

AMENDED IN ASSEMBLY JULY 16, 1997

AMENDED IN ASSEMBLY MAY 15, 1997

AMENDED IN ASSEMBLY MAY 5, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 66

Introduced by Assembly Member Baca

December 9, 1996

~~An act to add Sections 17053.59 and 23658 to the Revenue~~
An act to add Section 7205.3 to the Revenue and Taxation
Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 66, as amended, Baca. ~~Personal income and bank and corporation taxes: credit: personal property tax assessments~~
Local sales and use tax: place of sale: jet fuel.

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

~~This bill would authorize a credit against those taxes for the first 5 taxable or income years in which a qualified taxpayer, as defined, is engaged in a single trade or business and uses personal property, as defined, in that trade or business that is subject to property taxation. The credit would be allowed in an amount equal to the amount of ad valorem property tax assessed against the personal property and paid or incurred by the taxpayer during the taxable or income year, but not to exceed the amount of \$1,000. This bill would provide that the~~

~~credit would be allowed for taxable or income years beginning on or after January 1, 1998.~~

Under the Bradley-Burns Uniform Local Sales and Use Tax Law, the place at which the retail sales are consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to that law is the place of business of the retailer, with certain exceptions.

This bill would provide that, with respect to jet fuel, the place or places at which the retail sales are consummated shall be the point of delivery of the jet fuel into an aircraft.

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 17053.59 is added to the Revenue~~
2 SECTION 1. Section 7205.3 is added to the Revenue
3 and Taxation Code, to read:
4 7205.3. Notwithstanding any other provision of law,
5 with respect to sales of jet fuel, the place or places at
6 which the retail sales are consummated for the purpose
7 of a sales tax imposed by an ordinance adopted pursuant
8 to this part shall be the point of delivery of the jet fuel into
9 an aircraft.
10 ~~and Taxation Code, to read:~~
11 ~~17053.59. (a) (1) Except as limited by paragraph~~
12 ~~(2), for each of the first five taxable years in which a~~
13 ~~qualified taxpayer is engaged in a single trade or business~~
14 ~~and uses personal property in that trade or business that~~
15 ~~is subject to taxation pursuant to Division 1 (commencing~~
16 ~~with Section 50), there shall be allowed to that qualified~~
17 ~~taxpayer as a credit against the "net tax," as defined in~~
18 ~~Section 17039, an amount equal to the amount of ad~~
19 ~~valorem property tax that is assessed against that personal~~
20 ~~property and is paid or incurred by the taxpayer during~~
21 ~~the taxable year.~~
22 (2) (A) A credit shall be allowed pursuant to
23 paragraph (1) only for taxable years beginning on or after
24 January 1, 1998.



1 ~~(B) The amount of a credit allowed pursuant to~~
2 ~~paragraph (1) shall not exceed one thousand dollars~~
3 ~~(\$1,000).~~

4 ~~(C) No credit shall be allowed pursuant to this section~~
5 ~~with respect to any trade or business if a change in~~
6 ~~ownership of a controlling interest in that trade or~~
7 ~~business has occurred subsequent to a credit being~~
8 ~~allowed pursuant to this section with respect to that trade~~
9 ~~or business for a preceding taxable year.~~

10 ~~(b) For purposes of this section:~~

11 ~~(1) “Qualified taxpayer” means a taxpayer engaged in~~
12 ~~any single trade or business that has gross receipts, less~~
13 ~~returns and allowances, of less than one million dollars~~
14 ~~(\$1,000,000) during the taxable year. For purposes of this~~
15 ~~paragraph, a “trade or business” that consists of more~~
16 ~~than one business location or business unit shall be~~
17 ~~considered to be a single “trade or business.”~~

