



Bill Analysis

Author: Grayson, et al.

Bill Number: AB 52

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 taxpayers a credit for the non-exempt portion of sales tax reimbursement and use taxes paid during the taxable year on the sale of, or the storage, use, or other consumption in this state of certain qualified tangible personal property (TPP), related to manufacturing, research and development, and the generation and production of electrical power.

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, 2025, and before January 1, 2030, this bill would, under the PITL and the CTL, allow a taxpayer a credit against net tax and tax, 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 would be exempt under Revenue and Taxation Code (RTC) section 6377.1 but for RTC section 6377.1(d):

Sales and use taxes levied by a county, city, or district under either the Bradley-Burns Uniform Local Sales and Use Tax Law or the 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, maintenance of this TPP used for manufacturing and research and development, and TPP used in electric power generation or production or electric power storage and distribution.

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, or a credit carryover would not be allowed with respect to qualified 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 California Department of Tax and Fee administration (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 regulations necessary or appropriate to implement this bill.

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 tax below tentative minimum tax.

The Department of Finance is required to provide, to legislative budget committees, an estimate of the amount of potential revenue loss from the credit. This reporting requirement is effective beginning on or before May 14, 2025. The credit would only be allowed, for a particular taxable year, if the Legislature appropriates money, for the administration of the credit, in the Budget Act.

This credit would be in effect only until December 1, 2030, 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, 2025, and before January 1, 2030.

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 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 used for manufacturing and research and development.
- 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.
- A qualified person is someone who is engaged primarily in the business of manufacturing or electric power generation or distribution.

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:

- Sales and use taxes levied by a county, city, or district under either the Bradley-Burns Uniform Local Sales and Use Tax Law or the 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

The FTB may need to obtain information with respect to TPP removed from California, converted from an exempt use to some other use not qualifying for exemption, or used in a manner not qualifying for exemption within one year from the date of purchase to validate the credit.

A CDTFA sales and use tax return or CDTFA audit would not capture this information. Consequently, the FTB would not be able to utilize CDTFA data to validate the credit. Therefore, FTB would need to conduct audits to determine the necessary information to validate the credit.

Technical Considerations

None noted.

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.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

The FTB anticipates minimal costs to implement this bill.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 52 as Amended August 15, 2024
Assumed Enactment after June 30, 2024

(\$ in Millions)

Fiscal Year	Revenue
2024-25	-\$110
2025-26	-\$290
2026-27	-\$350

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.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION*Support:*

Senate Floor Analysis dated 08-19-2024.

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)
Los Angeles County Business Federation (BIZFED)
NAIOP of California, the Commercial Real Estate Development Association
Nucor Corporation
Orange County Business Council
Rancho Cordova Chamber of Commerce
Regional Economic Association Leaders (R.E.A.L.) Coalition
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
 Valley Industry and Commerce Association (VICA)
 Yuba Sutter Chamber of Commerce

Opposition:

California Federation of Teachers AFL-CIO.

VOTES

Location	Date	Yes Votes	No Votes
Concurrence	08-29-24	76	0
Senate Floor	08-28-24	39	0
Assembly Floor	05-22-24	77	0

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