
27 ~~hundred million dollars (\$100 million) per calendar year.~~
28 12097.1. ~~(a) There is hereby established in the State Treasury~~
29 ~~the Research and Development Tax Credit Trade Fund.~~
30 ~~(b) (1) Until the Treasurer’s office has been fully reimbursed~~
31 ~~for its costs of developing, creating, and starting the Research and~~
32 ~~Development Tax Credit Trade Program, moneys in an amount~~
33 ~~equal to 15 percent of the face value of each credit sold or~~
34 ~~purchased on the Internet Web site established by the Treasurer’s~~
35 ~~office shall be deposited into the Research and Development Tax~~
36 ~~Credit Trade Fund for the purpose of funding this program pursuant~~
37 ~~to Section 12097, and appropriated as follows:~~
38 ~~(A) Moneys in an amount equal to 13 percent of the face value~~
39 ~~of each credit to the Treasurer’s office for the administrative and~~
40 ~~start-up costs of implementing this program.~~

1 ~~(B) Moneys in an amount equal 2 percent of the face value of~~
2 ~~each credit to the Franchise Tax Board for the administrative costs~~
3 ~~of implementing this program.~~

4 ~~(2) Eighty-five percent of the face value of each credit may be~~
5 ~~used as a credit against the “net tax” or “tax,” as applicable of the~~
6 ~~taxpayer that purchased the credit.~~

7 ~~(e) (1) Once the Treasurer’s office has been fully reimbursed~~
8 ~~for its costs of developing, creating, and starting this program,~~
9 ~~moneys in an amount equal to 5 percent of the face value of each~~
10 ~~credit sold through the Internet Web site established by the~~
11 ~~Treasurer’s office shall be deposited into the Research and~~
12 ~~Development Tax Credit Trade Fund for the purpose of funding~~
13 ~~the Research and Development Tax Credit Trade Program pursuant~~
14 ~~to Section 12097, and appropriated as follows:~~

15 ~~(A) Moneys in an amount equal to 3 percent of the face value~~
16 ~~of each credit to the Treasurer’s office for the administrative costs~~
17 ~~of implementing this program.~~

18 ~~(B) Moneys in an amount equal to 2 percent of the face value~~
19 ~~of each credit to the Franchise Tax Board for the administrative~~
20 ~~costs of implementing this program.~~

21 ~~(2) Ninety-five percent of the amount of each credit may be~~
22 ~~used as a credit against the “net tax” or “tax,” as applicable of the~~
23 ~~taxpayer that purchased the credit.~~

24 ~~SEC. 4.~~

25 ~~SEC. 3. Section 17052.12 of the Revenue and Taxation Code~~
26 ~~is amended to read:~~

27 ~~17052.12. For each taxable year beginning on or after January~~
28 ~~1, 1987, there shall be allowed as a credit against the “net tax” (as~~
29 ~~defined by Section 17039) for the taxable year an amount~~
30 ~~determined in accordance with Section 41 of the Internal Revenue~~
31 ~~Code, except as follows:~~

32 ~~(a) For each taxable year beginning before January 1, 1997, the~~
33 ~~reference to “20 percent” in Section 41(a)(1) of the Internal~~
34 ~~Revenue Code is modified to read “8 percent.”~~

35 ~~(b) (1) For each taxable year beginning on or after January 1,~~
36 ~~1997, and before January 1, 1999, the reference to “20 percent”~~
37 ~~in Section 41(a)(1) of the Internal Revenue Code is modified to~~
38 ~~read “11 percent.”~~

39 ~~(2) For each taxable year beginning on or after January 1, 1999,~~
40 ~~and before January 1, 2000, the reference to “20 percent” in Section~~

1 41(a)(1) of the Internal Revenue Code is modified to read “12
2 percent.”

3 (3) For each taxable year beginning on or after January 1, 2000,
4 and before January 1, 2014, the reference to “20 percent” in Section
5 41(a)(1) of the Internal Revenue Code is modified to read “15
6 percent.”

7 (4) For each taxable year beginning on or after January 1, 2014,
8 and before January 1, 2015, the reference to “20 percent” in Section
9 41(a)(1) of the Internal Revenue Code is modified to read “18
10 percent.”

11 (5) For each taxable year beginning on or after January 1, 2015,
12 and before January 1, 2016, the reference to “20 percent” in Section
13 41(a)(1) of the Internal Revenue Code is modified to read “21
14 percent.”

15 (6) For each taxable year beginning on or after January 1, 2016,
16 and before January 1, 2017, the reference to “20 percent” in Section
17 41(a)(1) of the Internal Revenue Code is modified to read “24
18 percent.”

