

AMENDED IN ASSEMBLY MAY 27, 2014

AMENDED IN SENATE MAY 13, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 355**

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**Introduced by Senator Beall**

February 20, 2013

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An act to amend Section 37006 of the Public Resources Code, and to amend Sections 17053.30 and 23630 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 355, as amended, 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~~ *made, no later than June 30, 2015*, during the taxable year pursuant to the Natural Heritage Preservation Tax Credit Act of 2000, as provided.

This bill would *extend the period for when a qualified contribution is made for which a credit would be allowed to June 30, 2020. This bill would, for each taxable year beginning on or after January 1, 2014,* allow for the transfer of the credit allowed pursuant to the Natural Heritage Preservation Tax Credit Act of 2000 from prior years whose carryover period has not expired 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 board,  
4 a donor may contribute qualified property to a donee and receive  
5 a tax credit for a portion of the value of the property, as provided  
6 in Sections 17053.30 and 23630 of the Revenue and Taxation  
7 Code.

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

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

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

23 17053.30. (a) There shall be allowed as a credit against the  
24 “net tax,” as defined in Section 17039, an amount equal to 55  
25 percent of the fair market value of any qualified contribution made  
26 on or after January 1, 2000, and not later than June 30, 2008, and  
27 on or after January 1, 2010, and not later than June 30, ~~2015~~, 2020,

1 by the taxpayer during the taxable year to the state, any local  
2 government, or any designated nonprofit organization, pursuant  
3 to Division 28 (commencing with Section 37000) of the Public  
4 Resources Code.

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

10 (c) In the case of any pass-thru entity, the fair market value of  
11 any qualified contribution approved for acceptance under Division  
12 28 (commencing with Section 37000) of the Public Resources  
13 Code shall be passed through to the partners or shareholders of  
14 the pass-thru entity in accordance with their interest in the pass-thru  
15 entity as of the date of the qualified contribution. For purposes of  
16 this subdivision, the term “pass-thru entity” means any partnership,  
17 “S” corporation, or limited liability company treated as a  
18 partnership.

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

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

26 (f) (1) Notwithstanding any other law, for each taxable year  
27 beginning on or after January 1, ~~2013~~, 2014, a taxpayer may  
28 transfer credits from prior years whose carryover period has not  
29 expired to an unrelated party.

30 (2) The taxpayer shall report to the Wildlife Conservation Board  
31 prior to the transfer of the credit, in the form and manner specified  
32 by the Wildlife Conservation Board, all required information  
33 regarding the transfer of the credit, including the social security  
34 or other taxpayer identification number of the unrelated party to  
35 whom the credit has been transferred and the face amount of the  
36 credit transferred, for the approval of the Wildlife Conservation  
37 Board.

38 (3) Upon approval of the transfer, the Wildlife Conservation  
39 Board shall provide a certificate to the taxpayer evidencing the  
40 approval, in the form and manner specified by the Franchise Tax

1 Board, that shall include all required information regarding the  
2 credit.

3 (4) The Wildlife Conservation Board shall not approve a transfer  
4 of a credit under this section if the consideration received by the  
5 taxpayer in exchange for the credit is less than 90 percent of the  
6 value of the credit to be transferred.

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

9 23630. (a) There shall be allowed as a credit against the “tax,”  
10 as defined in Section 23036, an amount equal to 55 percent of the  
11 fair market value of any qualified contribution made on or after  
12 January 1, 2000, and not later than June 30, 2008, and on or after  
13 January 1, 2010, and not later than June 30, ~~2015~~, 2020, by the  
14 taxpayer during the taxable year to the state, any local government,  
15 or any designated nonprofit organization, pursuant to Division 28  
16 (commencing with Section 37000) of the Public Resources Code.

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

22 (c) In the case of any pass-thru entity, the fair market value of  
23 any qualified contribution approved for acceptance under Division  
24 28 (commencing with Section 37000) of the Public Resources  
25 Code shall be passed through to the partners or shareholders of  
26 the pass-thru entity in accordance with their interest in the pass-thru  
27 entity as of the date of the qualified contribution. For purposes of  
28 this subdivision, the term “pass-thru entity” means any partnership  
29 or “S” corporation.

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

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

37 (f) (1) Notwithstanding any other law, for each taxable year  
38 beginning on or after January 1, ~~2013~~, 2014, a taxpayer may  
39 transfer credits from prior years whose carryover period has not  
40 expired to an unrelated party.

1 (2) The taxpayer shall report to the Wildlife Conservation Board  
2 prior to the transfer of the credit, in the form and manner specified  
3 by the Wildlife Conservation Board, all required information  
4 regarding the transfer of the credit, including the social security  
5 or other taxpayer identification number of the unrelated party to  
6 whom the credit has been transferred and the face amount of the  
7 credit transferred, for the approval of the Wildlife Conservation  
8 Board.

9 (3) Upon approval of the transfer, the Wildlife Conservation  
10 Board shall provide a certificate to the taxpayer evidencing the  
11 approval, in the form and manner specified by the Franchise Tax  
12 Board, that shall include all required information regarding the  
13 credit.

14 (4) The Wildlife Conservation Board shall not approve a transfer  
15 of a credit under this section if the consideration received by the  
16 taxpayer in exchange for the credit is less than 90 percent of the  
17 value of the credit to be transferred.

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

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