

AMENDED IN SENATE JULY 12, 2011
AMENDED IN SENATE MAY 12, 2011
AMENDED IN SENATE APRIL 27, 2011

SENATE BILL

No. 640

Introduced by Senator Runner

February 18, 2011

An act to add and repeal Sections 17053.50 and 23650 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 640, as amended, Runner. Income and corporation taxes: tax credit: employment.

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

This bill would, until the last day of the calendar quarter within which the Franchise Tax Board estimates it will receive returns claiming credits that cumulatively total \$50,000,000, under both laws, provide a tax credit, in an amount as specified, to a qualified taxpayer for each qualified employee, as defined, who actively received unemployment insurance benefits for 6 months immediately prior to the time the qualified taxpayer hires the qualified employee. This bill would define a "qualified taxpayer" to mean a taxpayer that, as of the last day of the preceding taxable year, employed a total of 50 or fewer employees.

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. This act shall be known, and may be cited, as the
2 California Employment Recovery Act of 2011.

3 SEC. 2. Section 17053.50 is added to the Revenue and Taxation
4 Code, to read:

5 17053.50. (a) For taxable years beginning on or after January
6 1, 2011, there shall be allowed as a credit against the “net tax,” as
7 defined in Section 17039, a qualified amount for each qualified
8 employee employed by a qualified taxpayer in a qualified job
9 during the taxable year.

10 (b) For purposes of this section, the following definitions apply:

11 (1) (A) “Qualified amount” shall be equal to the sum of five
12 hundred dollars (\$500) per month for each qualified employee
13 employed by a qualified taxpayer in a qualified job, multiplied by
14 the number of consecutive calendar months that a qualified
15 taxpayer employs the qualified employee in a qualified job, but
16 not to exceed 12 consecutive calendar months. Where a qualified
17 employee has worked at least two weeks in a month for a qualified
18 taxpayer and earned a gross salary of at least seven hundred fifty
19 dollars (\$750), the 12 consecutive calendar month limitation may
20 include two two-week pay periods. The qualified amount for a
21 two-week pay period shall be two hundred fifty dollars (\$250).

22 (B) The aggregate qualified amount allowed for any qualified
23 employee shall not exceed six thousand dollars (\$6,000).

24 (2) “Qualified employee” means any person who actively
25 received unemployment insurance benefits for not less than six
26 months immediately prior to the time he or she was hired for the
27 first time by a qualified taxpayer for a qualified job.

28 (3) “Qualified job” means a nonseasonal, full-time employment
29 position within the State of California that would qualify the
30 employee for benefits under the Unemployment Insurance Code,
31 not including any benefits received under Section 1279.5 of the
32 Unemployment Insurance Code, and result in a gross salary of not
33 less than one thousand five hundred dollars (\$1,500) in any month
34 ~~in which a qualified taxpayer seeks to apply the credit authorized~~
35 *for which the credit is allowed* by this section.

36 (4) “Qualified taxpayer” means a taxpayer that, as of the last
37 day of the preceding taxable year, employed a total of 50 or fewer
38 employees.

1 (c) The credit allowed by this section shall be in lieu of any
2 other credit that a qualified taxpayer may otherwise claim pursuant
3 to this part with respect to a qualified employee.

4 (d) In the case where the credit allowed by this section exceeds
5 the “net tax,” the excess may be carried over to reduce the “net
6 tax” in the following year, and the five succeeding years if
7 necessary, until the credit is exhausted.

8 (e) (1) (A) A credit under this section and Section 23650 shall
9 be allowed only if it is claimed on timely filed original returns
10 received by the Franchise Tax Board on or before the cutoff date
11 established by the Franchise Tax Board.

12 (B) For purposes of this paragraph, the cutoff date shall be the
13 last day of the calendar quarter within which the Franchise Tax
14 Board estimates it will have received timely filed original returns
15 claiming credits under this section and Section 23650 that
16 cumulatively total fifty million dollars (\$50,000,000) for all taxable
17 years.

18 (2) The date a return is received shall be determined by the
19 Franchise Tax Board.

20 (3) (A) The determinations of the Franchise Tax Board with
21 respect to the cutoff date, the date a return is received, and whether
22 a return has been timely filed for purposes of this subdivision may
23 not be reviewed in any administrative or judicial proceeding.

24 (B) Any disallowance of a credit claimed due to a determination
25 under this subdivision, including the application of the limitation
26 specified in paragraph (1), shall be treated as a mathematical error
27 appearing on the return. Any amount of tax resulting from such
28 disallowance may be assessed by the Franchise Tax Board in the
29 same manner as provided by Section 19051.

30 (4) The Franchise Tax Board shall periodically provide notice
31 on its Internet Web site with respect to the amount of credit under
32 this section and Section 23650 claimed on timely filed original
33 returns received by the Franchise Tax Board.

34 (f) The qualified taxpayer shall include with the timely filed
35 original return in a form and manner to be prescribed by the
36 Franchise Tax Board the title of the qualified job and the amount
37 of wages subject to Division 6 (commencing with Section 13000)
38 of the Unemployment Insurance Code paid by the qualified
39 taxpayer to the qualified employee.

1 (g) (1) The Franchise Tax Board may prescribe rules,
2 guidelines, or procedures necessary or appropriate to carry out the
3 purposes of this section, including any guidelines regarding the
4 limitation on total credits allowable under this section and Section
5 23650 and guidelines necessary to prevent the avoidance of the
6 purposes of this section through split-ups, shell corporations,
7 partnerships, tiered ownership structures, or otherwise.

