

AMENDED IN ASSEMBLY MAY 12, 2010

AMENDED IN ASSEMBLY APRIL 26, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2665

Introduced by Assembly Member Audra Strickland

February 19, 2010

An act to add and repeal Sections 17053.88 and 23688 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2665, as amended, Audra Strickland. Income tax credits: emergency standby generators.

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

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2011, and before January 1, 2016, in an amount equal to 5% of the amount paid or incurred during the taxable year for the purchase and installation of an emergency standby generator, as defined, at a service station, as defined, located in this state. *This bill would, if, in any calendar year, the State Air Resources Board or the State Energy Resources Conservation and Development Commission establishes a certification standard for energy efficient or low emission emergency standby generators, limit this credit to emergency standby generators that satisfy that certification standard, as specified. This bill would require the State Air Resources Board or the State Energy Resources Conservation and Development Commission to notify the Franchise Tax Board of the establishment of a certification*

standard, as provided, and would require the Franchise Tax Board to post, on its Internet Web site, a notice to taxpayers, 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. It is the intent of this act to provide an incentive
2 for a taxpayer that operates a service station to purchase and install
3 an emergency standby generator at a service station located in this
4 state in order for the service station to be able to continue to
5 maintain electrical power to provide services to the public during
6 power outages.

7 SEC. 2. Section 17053.88 is added to the Revenue and Taxation
8 Code, to read:

9 17053.88. (a) For each taxable year beginning on or after
10 January 1, 2011, and before January 1, 2016, there shall be allowed
11 as a credit against the “net tax,” as defined in Section 17039, an
12 amount equal to 5 percent of the amount paid or incurred during
13 the taxable year for the purchase and installation of an emergency
14 standby generator at a service station located in this state.

15 (b) For purposes of this section:

16 (1) “Emergency standby generator” means an electrical
17 generator that is rated by the manufacturer to generate at least 30
18 kilowatts of electricity and whose sole function is to automatically
19 provide electric power when electric power from a utility service
20 is interrupted.

21 (2) “Service station” means an *independently owned and*
22 *operated* establishment that offers for sale or sells to the public,
23 gasoline or other fuel to power motor vehicles.

24 (c) *The depreciable basis of any emergency standby generator*
25 *shall be reduced by the amount of any credit allowable under this*
26 *section.*

27 (d) (1) *If, in any calendar year, the State Air Resources Board*
28 *or the State Energy Resources Conservation and Development*
29 *Commission establishes a certification standard for energy efficient*
30 *or low emission emergency standby generators, the credit allowed*
31 *by this section shall be limited, for taxable years beginning on and*
32 *after January 1 immediately following the calendar year in which*

1 *the certification standard is established, to emergency standby*
2 *generators that satisfy that certification standard.*

3 *(2) The State Air Resources Board or the State Energy Resources*
4 *Conservation and Development Commission shall notify the*
5 *Franchise Tax Board of the establishment of a certification*
6 *standard as specified in paragraph (1), within 10 working days of*
7 *establishing that standard.*

8 *(3) The Franchise Tax Board shall post, on its Internet Web*
9 *site, a notice to taxpayers that a certification standard for energy*
10 *efficient or low emission emergency standby generators has been*
11 *established, and that the credit allowed by this section shall be*
12 *limited to emergency standby generators that satisfy that*
13 *certification standard.*

14 ~~(e)~~

15 *(e) If an emergency standby generator for which a credit is*
16 *allowed pursuant to this section is thereafter sold, returned to the*
17 *vendor, or otherwise removed from service by the taxpayer within*
18 *one year from the date the emergency standby generator was placed*
19 *in service, the amount of credit allowed by this section for the*
20 *purchase and installation of that emergency standby generator shall*
21 *be recaptured by adding that credit amount to the net tax of the*
22 *taxpayer for the taxable year in which the emergency standby*
23 *generator is sold or removed.*

24 ~~(d)~~

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

29 ~~(e)~~

30 *(g) This section shall remain in effect only until December 1,*
31 *2016, and as of that date is repealed.*

32 SEC. 3. Section 23688 is added to the Revenue and Taxation
33 Code, to read:

34 23688. (a) For each taxable year beginning on or after January
35 1, 2011, and before January 1, 2016, there shall be allowed as a
36 credit against the “tax,” as defined in Section 23036, an amount
37 equal to 5 percent of the amount paid or incurred during the taxable
38 year for the purchase and installation of an emergency standby
39 generator at a service station located in this state.

40 (b) For purposes of this section:

1 (1) “Emergency standby generator” means an electrical
2 generator that is rated by the manufacturer to generate at least 30
3 kilowatts of electricity and whose sole function is to automatically
4 provide electric power when electric power from a utility service
5 is interrupted.

6 (2) “Service station” means an *independently owned and*
7 *operated* establishment that offers for sale or sells to the public,
8 gasoline or other fuel to power motor vehicles.

9 (c) *The depreciable basis of any emergency standby generator*
10 *shall be reduced by the amount of any credit allowable under this*
11 *section.*

12 (d) (1) *If, in any calendar year, the State Air Resources Board*
13 *or the State Energy Resources Conservation and Development*
14 *Commission establishes a certification standard for energy efficient*
15 *or low emission emergency standby generators, the credit allowed*
16 *by this section shall be limited, for taxable years beginning on and*
17 *after January 1 immediately following the calendar year in which*
18 *the certification standard is established, to emergency standby*
19 *generators that satisfy that certification standard.*

20 (2) *The State Air Resources Board or the State Energy Resources*
21 *Conservation and Development Commission shall notify the*
22 *Franchise Tax Board of the establishment of a certification*
23 *standard as specified in paragraph (1), within 10 working days of*
24 *establishing that standard.*

25 (3) *The Franchise Tax Board shall post, on its Internet Web*
26 *site, a notice to taxpayers that a certification standard for energy*
27 *efficient or low emission emergency standby generators has been*
28 *established, and that the credit allowed by this section shall be*
29 *limited to emergency standby generators that satisfy that*
30 *certification standard.*

31 ~~(e)~~

32 (e) *If an emergency standby generator for which a credit is*
33 *allowed pursuant to this section is thereafter sold, returned to the*
34 *vendor, or otherwise removed from service by the taxpayer within*
35 *one year from the date the emergency standby generator was placed*
36 *in service, the amount of credit allowed by this section for the*
37 *purchase and installation of that emergency standby generator shall*
38 *be recaptured by adding that credit amount to the tax of the*
39 *taxpayer for the taxable year in which the emergency standby*
40 *generator is sold or removed.*

1 ~~(d)~~

2 (f) In the case where the credit allowed by this section exceeds
3 the “tax,” the excess may be carried over to reduce the “tax” in
4 the following year, and *the seven* succeeding years if necessary,
5 until the credit is exhausted.

6 ~~(e)~~

7 (g) This section shall remain in effect only until December 1,
8 2016, and as of that date is repealed.

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

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