

Introduced by Senator BeallFebruary 20, 2013

An act to amend Section 37006 of the Public Resources Code, and to amend Section 17053.30 and 25630 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as introduced, Beall. Conservation: tax credits.

The Natural Heritage Preservation Tax Credit Act of 2000 requires the Wildlife Conservation Board to implement a program under which property, as defined, may be contributed to the state, any local government, as defined, or to any nonprofit organization designated by a local government, based on specified criteria, in order to provide for the protection of wildlife habitat, open space, and agricultural lands.

The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws in the amount equal to 55% of the fair market value of any qualified contribution, as defined, contributed during the taxable year pursuant to the Natural Preservation Tax Credit Act of 2000, as provided.

This bill would allow for the transfer of the credit allowed pursuant to the Natural Preservation Tax Credit Act by the taxpayer to an unrelated party, 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. Section 37006 of the Public Resources Code is
2 amended to read:

3 37006. (a) (1) Under the program, upon approval by the
4 board, a donor may contribute qualified property to a donee and
5 receive a tax credit for a portion of the value of the property, as
6 provided in Sections 17053.30 and 23630 of the Revenue and
7 Taxation Code.

8 (2) *If the board approves a transfer of the credit pursuant to*
9 *subdivision (f) of Section 17053.30 or 23630, the board shall*
10 *provide a certificate to the donor evidencing that approval, in a*
11 *form satisfactory to the Franchise Tax Board.*

12 (b) The board shall adopt guidelines or regulations to implement
13 the program, including procedures for applications submitted
14 pursuant to Chapter 4 (commencing with Section 37010) and for
15 the evaluation of properties proposed to be contributed pursuant
16 to the program. Chapter 3.5 (commencing with Section 11340) of
17 Part 1 of Division 3 of Title 2 of the Government Code does not
18 apply to the guidelines or regulations adopted pursuant to this
19 section.

20 SEC. 2. Section 17053.30 of the Revenue and Taxation Code
21 is amended to read:

22 17053.30. (a) There shall be allowed as a credit against the
23 “net tax,” as defined in Section 17039, an amount equal to 55
24 percent of the fair market value of any qualified contribution made
25 on or after January 1, 2000, and not later than June 30, 2008, and
26 on or after January 1, 2010, and not later than June 30, 2015, by
27 the taxpayer during the taxable year to the state, any local
28 government, or any designated nonprofit organization, pursuant
29 to Division 28 (commencing with Section 37000) of the Public
30 Resources Code.

31 (b) For purposes of this section, “qualified contribution” means
32 a contribution of property, as defined in Section 37002 of the Public
33 Resources Code, that has been approved for acceptance by the
34 Wildlife Conservation Board pursuant to Division 28 (commencing
35 with Section 37000) of the Public Resources Code.

36 (c) In the case of any passthrough entity, the fair market value
37 of any qualified contribution approved for acceptance under
38 Division 28 (commencing with Section 37000) of the Public

1 Resources Code shall be passed through to the partners or
2 shareholders of the passthrough entity in accordance with their
3 interest in the passthrough entity as of the date of the qualified
4 contribution. For purposes of this subdivision, the term
5 “passthrough entity” means any partnership, “S” corporation, or
6 limited liability company treated as a partnership.

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

11 (e) This credit shall be in lieu of any other credit or deduction
12 which the taxpayer may otherwise claim pursuant to this part with
13 respect to the property or any interest therein that is contributed.

14 (f) (1) *Notwithstanding any other law, for each taxable year*
15 *beginning on or after January 1, 2013, a taxpayer may transfer*
16 *any credit allowed under this section to an unrelated party.*

17 (2) *The taxpayer shall report to the Wildlife Conservation Board*
18 *prior to the transfer of the credit, in the form and manner specified*
19 *by the Wildlife Conservation Board, all required information*
20 *regarding the transfer of the credit, including the social security*
21 *or other taxpayer identification number of the unrelated party to*
22 *whom the credit has been transferred and the face amount of the*
23 *credit transferred, for the approval of the Wildlife Conservation*
24 *Board.*

25 (3) *Upon approval of the transfer, the Wildlife Conservation*
26 *Board shall provide a certificate to the taxpayer evidencing the*
27 *approval, in the form and manner specified by the Franchise Tax*
28 *Board, that shall include all required information regarding the*
29 *credit.*

30 SEC. 3. Section 23630 of the Revenue and Taxation Code is
31 amended to read:

32 23630. (a) There shall be allowed as a credit against the “tax,”
33 as defined in Section 23036, an amount equal to 55 percent of the
34 fair market value of any qualified contribution made on or after
35 January 1, 2000, and not later than June 30, 2008, and on or after
36 January 1, 2010, and not later than June 30, 2015, by the taxpayer
37 during the taxable year to the state, any local government, or any
38 designated nonprofit organization, pursuant to Division 28
39 (commencing with Section 37000) of the Public Resources Code.

1 (b) For purposes of this section, “qualified contribution” means
2 a contribution of property, as defined in Section 37002 of the Public
3 Resources Code, that has been approved for acceptance by the
4 Wildlife Conservation Board pursuant to Division 28 (commencing
5 with Section 37000) of the Public Resources Code.

6 (c) In the case of any passthrough entity, the fair market value
7 of any qualified contribution approved for acceptance under
8 Division 28 (commencing with Section 37000) of the Public
9 Resources Code shall be passed through to the partners or
10 shareholders of the passthrough entity in accordance with their
11 interest in the passthrough entity as of the date of the qualified
12 contribution. For purposes of this subdivision, the term
13 “passthrough entity” means any partnership or “S” corporation.

14 (d) If the credit allowed by this section exceeds the “tax,” the
15 excess may be carried over to reduce the “tax” in the following
16 year, and the succeeding seven years if necessary, until the credit
17 is exhausted.

18 (e) This credit shall be in lieu of any other credit or deduction
19 that the taxpayer may otherwise claim pursuant to this part with
20 respect to the property or any interest therein that is contributed.

21 (f) (1) *Notwithstanding any other law, for each taxable year*
22 *beginning on or after January 1, 2013, a taxpayer may transfer*
23 *any credit allowed under this section to an unrelated party.*

24 (2) *The taxpayer shall report to the Wildlife Conservation Board*
25 *prior to the transfer of the credit, in the form and manner specified*
26 *by the Wildlife Conservation Board, all required information*
27 *regarding the transfer of the credit, including the social security*
28 *or other taxpayer identification number of the unrelated party to*
29 *whom the credit has been transferred and the face amount of the*
30 *credit transferred, for the approval of the Wildlife Conservation*
31 *Board.*

32 (3) *Upon approval of the transfer, the Wildlife Conservation*
33 *Board shall provide a certificate to the taxpayer evidencing the*
34 *approval, in the form and manner specified by the Franchise Tax*
35 *Board, that shall include all required information regarding the*
36 *credit.*

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

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