19 (7) For each taxable year beginning on or after January 1, 2017,
20 and before January 1, 2018, the reference to “20 percent” in Section
21 41(a)(1) of the Internal Revenue Code is modified to read “27
22 percent.”

23 (8) For each taxable year beginning on or after January 1, 2018,
24 and before January 1, 2019, the reference to “20 percent” in Section
25 41(a)(1) of the Internal Revenue Code is modified to read “30
26 percent.”

27 (9) For each taxable year beginning on or after January 1, 2019,
28 the reference to “20 percent” in Section 41(a)(1) of the Internal
29 Revenue Code is modified to read “15 percent.”

30 (c) Section 41(a)(2) of the Internal Revenue Code shall not
31 apply.

32 (d) “Qualified research” shall include only research conducted
33 in California.

34 (e) In the case where the credit allowed under this section
35 exceeds the “net tax,” the excess may be carried over to reduce
36 the “net tax” in the following year, and succeeding years if
37 necessary, until the credit has been exhausted.

38 (f) (1) With respect to any expense paid or incurred after the
39 operative date of Section 6378, Section 41(b)(1) of the Internal
40 Revenue Code is modified to exclude from the definition of

1 “qualified research expense” any amount paid or incurred for
2 tangible personal property that is eligible for the exemption from
3 sales or use tax provided by Section 6378.

4 (2) For each taxable year beginning on or after January 1, 1998,
5 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
6 Internal Revenue Code, relating to contract research expenses, is
7 modified to read “this part or Part 11 (commencing with Section
8 23001).”

9 (g) (1) For each taxable year beginning on or after January 1,
10 2000:

11 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
12 the Internal Revenue Code is modified to read “one and forty-nine
13 hundredths of one percent.”

14 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
15 the Internal Revenue Code is modified to read “one and
16 ninety-eight hundredths of ~~one~~ 1 percent.”

17 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
18 the Internal Revenue Code is modified to read “two and forty-eight
19 hundredths of ~~one~~ 1 percent.”

20 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
21 election under Section 41(c)(4)(A) of the Internal Revenue Code
22 may be made for any taxable year of the taxpayer beginning on or
23 after January 1, 1998. That election shall apply to the taxable year
24 for which made and all succeeding taxable years unless revoked
25 with the consent of the Franchise Tax Board.

26 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
27 gross receipts, is modified to take into account only those gross
28 receipts from the sale of property held primarily for sale to
29 customers in the ordinary course of the taxpayer’s trade or business
30 that is delivered or shipped to a purchaser within this state,
31 regardless of f.o.b. point or any other condition of the sale.

32 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
33 election of alternative simplified credit, shall not apply.

34 (h) Section 41(h) of the Internal Revenue Code, relating to
35 termination, shall not apply.

36 (i) Section 41(g) of the Internal Revenue Code, relating to
37 special rule for passthrough of credit, is modified by each of the
38 following:

39 (1) The last sentence shall not apply.

1 (2) If the amount determined under Section 41(a) of the Internal
 2 Revenue Code for any taxable year exceeds the limitation of
 3 Section 41(g) of the Internal Revenue Code, that amount may be
 4 carried over to other taxable years under the rules of subdivision
 5 (e); except that the limitation of Section 41(g) of the Internal
 6 Revenue Code shall be taken into account in each subsequent
 7 taxable year.

8 (j) Section 41(a)(3) of the Internal Revenue Code shall not apply.

9 (k) Section 41(b)(3)(D) of the Internal Revenue Code, relating
 10 to amounts paid to eligible small businesses, universities, and
 11 federal laboratories, shall not apply.

12 (l) Section 41(f)(6), relating to energy research consortium,
 13 shall not apply.

14 ~~(m) A taxpayer may sell a credit allowed under this section~~
 15 ~~pursuant to Article 4.5 (commencing with Section 12097) of~~
 16 ~~Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government~~
 17 ~~Code.~~

18 ~~SEC. 5.~~

19 *SEC. 4.* Section 23609 of the Revenue and Taxation Code is
 20 amended to read:

21 23609. For each taxable year beginning on or after January 1,
 22 1987, there shall be allowed as a credit against the “tax” (as defined
 23 by Section 23036) an amount determined in accordance with
 24 Section 41 of the Internal Revenue Code, except as follows:

25 (a) For each taxable year beginning before January 1, 1997,
 26 both of the following modifications shall apply:

27 (1) The reference to “20 percent” in Section 41(a)(1) of the
 28 Internal Revenue Code is modified to read “8 percent.”

29 (2) The reference to “20 percent” in Section 41(a)(2) of the
 30 Internal Revenue Code is modified to read “12 percent.”

