



Bill Analysis

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Bill Number: AB 2359

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Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Income Tax Credit: Battery Storage System for Solar Power Systems

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a tax credit for the purchase of a battery storage system for a solar energy system installed on property in the state.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to encourage taxpayers to reduce their carbon footprint through the use of solar energy and battery storage systems.

ANALYSIS

This bill would, under the PITL and the CTL, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, allow a credit up to \$5,000 per each separate legal parcel per taxable year, in an amount equal to 50 percent of costs paid or incurred during the taxable year by a taxpayer for a battery storage system for a solar energy system installed for use on a California property. The cost to install a battery storage system would be excluded from the determination of the credit.

In addition, the credit would be limited to one battery storage system for each separate legal California property parcel.

Taxpayers engaged in utility businesses, as described in Sector 22 of the North American Industry Classification System (NAICS) Manual, 2017 edition, would be precluded from taking this credit.

The credit would be required to be claimed on a timely filed original return.

The bill would define “solar energy system” to mean a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity.

The Franchise Tax Board (FTB) would be required to allow the credit to taxpayers filing for the credit attributable to the same legal parcel of property on a first-come-first-served basis. If two or more returns reporting a credit attributable to the same property are filed on the same day, the FTB would be required to determine the credit based on the lowest battery storage system’s cost, not to exceed a total credit of \$5,000 per taxable year, and then allocate that amount equally between the taxpayers.

The FTB’s determination with respect to the allocation of the credit, and whether a return has been timely filed would be excluded from any administrative or judicial review.

Any disallowance or allocation of a credit by the FTB would be treated as a mathematical error. Any amount of tax resulting from that disallowance would be assessed by the FTB in the same manner as provided by Section 19051. In that case, the notice mailed to the taxpayer would not be considered a deficiency assessment and the taxpayer would not have appeal or protest rights. However, the collection of the amount would be in the same manner as a deficiency assessment.

Unused credits could be carried over to the following year.

The credit would be allowed in addition to any deduction otherwise allowed under the PITL and CTL.

Section 3 of this bill contains language to comply with Revenue and Taxation Code (R&TC) section 41. This language would be excluded from the numbered sections of the R&TC. The bill would require the Legislative Analyst’s Office (LAO) to provide a report to the Legislature on or before December 1, 2023, and December 1, 2025, on the effectiveness of the credit. The report would be required to be in compliance with Government Code section 9795 and include information on the number of taxpayers claiming the credit and the total amount of the credits.

The bill specifies that the LAO may request information from the FTB needed to complete the report, and that the FTB would be required to provide the data requested. This bill would provide an exception for the disclosure of data by the FTB to the LAO from the general disclosure requirements applicable to the FTB.

This credit would remain in effect until December 1, 2026, and be repealed as of that date.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

Federal/State Law

Existing federal and state laws provide various tax credits that are used to reduce the taxpayer's tax liability dollar-for-dollar. Generally, to eliminate multiple tax benefits, a credit is allowed in lieu of any deduction otherwise allowable or a deduction allowed for the same costs may be reduced by the amount of the credit claimed for the current tax year.

Federal Law

Current federal law allows a nonrefundable personal tax credit, known as the Residential Energy Efficient Property (REEP) credit, equal to a specified percentage of expenditures, including installation, for qualified solar electric property and other items, placed in service during the taxable year.

To qualify as an expenditure for qualified solar electric property, the dwelling unit must be located in the United States and used as a residence by the taxpayer. An expenditure is treated as made when the original installation is completed, or when the taxpayer begins use of the structure in the case of new construction or reconstruction. The credit is allocated in the case of a residence used partly for business purposes, as in the case of a home office. The amount of the REEP credit allowed for the taxable year is the sum of the percentages for solar electric property and the other items allowed. Unused credits and may be carried over to the following year.

State Law

There is currently no state credit comparable to the credit this bill would create.

Implementation Considerations

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The definition of "battery storage systems" may be more broadly interpreted than the author intends. For example, the bill lacks a minimum storage capability. To ensure consistency with the author's intent, it is suggested that the bill be amended.

If requested, this bill would require the FTB to provide confidential taxpayer information to the LAO. However, the bill fails to prohibit the LAO from further disclosure of confidential taxpayer information. It would be beneficial to add a section to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the R&TC authorizing FTB to share this information.

To avoid delayed implementation, it is recommended that the bill be amended to grant the FTB regulatory authority and a waiver from rulemaking procedures required under the Administrative Procedures Act (APA). The APA is located in Government Code section 11340 et seq.

Technical Considerations

For consistent use of terminology, the word "individuals" on page 5, line 23, should be replaced with "taxpayers."

Policy Concerns

This bill would allow a credit for purchases of battery storage systems for solar power systems that are currently deductible as business expenses. Generally, a credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

LEGISLATIVE HISTORY

AB 1651 (Arambula, 2007/2008) would have, under the PITL and CTL, allowed a credit to a qualified taxpayer for amounts paid or incurred for qualified capital equipment, including equipment that produced an eligible greenhouse reduction. AB 1651 failed to pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process and implementation considerations are resolved, costs will be identified.

ECONOMIC IMPACT

The bill states that for purposes of R&TC section 41, the goal, purpose, or objective of this credit is to encourage individuals to reduce their carbon footprint through the use of solar energy and related batter storage.

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2359 as Introduced 2/18/2020
Assumed Enactment after June 30, 2020

(\$ in Millions)

Fiscal Year	Revenue
2020-2021	-\$37
2021-2022	-\$80
2022-2023	-\$90

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Based on data from the California Department of Finance, and the California Energy Commission (CEC), it is estimated that approximately 725,000 new and existing residential homes have or would install solar panels in the 2021 taxable year. It is assumed that seven percent, or 50,000, of these homes would also purchase a battery storage system for a solar energy system. Research indicates that the average residential battery storage system would cost approximately \$5,000, resulting in about \$250 million in purchases made by residential home owners.

Based on data from the U.S. Census Bureau, the California Employment Development Department, and the CEC, it is estimated that approximately 40,000 businesses have or would install solar panels in the 2021 taxable year. It is assumed that ten percent, or 4,000, of these businesses would also purchase a battery storage system for a solar energy system. Research indicates that the average non-residential battery storage system would cost approximately \$20,000, resulting in about \$80 million in purchases made by businesses owners.

Applying the 50 percent credit rate, not to exceed \$5,000, results in an approximately \$150 million in credit generated for the 2021 taxable year. It is estimated that 65 percent, including the S corporation adjustment, or \$95 million, would be earned by taxpayers with sufficient tax liability to offset with the credit. Of that amount, 70 percent, or \$65 million, would be claimed in the year generated, 20 percent, or \$20 million, would be carried over and used in the following taxable year, and the remaining credit would go unused.

The tax year estimates were converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None noted.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

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