

AMENDED IN ASSEMBLY MAY 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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 means~~ an employer of 30 or more employees *who are located in California*, of either \$3,000 or \$5,000, as specified, for each qualified employee, as defined, employed by the qualified employer, *as specified* ~~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:

3 17053.81. (a) (1) For each taxable year beginning on or after
4 January 1, 2011, and before January 1, 2015, there shall be allowed
5 as a credit against the “net tax,” as defined in Section 17039, an
6 amount as specified in paragraph (2) per each qualified employee
7 employed during the taxable year by a qualified employer.

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

15 (b) For purposes of this section:

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

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

21 ~~(3)~~

22 (2) “Qualified employee” means an employee who was paid
23 qualified wages by the qualified employer for services rendered
24 for not less than an average of 35 hours per week and not less than
25 1700 hours per annum.

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

32 (3) “*Qualified employer*” means a person that, on or after
33 January 1, 2011, employed a total of 30 or more qualified
34 employees who are located in California as of the last day of the
35 preceding taxable year.

36 ~~(5)~~

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

4 ~~(6)~~

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

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

14 ~~(d)~~

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

19 ~~(e)~~

20 (d) The credit allowed by this section shall be in lieu of any
21 other credit or deduction that the taxpayer may otherwise claim
22 pursuant to this part with respect to qualified wages.

23 ~~(f)~~

24 (e) This section shall remain in effect only until December 1,
25 2015, and as of that date is repealed.

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

28 23623.2. (a) (1) For each taxable year beginning on or after
29 January 1, 2011, and before January 1, 2015, there shall be allowed
30 as a credit against the “tax,” as defined in Section 23036, an amount
31 as specified in paragraph (2) per each qualified employee employed
32 during the taxable year by a qualified employer.

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

40 (b) For purposes of this section:

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

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

6 ~~(3)~~

7 (2) “Qualified employee” means an employee who was paid
8 qualified wages by the qualified employer for services rendered
9 for not less than an average of 35 hours per week and not less than
10 1700 hours per annum.

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

17 (3) *“Qualified employer” means a person that, on or after*
18 *January 1, 2011, employed a total of 30 or more qualified*
19 *employees who are located in California as of the last day of the*
20 *preceding taxable year.*

21 ~~(5)~~

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

25 ~~(6)~~

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

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

35 ~~(d)~~

36 (c) In the case where the credit allowed under this section
37 exceeds the “tax,” the excess may be carried over to reduce the
38 “tax” in the following year, and the succeeding 10 years if
39 necessary, until the credit has been exhausted.

40 (e)

1 *(d)* The credit allowed by this section shall be in lieu of any
2 other credit or deduction that the taxpayer may otherwise claim
3 pursuant to this part with respect to qualified wages.

4 ~~*(f)*~~

5 *(e)* This section shall remain in effect only until December 1,
6 2015, and as of that date is repealed.

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

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