



Bill Analysis

Author: Grayson, et al.

Sponsor:

Bill Number: AB 52

Related Bills: See Legislative History
Amended: June 15, 2023

SUBJECT

Credit for Portion of Sales Tax Reimbursement or Use Tax Paid for Qualified Tangible Personal Property

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow certain taxpayers an income tax credit for the non-exempt portion of sales and use taxes paid during the year on the sale of, or the storage, use, or other consumption in this state of certain qualified tangible personal property (TPP).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 15, 2023, amendments required the income tax credit to be claimed only on a timely filed original return, provided for the disallowance of a credit or carryover of a credit if the TPP does not qualify for the sales and use tax exemption, and added a provision allowing the California Department of Tax and Fee administration (CDTFA) to share specific information with the Franchise Tax Board (FTB).

REASON FOR THE BILL

The reason for the bill is to incentivize growth in the manufacturing industry in California.

ANALYSIS

For taxable years beginning on or after January 1, 2024, and before January 1, 2029, this bill would, under the PITL and the CTL, allow a taxpayer an income tax credit in an amount equal to sales tax reimbursement and use taxes paid on certain gross receipts during the taxable year for the following sales and use taxes that are not exempt under Revenue and Taxation Code (RTC) section 6377.1(d), the sales and use taxes

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levied by a county, city, or district under either the:

- Bradley-Burns Uniform Local Sales and Use Tax Law.
- Transactions and Use Tax Law.
- Sales and use taxes that are credited to the Local Revenue Fund, the Local Revenue Fund 2011, or the Local Public Safety Fund.

The credit would be applicable only for the sales tax reimbursement and the use taxes paid on gross receipts for qualified TPP used for specified purposes, that among other purposes, includes manufacturing, research and development, production, maintenance of this TPP, and TPP used in the generation or production, or storage and distribution, of electric power.

This bill would, by reference to Section 6377.1, incorporate that section's definitions.

In addition, the bill provides that a deduction for an amount upon which the credit is based would be reduced by the amount of the credit.

Any unused credit could be carried over for up to 9 years, until exhausted.

The credit could only be claimed on a timely filed original return of a taxpayer.

A credit, a credit in a subsequent year, or a credit carryover would not be allowed with respect to TPP that if within one year from the date of purchase the TPP was:

- Removed from California,
- Converted from an exempt use under Section 6377.1(a) to some other use not qualifying for exemption, or
- Used in a manner not qualifying for exemption.

This bill would allow the CDTFA to provide information to the FTB, in a form and manner agreed upon by the CDTFA and the FTB, regarding the exemption claimed pursuant to Section 6377.1.

The FTB would be allowed to adopt necessary or appropriate regulations to implement this bill.

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The bill includes, for purposes of complying with Section 41, the Legislature's findings and declarations that:

- The goal, purpose and objective of this credit is to encourage new and continued investment in California in the areas of manufacturing and research and development.
- Detailed performance indicators for Legislature to use in determining whether the credit meets that goal, purpose and objective are as follows:
 - The total dollar amount of tax credits allowed.
 - The number of taxpayers that are allowed a credit.
- This bill would require the Legislative Analyst's Office (LAO) to review the effectiveness of the credit and post the review on its internet website on or before January 1, 2027, including an analysis of the demand for the credit and the economic impact of the credit.
- This bill would require the FTB to provide to the LAO any data in its possession requested by the LAO to review the effectiveness of the credit allowed by this bill.

Because this bill does not specify otherwise, this credit would not reduce regular tax below tentative minimum tax.

This credit would be in effect only until December 1, 2029, and as of that date would be repealed.

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, 2024, and before January 1, 2029.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

Under RTC section 6377.1, a partial sales and use tax exemption is allowed for qualified TPP used for manufacturing, production, and research and development.

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Under RTC section 6377.1, a partial exemption is allowed from sales and use tax on the purchase or lease of qualified TPP used primarily in one of the following activities:

- Any stage of the manufacturing, processing, refining, fabricating, or recycling process.
- Research and development.
- To maintain, repair, measure, or test any qualified TPP.
- The generation or production, storage or distribution of electric power.
- For use by a contractor purchasing that property for use in the performance of a construction contract for a qualified person, provided that the qualified person will use the resulting improvement to real property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, the generation or production, storage or distribution, of electric power, or as a research or storage facility for use in connection with those processes.