31 (b) (1) For each taxable year beginning on or after January 1,
 32 1997, and before January 1, 1999, both of the following
 33 modifications shall apply:

34 (A) The reference to “20 percent” in Section 41(a)(1) of the
 35 Internal Revenue Code is modified to read “11 percent.”

36 (B) The reference to “20 percent” in Section 41(a)(2) of the
 37 Internal Revenue Code is modified to read “24 percent.”

38 (2) For each taxable year beginning on or after January 1, 1999,
 39 and before January 1, 2000, both of the following shall apply:

- 1 (A) The reference to “20 percent” in Section 41(a)(1) of the
2 Internal Revenue Code is modified to read “12 percent.”
- 3 (B) The reference to “20 percent” in Section 41(a)(2) of the
4 Internal Revenue Code is modified to read “24 percent.”
- 5 (3) For each taxable year beginning on or after January 1, 2000,
6 and before January 1, 2014, both of the following shall apply:
- 7 (A) The reference to “20 percent” in Section 41(a)(1) of the
8 Internal Revenue Code is modified to read “15 percent.”
- 9 (B) The reference to “20 percent” in Section 41(a)(2) of the
10 Internal Revenue Code is modified to read “24 percent.”
- 11 (4) For each taxable year beginning on or after January 1, 2014,
12 and before January 1, 2015, both of the following shall apply:
- 13 (A) The reference to “20 percent” in Section 41(a)(1) of the
14 Internal Revenue Code is modified to read “18 percent.”
- 15 (B) The reference to “20 percent” in Section 41(a)(2) of the
16 Internal Revenue Code is modified to read “27 percent.”
- 17 (5) For each taxable year beginning on or after January 1, 2015,
18 and before January 1, 2016, both of the following shall apply:
- 19 (A) The reference to “20 percent” in Section 41(a)(1) of the
20 Internal Revenue Code is modified to read “21 percent.”
- 21 (B) The reference to “20 percent” in Section 41(a)(2) of the
22 Internal Revenue Code is modified to read “30 percent.”
- 23 (6) For each taxable year beginning on or after January 1, 2016,
24 and before January 1, 2017, both of the following shall apply:
- 25 (A) The reference to “20 percent” in Section 41(a)(1) of the
26 Internal Revenue Code is modified to read “24 percent.”
- 27 (B) The reference to “20 percent” in Section 41(a)(2) of the
28 Internal Revenue Code is modified to read “33 percent.”
- 29 (7) For each taxable year beginning on or after January 1, 2017,
30 and before January 1, 2018, both of the following shall apply:
- 31 (A) The reference to “20 percent” in Section 41(a)(1) of the
32 Internal Revenue Code is modified to read “27 percent.”
- 33 (B) The reference to “20 percent” in Section 41(a)(2) of the
34 Internal Revenue Code is modified to read “36 percent.”
- 35 (8) For each taxable year beginning on or after January 1, 2018,
36 and before January 1, 2019, both of the following shall apply:
- 37 (A) The reference to “20 percent” in Section 41(a)(1) of the
38 Internal Revenue Code is modified to read “30 percent.”
- 39 (B) The reference to “20 percent” in Section 41(a)(2) of the
40 Internal Revenue Code is modified to read “39 percent.”

1 (9) For each taxable year beginning on or after January 1, 2019,
2 both of the following shall apply:

3 (A) The reference to “20 percent” in Section 41(a)(1) of the
4 Internal Revenue Code is modified to read “15 percent.”

5 (B) The reference to “20 percent” in Section 41(a)(2) of the
6 Internal Revenue Code is modified to read “24 percent.”

7 (c) (1) With respect to any expense paid or incurred after the
8 operative date of Section 6378, Section 41(b)(1) of the Internal
9 Revenue Code is modified to exclude from the definition of
10 “qualified research expense” any amount paid or incurred for
11 tangible personal property that is eligible for the exemption from
12 sales or use tax provided by Section 6378.

13 (2) “Qualified research” and “basic research” shall include only
14 research conducted in California.

15 (d) The provisions of Section 41(e)(7)(A) of the Internal
16 Revenue Code, shall be modified so that “basic research,” for
17 purposes of this section, includes any basic or applied research
18 including scientific inquiry or original investigation for the
19 advancement of scientific or engineering knowledge or the
20 improved effectiveness of commercial products, except that the
21 term does not include any of the following:

22 (1) Basic research conducted outside California.

23 (2) Basic research in the social sciences, arts, or humanities.

24 (3) Basic research for the purpose of improving a commercial
25 product if the improvements relate to style, taste, cosmetic, or
26 seasonal design factors.

27 (4) Any expenditure paid or incurred for the purpose of
28 ascertaining the existence, location, extent, or quality of any deposit
29 of ore or other mineral (including oil and gas).

