

**ASSEMBLY BILL**

**No. 428**

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**Introduced by Assembly Member Nazarian**

February 19, 2015

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An act to add and repeal Sections 17053.50 and 23650 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 428, as introduced, Nazarian. Income taxes credit: seismic retrofits.

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

This bill would allow, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, a tax credit under both laws in an amount equal to 30% of the qualified costs paid or incurred by a qualified taxpayer for any seismic retrofit construction on a qualified building, as defined. This bill would require a taxpayer to obtain a certification from the appropriate jurisdiction with authority for building code enforcement of the area in which the building is located that the building is an at-risk property, as defined, and to provide that certification to the Franchise Tax Board upon the request of the Franchise Tax Board.

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 17053.50 is added to the Revenue and  
2 Taxation Code, to read:

3 17053.50. (a) For taxable years beginning on or after January  
4 1, 2016, and before January 1, 2021, there shall be allowed to a  
5 qualified taxpayer a credit against the “net tax,” as defined in  
6 Section 17039, in an amount equal to 30 percent of the qualified  
7 taxpayer’s qualified costs.

8 (b) For purposes of this section:

9 (1) “At-risk property” means a building that is deemed  
10 hazardous and in danger of collapse in the event of a catastrophic  
11 earthquake, including, but not limited to, soft story buildings,  
12 nonductile concrete residential buildings, and pre-1994 concrete  
13 residential buildings.

14 (2) “Qualified building” means a building that has been certified  
15 as an at-risk property by the local housing authority for the area  
16 within which the building is located.

17 (3) “Qualified costs” means the costs paid or incurred by the  
18 qualified taxpayer for any seismic retrofit construction on a  
19 qualified building, including any engineering or architectural work  
20 preceding the construction. “Qualified costs” does not include  
21 either of the following:

22 (A) The costs paid or incurred by the qualified taxpayer for  
23 ordinary repair or replacement of existing fixtures or items on or  
24 in the qualified building.

25 (B) Any amount paid by the qualified taxpayer to the jurisdiction  
26 with authority for building code enforcement for issuing the  
27 certification required pursuant to subparagraph (A) of paragraph  
28 (1) of subdivision (c).

29 (4) “Qualified taxpayer” means a taxpayer that is an owner of  
30 a qualified building located in this state. A taxpayer that owns a  
31 proportional share of a qualified building in this state may claim  
32 the credit allowed by this section based on the taxpayer’s share of  
33 the qualified costs.

34 (5) (A) “Seismic retrofit construction” means changes or  
35 additions to the structure of a qualified building to mitigate seismic  
36 damage, including:

37 (i) Anchoring the structure to the foundation.

38 (ii) Bracing cripple walls.

- 1 (iii) Bracing hot water heaters.
- 2 (iv) Installing automatic gas shutoff valves.
- 3 (v) Repairing or reinforcing the foundation to improve the
- 4 integrity of the foundation against seismic damage.
- 5 (vi) Anchoring fuel storage.
- 6 (vii) Installing an earthquake-resistant bracing system for
- 7 mobilehomes that is certified by the California Department of
- 8 Housing and Community Development.
- 9 (B) “Seismic retrofit construction” does not include construction
- 10 activities performed to bring a qualified building into compliance
- 11 with standard local building codes.
- 12 (c) To be eligible for the credit under this section, the following
- 13 must apply:
  - 14 (1) The qualified taxpayer shall do both of the following:
    - 15 (A) Obtain certification from the appropriate jurisdiction with
    - 16 authority for building code enforcement, upon a review of the
    - 17 building, that the building is an at-risk property. Upon the request
    - 18 of the Franchise Tax Board, the qualified taxpayer shall provide
    - 19 a copy of the certification to the Franchise Tax Board.
    - 20 (B) Retain for his or her records a copy of the certification
    - 21 specified in subparagraph (A).
    - 22 (2) The jurisdiction with authority for building code enforcement
    - 23 in which a qualified building is located has entered into an
    - 24 agreement with the state to provide certifications pursuant to this
    - 25 section and to not seek reimbursement pursuant to Section 6 of
    - 26 Article XIII B of the California Constitution for any costs incurred
    - 27 in providing those certifications.
  - 28 (d) (1) The credit amount allowed in subdivision (a) shall be
  - 29 claimed by a qualified taxpayer at the rate of one-fifth of the credit
  - 30 amount for the taxable year in which the credit is allowed, and
  - 31 one-fifth of the credit amount for each of the subsequent four
  - 32 taxable years.
    - 33 (2) In the case where the credit allowed under this section
    - 34 exceeds the “net tax,” as defined in Section 17039, for a taxable
    - 35 year, the excess credit may be carried over to reduce the “net tax”
    - 36 in the following taxable year, and succeeding four taxable years,
    - 37 if necessary, until the credit has been exhausted.
  - 38 (e) For purposes of computing the credit provided by this
  - 39 section, the qualified costs shall be reduced by any grant provided
  - 40 by a public entity for the seismic retrofit construction.