The exemption is limited to \$200 million in qualified TPP purchases annually.

However, the partial exemption does not currently apply with respect to the following sales and use taxes levied by a county, city, or district under the:

- Bradley-Burns Uniform Local Sales and Use Tax Law.
- Transactions and Use Tax Law.
- Sales and use taxes that are credited to the Local Revenue Fund, the Local Revenue Fund 2011, or the Local Public Safety Fund.

Implementation Considerations

None noted.

Technical Considerations

The FTB has identified the following technical consideration and is available to work with the author's office to resolve these and other considerations that may be identified.

For clarity, in SEC. 2, Section 17053.9(e) and SEC. 3, Section 23623(e), remove "a credit in a subsequent year" and replace it with "A credit, or a credit carryover shall not be allowed with respect to qualified tangible property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) of Section 6377.1 to some other use not qualifying for exemption, or used in a manner not qualifying for exemption."

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Policy Considerations

None Noted.

LEGISLATIVE HISTORY

AB 2673 (Harper, et al., 2015/2016), under the PITL and the CTL, would have allowed certain taxpayers an income tax credit for sales and use taxes previously paid on hydrogen refueling station equipment. AB 2673 did not pass out of the house of origin by the constitutional deadline.

AB 1159 (Manuel, 2009/2010) would have allowed a tax credit equal to 100% of the sales or use tax paid to acquire property used to produce or generate renewable energy. AB 1159 did not pass out of the house of origin 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, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Loss of AB 52 as Amended June 15, 2023
Assumed Enactment after June 30, 2023

(\$ in Millions)

Fiscal Year	Revenue
2023-2024	-\$95
2024-2025	-\$270
2025-2026	-\$330

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.

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LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support

According to the June 09, 2023, the Senate Governance and Finance Committee analysis of AB 52, the following organizations support this bill:

Aerospace and Defense Alliance of California; Agricultural Council of California; Bay Area Council; Biocom California; Biotechnology Innovation Organization; Boehringer Ingelheim Pharmaceuticals INC.; Boma California; California Business Properties Association; California Business Roundtable; California Chamber of Commerce; California Food Producers; California Life Sciences; California Manufacturers and Technology Association; California Steel Industries, INC.; California Taxpayers Association (CALTAX); Can Manufacturers Institute; El Dorado County Chamber of Commerce El Dorado Hills Chamber of Commerce Elk Grove Chamber of Commerce; Folsom Chamber of Commerce; Glass Packaging Institute; Lincoln Area Chamber of Commerce; Los Angeles County Business Federation (BIZ-FED); Naiof of California, the Commercial Real Estate Development Association; Orange County Business Council; Rancho Cordova Chamber of Commerce; Rocklin Area Chamber of Commerce; Roseville Area Chamber of Commerce; Ryan, LLC; San Gabriel Valley Economic Partnership; Santa Maria Valley Chamber of Commerce; Scotts Miracle-gro Company; Silicon Valley Leadership Group; Specialty Equipment Market Association (SEMA); The Wine Institute and Yuba Sutter Chamber of Commerce.

Opposition

According to the June 09, 2023, the Senate Governance and Finance Committee analysis of AB 52, California Federation of Teachers AFL-CIO opposes the bill.

ARGUMENTS

As per the May 19, 2023, Assembly Floor analysis of AB 52, the following arguments in support of this bill were provided.

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Proponents

According to the California Manufacturers & Technology Association:

AB 52 would provide manufacturers with a state tax credit equal to the local portion of the sales and use tax for the purchase of qualified manufacturing and research and development (R&D) equipment. This credit transforms the current incentive landscape, making manufacturing investment in California far more competitive and attractive. California operational costs can challenge a manufacturer's ability to revitalize and uplift communities, but this investment will send just the proper signal that the State is serious about retaining and attracting production.

Opponents

The Assembly Floor analysis dated May 19, 2023, noted that there is no opposition on file.

LEGISLATIVE CONTACT

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