AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 11, 2009

AMENDED IN SENATE MAY 4, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL No. 425

Introduced by Senator Simitian

February 26, 2009

An act to add Sections 17053.58, 17284, 23658, and 24343.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 425, as amended, Simitian. Personal and corporate income taxes: deductions: parking: credits: ridesharing expenses.

The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Existing law allows an employer to deduct its expenses in carrying out a parking subsidy and a parking cash-out program, as defined, for employees.

This bill would disallow a deduction for expenses of specified employers for parking subsidies unless all employees provided with a parking subsidy are offered a parking cash-out program in accordance with a specified statute.

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

This bill would authorize a credit under both those laws, for taxable years beginning on or after January 1, 2009, in an amount not to exceed specified amounts for qualified commute reduction expenditures, as defined, for specified small business taxpayers.

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:

SECTION 1. Section 17053.58 is added to the Revenue and Taxation Code, to read:

17053.58. (a) For taxable years beginning on or after January 1, 2009, there shall be allowed to a taxpayer as a credit against the "net tax," as defined in Section 17039, an amount equal to 80 percent of the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures, not to exceed the following:

(1) One hundred sixty-three dollars ($163) for taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(2) One hundred sixty-eight dollars ($168) for taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(3) One hundred seventy-three dollars ($173) for taxable years beginning on or after January 1, 2011, and before January 1, 2012.

(4) One hundred eighty-three dollars ($183) for taxable years beginning on or after January 1, 2012.

(b) For purposes of this section:

(1) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(2) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry fewer than seven adults, including the driver.

(3) "Employee" means a person employed by the taxpayer on a full-time basis who, at a minimum, works 30 hours per week for compensation.

(4) “Private commuter bus” means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least seven adults, including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this section.

(D) With respect to which the taxpayer makes an election under this section on his or her return for the taxable year in which the vehicle is placed in service.

(5) “Qualified commute reduction expenditure” means costs paid or incurred by the taxpayer for any of the following:

(A) Subsidizing employees commuting in vanpools.

(B) Subsidizing employees commuting in private commuter buses or buspools.

(C) Subsidizing the use of transit by its employees or for use by the employee’s dependents, except that no deduction shall be allowed to subsidize the cost of transit for elementary and secondary school students.

(D) Subsidizing employees commuting in subscription taxipools.

(E) Subsidizing employees commuting in a carpool.

(F) Subsidizing employees commuting on a ferry.

(G) Providing free or subsidized parking to carpools, vanpools, or any other vehicle used in a ridesharing arrangement within California.

(H) Making facility improvements to encourage employees to use, or subsidizing employees who already use, an alternative transportation method other than a transportation method specified in this paragraph, that reduces the use of a motor vehicle by a single occupant to travel to or from that employee’s place of employment.

(I) Making facility improvements to encourage employees, for the purpose of commuting to or from that employee’s place of employment, to participate in ridesharing arrangements, to bicycle, or to walk. These facility improvements may include, but are not limited to, any of the following:

(i) The construction of bus shelters.

(ii) The installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms.

(iii) The modifications of parking lots to provide carpools, vanpools, or buspools with preferential treatment.

(J) Subsidizing employees who travel to or from a telecommuting facility.

(6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily fare basis following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) "Taxpayer" means a person or entity engaged in a trade or business within California who employs a maximum of 20 employees as of June 30 of the taxable year.

(8) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

(9) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver, that is used to transport those persons who commute to and from work on a regular basis.

(c) This credit shall be in lieu of any other deduction which the taxpayer may otherwise claim pursuant to this part with respect to the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures.

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section.

(e) In the case where a credit allowed under this section exceeds the "net tax," the excess credit may be carried over to reduce the "net tax" in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.

SEC. 2. Section 17284 is added to the Revenue and Taxation Code, to read:

17284. (a) For taxable years beginning on or after January 1, 2009, no deduction is allowed under this part for amounts paid or incurred by an employer subject to Section 43845 of the Health and Safety Code for parking subsidies unless all employees of the employer provided with a parking subsidy are offered a parking cash-out program in accordance with Section 43845 of the Health and Safety Code.

(b) For purposes of this section, "parking subsidy" and "parking cash-out program" have the same meanings as defined in Section 43845 of the Health and Safety Code.

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

23658. (a) For taxable years beginning on or after January 1, 2009, there shall be allowed to a taxpayer as a credit against the "tax," as defined in Section 23036, an amount equal to 80 percent of the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures, not to exceed the following:

(1) One hundred sixty-three dollars ($163) for taxable years beginning on or after January 1, 2009, and before January 1, 2010.