30 (e) (1) In the case of a taxpayer engaged in any
31 biopharmaceutical research activities that are described in codes
32 2833 to 2836, inclusive, or any research activities that are described
33 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
34 Industrial Classification (SIC) Manual published by the United
35 States Office of Management and Budget, 1987 edition, or any
36 other biotechnology research and development activities, the
37 provisions of Section 41(e)(6) of the Internal Revenue Code shall
38 be modified to include both of the following:

39 (A) A qualified organization as described in Section
40 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an

1 institution of higher education as described in Section 3304(f) of
2 the Internal Revenue Code.

3 (B) A charitable research hospital owned by an organization
4 that is described in Section 501(c)(3) of the Internal Revenue Code,
5 is exempt from taxation under Section 501(a) of the Internal
6 Revenue Code, is not a private foundation, is designated a
7 “specialized laboratory cancer center,” and has received Clinical
8 Cancer Research Center status from the National Cancer Institute.

9 (2) For purposes of this subdivision:

10 (A) “Biopharmaceutical research activities” means those
11 activities that use organisms or materials derived from organisms,
12 and their cellular, subcellular, or molecular components, in order
13 to provide pharmaceutical products for human or animal
14 therapeutics and diagnostics. Biopharmaceutical activities make
15 use of living organisms to make commercial products, as opposed
16 to pharmaceutical activities that make use of chemical compounds
17 to produce commercial products.

18 (B) “Other biotechnology research and development activities”
19 means research and development activities consisting of the
20 application of recombinant DNA technology to produce
21 commercial products, as well as research and development
22 activities regarding pharmaceutical delivery systems designed to
23 provide a measure of control over the rate, duration, and site of
24 pharmaceutical delivery.

25 (f) In the case where the credit allowed by this section exceeds
26 the “tax,” the excess may be carried over to reduce the “tax” in
27 the following year, and succeeding years if necessary, until the
28 credit has been exhausted.

29 (g) For each taxable year beginning on or after January 1, 1998,
30 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
31 Internal Revenue Code, relating to contract research expenses, is
32 modified to read “this part or Part 10 (commencing with Section
33 17001).”

34 (h) (1) For each taxable year beginning on or after January 1,
35 2000:

36 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
37 the Internal Revenue Code is modified to read “one and forty-nine
38 hundredths of one percent.”

1 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
2 the Internal Revenue Code is modified to read “one and
3 ninety-eight hundredths of ~~one~~ 1 percent.”

4 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
5 the Internal Revenue Code is modified to read “two and forty-eight
6 hundredths of ~~one~~ 1 percent.”

7 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
8 election under Section 41(c)(4)(A) of the Internal Revenue Code
9 may be made for any taxable year of the taxpayer beginning on or
10 after January 1, 1998. That election shall apply to the taxable year
11 for which made and all succeeding taxable years unless revoked
12 with the consent of the Franchise Tax Board.

13 (3) Section 41(c)(7) of the Internal Revenue Code, relating to
14 gross receipts, is modified to take into account only those gross
15 receipts from the sale of property held primarily for sale to
16 customers in the ordinary course of the taxpayer’s trade or business
17 that is delivered or shipped to a purchaser within this state,
18 regardless of f.o.b. point or any other condition of the sale.

19 (4) Section 41(c)(5) of the Internal Revenue Code, relating to
20 election of the alternative simplified credit, shall not apply.

21 (i) Section 41(h) of the Internal Revenue Code, relating to
22 termination, shall not apply.

23 (j) Section 41(g) of the Internal Revenue Code, relating to
24 special rule for passthrough of credit, is modified by each of the
25 following:

26 (1) The last sentence shall not apply.

27 (2) If the amount determined under Section 41(a) of the Internal
28 Revenue Code for any taxable year exceeds the limitation of
29 Section 41(g) of the Internal Revenue Code, that amount may be
30 carried over to other taxable years under the rules of subdivision
31 (f), except that the limitation of Section 41(g) of the Internal
32 Revenue Code shall be taken into account in each subsequent
33 taxable year.

34 (k) Section 41(a)(3) of the Internal Revenue Code shall not
35 apply.

36 (l) Section 41(b)(3)(D) of the Internal Revenue Code, relating
37 to amounts paid to eligible small businesses, universities, and
38 federal laboratories, shall not apply.

39 (m) Section 41(f)(6) of the Internal Revenue Code, relating to
40 energy research consortium, shall not apply.

1 ~~(n) A taxpayer may sell a credit allowed under this section~~
2 ~~pursuant to Article 4.5 (commencing with Section 12097) of~~
3 ~~Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government~~
4 ~~Code.~~

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

O