1 (f) This credit shall be in lieu of any other credit or deduction  
2 that the qualified taxpayer may otherwise claim pursuant to this  
3 part with respect to qualified costs.

4 (g) Section 41 shall not apply to the credit allowed pursuant to  
5 this section.

6 (h) This section shall remain in effect only until December 1,  
7 2021, and as of that date is repealed.

8 SEC. 2. Section 23650 is added to the Revenue and Taxation  
9 Code, to read:

10 23650. (a) For taxable years beginning on or after January 1,  
11 2016, and before January 1, 2021, there shall be allowed to a  
12 qualified taxpayer a credit against the “tax,” as defined in Section  
13 23036, in an amount equal to 30 percent of the qualified taxpayer’s  
14 qualified costs.

15 (b) For purposes of this section:

16 (1) “At-risk property” means a building that is deemed  
17 hazardous and in danger of collapse in the event of a catastrophic  
18 earthquake, including, but not limited to, soft story buildings,  
19 nonductile concrete residential buildings, and pre-1994 concrete  
20 residential buildings.

21 (2) “Qualified building” means a building that has been certified  
22 as an at-risk property by the local housing authority for the area  
23 within which the building is located.

24 (3) “Qualified costs” means the costs paid or incurred by the  
25 qualified taxpayer for any seismic retrofit construction on a  
26 qualified building, including any engineering or architectural work  
27 preceding the construction. “Qualified costs” does not include  
28 either of the following:

29 (A) The costs paid or incurred by the qualified taxpayer for  
30 ordinary repair or replacement of existing fixtures or items on or  
31 in the qualified building.

32 (B) Any amount paid by the qualified taxpayer to the jurisdiction  
33 with authority for building code enforcement for issuing the  
34 certification required pursuant to subparagraph (A) of paragraph  
35 (1) of subdivision (c).

36 (4) “Qualified taxpayer” means a taxpayer that is an owner of  
37 a qualified building located in this state. A taxpayer that owns a  
38 proportional share of a qualified building in this state may claim  
39 the credit allowed by this section based on the taxpayer’s share of  
40 the qualified costs.

1 (5) (A) “Seismic retrofit construction” means changes or  
2 additions to the structure of a qualified building to mitigate seismic  
3 damage, including:

- 4 (i) Anchoring the structure to the foundation.
- 5 (ii) Bracing cripple walls.
- 6 (iii) Bracing hot water heaters.
- 7 (iv) Installing automatic gas shutoff valves.
- 8 (v) Repairing or reinforcing the foundation to improve the  
9 integrity of the foundation against seismic damage.
- 10 (vi) Anchoring fuel storage.
- 11 (vii) Installing an earthquake-resistant bracing system for  
12 mobilehomes that is certified by the California Department of  
13 Housing and Community Development.

14 (B) “Seismic retrofit construction” does not include construction  
15 activities performed to bring a qualified building into compliance  
16 with standard local building codes.

17 (c) To be eligible for the credit under this section, the following  
18 must apply:

19 (1) The qualified taxpayer shall do both of the following:

20 (A) Obtain certification from the appropriate jurisdiction with  
21 authority for building code enforcement, upon a review of the  
22 building, that the building is an at-risk property. Upon the request  
23 of the Franchise Tax Board, the qualified taxpayer shall provide  
24 a copy of the certification to the Franchise Tax Board.

25 (B) Retain for his or her records a copy of the certification  
26 specified in subparagraph (A).

27 (2) The jurisdiction with authority for building code enforcement  
28 in which a qualified building is located has entered into an  
29 agreement with the state to provide certifications pursuant to this  
30 section and to not seek reimbursement pursuant to Section 6 of  
31 Article XIII B of the California Constitution for any costs incurred  
32 in providing those certifications.

33 (d) (1) The credit amount allowed in subdivision (a) shall be  
34 claimed by a qualified taxpayer at the rate of one-fifth of the credit  
35 amount for the taxable year in which the credit is allowed, and  
36 one-fifth of the credit amount for each of the subsequent four  
37 taxable years.

38 (2) In the case where the credit allowed under this section  
39 exceeds the “tax,” as defined in Section 23036, for a taxable year,  
40 the excess credit may be carried over to reduce the “tax” in the

1 following taxable year, and succeeding four taxable years, if  
2 necessary, until the credit has been exhausted.

3 (e) For purposes of computing the credit provided by this  
4 section, the qualified costs shall be reduced by any grant provided  
5 by a public entity for the seismic retrofit construction.

6 (f) This credit shall be in lieu of any other credit or deduction  
7 that the qualified taxpayer may otherwise claim pursuant to this  
8 part with respect to qualified costs.

9 (g) Section 41 shall not apply to the credit allowed pursuant to  
10 this section.

11 (h) This section shall remain in effect only until December 1,  
12 2021, and as of that date is repealed.

13 SEC. 3. This act provides for a tax levy within the meaning of  
14 Article IV of the Constitution and shall go into immediate effect.

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