18 ~~(2) “Personal property” means personal property~~
19 ~~owned by the qualified taxpayer, the cost of which is~~
20 ~~subject to deduction pursuant to Section 179(a) of the~~
21 ~~Internal Revenue Code, that is used exclusively in the~~
22 ~~operation of the single trade or business of the owning~~
23 ~~qualified taxpayer, but does not include a fixture as~~
24 ~~defined in Section 122.5 of Title 18 of the California Code~~
25 ~~of Regulations.~~

26 ~~(c) Once the period of years for which a qualified~~
27 ~~taxpayer may be allowed a credit pursuant to this section~~
28 ~~with respect to a single trade or business has expired, that~~
29 ~~period is not renewed or extended by reason of either of~~
30 ~~the following:~~

31 ~~(1) A change in the name of the trade or business.~~

32 ~~(2) The reorganization of the trade or business in~~
33 ~~bankruptcy.~~

34 ~~(d) No deduction shall be allowed to a taxpayer for any~~
35 ~~amount for which that taxpayer has been allowed a credit~~
36 ~~pursuant to this section.~~

37 ~~(e) In the case where the credit allowed by this section~~
38 ~~exceeds the “net tax,” the excess may be carried over to~~
39 ~~reduce the “net tax” in the following year, and~~



1 succeeding years if necessary, until the credit is
2 exhausted.

3 SEC. 2. Section 23658 is added to the Revenue and
4 Taxation Code, to read:

5 23658. (a) (1) Except as limited by paragraph (2),
6 for each of the first five income years in which a qualified
7 taxpayer is engaged in a single trade or business and uses
8 personal property in that trade or business that is subject
9 to taxation pursuant to Division 1 (commencing with
10 Section 50), there shall be allowed to that qualified
11 taxpayer as a credit against the "tax," as defined in Section
12 23036, an amount equal to the amount of ad valorem
13 property tax that is assessed against that personal
14 property and is paid or incurred by the taxpayer during
15 the income year.

16 (2) (A) A credit shall be allowed pursuant to
17 paragraph (1) only for income years beginning on or after
18 January 1, 1998.

19 (B) The amount of a credit allowed pursuant to
20 paragraph (1) shall not exceed one thousand dollars
21 (\$1,000).

22 (C) No credit shall be allowed pursuant to this section
23 with respect to any trade or business if a change in
24 ownership of a controlling interest in that trade or
25 business has occurred subsequent to a credit being
26 allowed pursuant to this section with respect to that trade
27 or business for a preceding income year.

28 (b) For purposes of this section:

29 (1) "Qualified taxpayer" means a taxpayer engaged in
30 any single trade or business that has gross receipts, less
31 returns and allowances, of less than one million dollars
32 (\$1,000,000) during the income year. For purposes of this
33 paragraph, a "trade or business" that consists of more
34 than one business location or unit shall be considered to
35 be a single "trade or business."

36 (2) "Personal property" means personal property
37 owned by the qualified taxpayer, the cost of which is
38 subject to deduction pursuant to Section 179(a) of the
39 Internal Revenue Code, that is used exclusively in the
40 operation of the single trade or business of the owning

1 ~~qualified taxpayer, but does not include a fixture as~~
2 ~~defined in Section 122.5 of Title 18 of the California Code~~
3 ~~of Regulations.~~

4 ~~(e) Once the period for which a qualified taxpayer~~
5 ~~may be allowed a credit pursuant to this section has~~
6 ~~expired, that period is not renewed or extended by reason~~
7 ~~of any of the following:~~

8 ~~(1) A change in the name of the trade or business.~~

9 ~~(2) The reorganization of the trade or business in~~
10 ~~bankruptcy.~~

11 ~~(d) No deduction shall be allowed to a taxpayer for any~~
12 ~~amount for which that taxpayer has been allowed a credit~~
13 ~~pursuant to this section.~~

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

18 ~~SEC. 3.—~~

19 ~~SEC. 2. This act provides for a tax levy within the~~
20 ~~meaning of Article IV of the Constitution and shall go into~~
21 ~~immediate effect.~~