(2) One hundred sixty-eight dollars ($168) for taxable years beginning on or after January 1, 2010, and before January 1, 2011.

(3) One hundred seventy-three dollars ($173) for taxable years beginning on or after January 1, 2011, and before January 1, 2012.

(4) One hundred eighty-three dollars ($183) for taxable years beginning on or after January 1, 2012.

(b) For purposes of this section:

(1) "Buspool" means 16 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry more than 15 adult passengers.

(2) "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry fewer than seven adults, including the driver.

(3) "Employee" means a person employed by the taxpayer on a full-time basis who, at a minimum, works 30 hours per week for compensation.

(4) "Private commuter bus" means a highway vehicle which meets all of the following criteria:

(A) Has a seating capacity of at least seven adults, including the driver.

(B) At least 50 percent of the mileage of which can be reasonably expected to be used for the purpose of transporting employees to and from work.

(C) Is acquired by the taxpayer on or after the date of enactment of this section.

(D) With respect to which the taxpayer makes an election under this section on his or her return for the taxable year in which the vehicle is placed in service.

(5) "Qualified commute reduction expenditure" means costs paid or incurred by the taxpayer for any of the following:

(A) Subsidizing employees commuting in vanpools.

(B) Subsidizing employees commuting in private commuter buses or buspools.

(C) Subsidizing ~~monthly transit passes for~~ *the use of transit by* its employees or for use by the employee's dependents, except that no deduction shall be allowed ~~for transit passes issued for the use of~~ *to subsidize the cost of transit for* elementary and secondary school students.

(D) Subsidizing employees commuting in subscription taxipools.

(E) Subsidizing employees commuting in a carpool.

(F) Subsidizing employees commuting on a ferry.

(G) Providing free or preferential parking to carpools, vanpools, or any other vehicle used in a ridesharing arrangement within California.

(H) Making facility improvements to encourage employees to use, or subsidizing employees who already use, an alternative transportation method other than a transportation method specified in this paragraph, that reduces the use of a motor vehicle by a single occupant to travel to or from that employee's place of employment.

(I) Making facility improvements to encourage employees, for the purpose of commuting to or from that employee's place of employment, to participate in ridesharing arrangements, to bicycle, or to walk. These facility improvements may include, but are not limited to, any of the following:

(i) The construction of bus shelters.

(ii) The installation of bicycle racks and other bicycle-related facilities, such as showers and locker rooms.

(iii) The modifications of parking lots to provide carpools, vanpools, or buspools with preferential treatment.

(J) Subsidizing employees who travel to or from a telecommuting facility.

(6) "Subscription taxipool" means a type of service in which employers or groups of employees contract with a public or private taxi operator to provide daily commuter service for a group of preassembled subscribers on a prepaid or daily fare basis following a relatively fixed route and schedule tailored to meet the needs of the subscribers.

(7) "Taxpayer" means a person or entity engaged in a trade or business within California who employs a maximum of 20 employees as of June 30 of the taxable year.

(8) "Transit" means transportation service for use by the general public that utilizes buses, railcars, or ferries with a seating capacity of 16 or more persons.

~~(9) "Transit pass" means any purchase of transit rides that entitles the holder to any number of transit rides to and from the workplace, whether at a discount rate or the base fare rate.~~

~~(10)~~

(9) "Vanpool" means seven or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 7 to 15 adults, including the driver, that is used to transport those persons who commute to and from work on a regular basis.

(c) This credit shall be in lieu of any other deduction which the taxpayer may otherwise claim pursuant to this part with respect to the costs paid or incurred during the taxable year by the taxpayer for qualified commute reduction expenditures.

(d) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section.

(e) In the case where a credit allowed under this section exceeds the "tax," the excess credit may be carried over to reduce the "tax" in the following taxable year, and succeeding taxable years, if necessary, until the credit has been exhausted.

SEC. 4. Section 24343.1 is added to the Revenue and Taxation Code, to read:

24343.1. (a) For taxable years beginning on or after January 1, 2009, no deduction is allowed under this part for amounts paid or incurred by an employer subject to Section 43845 of the Health and Safety Code for parking subsidies unless all employees of the employer provided with a parking subsidy are offered a parking cash-out program in accordance with Section 43845 of the Health and Safety Code.

(b) For purposes of this section, “parking subsidy” and “parking cash-out program” have the same meanings as defined in Section 43845 of the Health and Safety Code.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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