8 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
9 Division 3 of Title 2 of the Government Code shall not apply to
10 any standard, criterion, procedure, determination, rule, notice, or
11 guideline established or issued by the Franchise Tax Board
12 pursuant to this section.

13 (h) This section shall remain in effect only until December 1 of
14 the calendar year after the year of the cutoff date, and as of that
15 December 1 is repealed.

16 SEC. 3. Section 23650 is added to the Revenue and Taxation
17 Code, to read:

18 23650. (a) For taxable years beginning on or after January 1,
19 2011, there shall be allowed as a credit against the “tax,” as defined
20 in Section 23036, a qualified amount for each qualified employee
21 employed by a qualified taxpayer in a qualified job during the
22 taxable year.

23 (b) For purposes of this section, the following definitions apply:

24 (1) (A) “Qualified amount” shall be equal to the sum of five
25 hundred dollars (\$500) per month for each qualified employee
26 employed by a qualified taxpayer in a qualified job, multiplied by
27 the number of consecutive calendar months that a qualified
28 taxpayer employs the qualified employee in a qualified job, but
29 not to exceed 12 consecutive calendar months. Where a qualified
30 employee has worked at least two weeks in a month for a qualified
31 taxpayer and earned a gross salary of at least seven hundred fifty
32 dollars (\$750), the 12 consecutive calendar month limitation may
33 include two two-week pay periods. The qualified amount for a
34 two-week pay period shall be two hundred fifty dollars (\$250).

35 (B) The aggregate qualified amount allowed for any qualified
36 employee shall not exceed six thousand dollars (\$6,000).

37 (2) “Qualified employee” means any person who actively
38 received unemployment insurance benefits for not less than six
39 months immediately prior to the time he or she was hired for the
40 first time by a qualified taxpayer for a qualified job.

1 (3) “Qualified job” means a nonseasonal, full-time employment
2 position within the State of California that would qualify the
3 employee for benefits under the Unemployment Insurance Code,
4 not including any benefits received under Section 1279.5 of the
5 Unemployment Insurance Code, and result in a gross salary of not
6 less than one thousand five hundred dollars (\$1,500) in any month
7 ~~in which a qualified taxpayer seeks to apply the credit authorized~~
8 *for which the credit is allowed* by this section.

9 (4) “Qualified taxpayer” means a taxpayer that, as of the last
10 day of the preceding taxable year, employed a total of 50 or fewer
11 employees.

12 (c) The credit allowed by this section shall be in lieu of any
13 other credit that a qualified taxpayer may otherwise claim pursuant
14 to this part with respect to a qualified employee.

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

19 (e) (1) (A) A credit under this section and Section 17053.50
20 shall be allowed only if it is claimed on timely filed original returns
21 received by the Franchise Tax Board on or before the cutoff date
22 established by the Franchise Tax Board.

23 (B) For purposes of this paragraph, the cutoff date shall be the
24 last day of the calendar quarter within which the Franchise Tax
25 Board estimates it will have received timely filed original returns
26 claiming credits under this section and Section 17053.50 that
27 cumulatively total fifty million dollars (\$50,000,000) for all taxable
28 years.

29 (2) The date a return is received shall be determined by the
30 Franchise Tax Board.

31 (3) (A) The determinations of the Franchise Tax Board with
32 respect to the cutoff date, the date a return is received, and whether
33 a return has been timely filed for purposes of this subdivision may
34 not be reviewed in any administrative or judicial proceeding.

35 (B) Any disallowance of a credit claimed due to a determination
36 under this subdivision, including the application of the limitation
37 specified in paragraph (1), shall be treated as a mathematical error
38 appearing on the return. Any amount of tax resulting from such
39 disallowance may be assessed by the Franchise Tax Board in the
40 same manner as provided by Section 19051.

1 (4) The Franchise Tax Board shall periodically provide notice
2 on its Internet Web site with respect to the amount of credit under
3 this section and Section 17053.50 claimed on timely filed original
4 returns received by the Franchise Tax Board.
5 (f) The qualified taxpayer shall include with the timely filed
6 original return in a form and manner to be prescribed by the
7 Franchise Tax Board the title of the qualified job and the amount
8 of wages subject to Division 6 (commencing with Section 13000)
9 of the Unemployment Insurance Code paid by the qualified
10 taxpayer to the qualified employee.
11 (g) (1) The Franchise Tax Board may prescribe rules,
12 guidelines, or procedures necessary or appropriate to carry out the
13 purposes of this section, including any guidelines regarding the
14 limitation on total credits allowable under this section and Section
15 17053.50 and guidelines necessary to prevent the avoidance of the
16 purposes of this section through split-ups, shell corporations,
17 partnerships, tiered ownership structures, or otherwise.
18 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code shall not apply to
20 any standard, criterion, procedure, determination, rule, notice, or
21 guideline established or issued by the Franchise Tax Board
22 pursuant to this section.
23 (h) This section shall remain in effect only until December 1 of
24 the calendar year after the year of the cutoff date, and as of that
25 December 1 is repealed.
26 SEC. 4. This act provides for a tax levy within the meaning of
27 Article IV of the Constitution and shall go into immediate effect.

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