

ASSEMBLY BILL

No. 304

Introduced by Assembly Member Knight

February 9, 2011

An act to add and repeal Sections 17053.81 and 23623.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 304, as introduced, Knight. Income taxes: credits: hiring credit.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit for an increase in qualified employees, for a qualified employer who employs 20 or fewer employees.

This bill would, under both laws, for taxable years beginning on and after January 1, 2011, and before January 1, 2015, allow a credit to a qualified employer, as defined, which includes an employer of 30 or more employees, of either \$3,000 or \$5,000, as specified, for each qualified employee, as defined, employed by the qualified employer during the taxable year.

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 17053.81 is added to the Revenue and
- 2 Taxation Code, to read:

17053.81. (a) (1) For each taxable year beginning on or after January 1, 2011, and before January 1, 2015, there shall be allowed as a credit against the “net tax,” as defined in Section 17039, an amount as specified in paragraph (2) per each qualified employee employed during the taxable year by a qualified employer.

(2) The credit allowed by paragraph (1) shall be equal to three thousand dollars (\$3,000), or if the wage of the qualified employee for which a tax credit authorized pursuant to this section is claimed is 200 percent or more than the average wage in the county in which the qualified employee completes at least 50 percent of his or her work, five thousand dollars (\$5,000).

(b) For purposes of this section:

(1) “Average wage” means the wage average of each county, as determined by the Employment Development Department.

(2) “Headquarters” means the principal administrative office in California of a qualified employer that employs 30 or more qualified employees at that office.

(3) “Qualified employee” means an employee who was paid qualified wages by the qualified employer for services rendered for not less than an average of 35 hours per week and not less than 1700 hours per annum.

(4) “Qualified employer” means a taxpayer that is a person engaged in a trade or business within California that, on or after January 1, 2011, has either established a headquarters within California or relocated a headquarters to California, and, as of the last day of the preceding taxable year, employed a total of 30 or more qualified employees who are located in California.

(5) “Qualified wages” means the amount of wages subject to Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

(6) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(c) The credit authorized by this section shall be allowable to a qualified employer for the first taxable year in which the qualified employer’s headquarters are established within, or relocated to, California, and the succeeding taxable year.

1 (d) In the case where the credit allowed under this section
2 exceeds the “net tax,” the excess may be carried over to reduce
3 the “net tax” in the following year, and the succeeding 10 years if
4 necessary, until the credit has been exhausted.

5 (e) The credit allowed by this section shall be in lieu of any
6 other credit or deduction that the taxpayer may otherwise claim
7 pursuant to this part with respect to qualified wages.

8 (f) This section shall remain in effect only until December 1,
9 2015, and as of that date is repealed.

10 SEC. 2. Section 23623.2 is added to the Revenue and Taxation
11 Code, to read:

12 23623.2. (a) (1) For each taxable year beginning on or after
13 January 1, 2011, and before January 1, 2015, there shall be allowed
14 as a credit against the “tax,” as defined in Section 23036, an amount
15 as specified in paragraph (2) per each qualified employee employed
16 during the taxable year by a qualified employer.

17 (2) The credit allowed by paragraph (1) shall be equal to three
18 thousand dollars (\$3,000) or, if the wage of the qualified employee
19 for which a tax credit authorized pursuant to this section is claimed
20 is 200 percent or more than the average wage in the county in
21 which the qualified employee completes at least 50 percent of his
22 or her work, five thousand dollars (\$5,000).

23 (b) For purposes of this section:

24 (1) “Average wage” means the wage average of each county,
25 as determined by the Employment Development Department.

26 (2) “Headquarters” means the principal administrative office in
27 California of a qualified employer that employs 30 or more
28 qualified employees at that office.

29 (3) “Qualified employee” means an employee who was paid
30 qualified wages by the qualified employer for services rendered
31 for not less than an average of 35 hours per week and not less than
32 1700 hours per annum.

33 (4) “Qualified employer” means a taxpayer that is a person
34 engaged in a trade or business within California that, on or after
35 January 1, 2011, has either established its headquarters within
36 California or relocated its headquarters to California, and, as of
37 the last day of the preceding taxable year, employed a total of 30
38 or more qualified employees who are located in California.

1 (5) “Qualified wages” means the amount of wages subject to
2 Division 6 (commencing with Section 13000) of the
3 Unemployment Insurance Code.

4 (6) The Franchise Tax Board may prescribe appropriate
5 regulations to carry out the purposes of this section, including any
6 regulations necessary to prevent the avoidance of the purposes of
7 this section through split-ups, shell corporations, partnerships,
8 tiered ownership structures, or otherwise.

9 (c) The credit authorized by this section shall be allowable to a
10 qualified employer for the first taxable year in which the qualified
11 employer’s headquarters are established within, or relocated to,
12 California, and the succeeding taxable year.

13 (d) In the case where the credit allowed under this section
14 exceeds the “tax,” the excess may be carried over to reduce the
15 “tax” in the following year, and the succeeding 10 years if
16 necessary, until the credit has been exhausted.

17 (e) The credit allowed by this section shall be in lieu of any
18 other credit or deduction that the taxpayer may otherwise claim
19 pursuant to this part with respect to qualified wages.

20 (f) This section shall remain in effect only until December 1,
21 2015, and as of that date is repealed.

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