Senate Bill 79 (Allen)
Date: 03/09/17
Program: Sales and Use Tax
Sponsor: Plug in America
Revenue and Taxation Code Section 6368.4
Effective: Upon enactment, but operative July 1, 2018

Michele Pielsticker (Chief) 916.322.2376
Debra Waltz (Analyst) 916.324.1890
Patrick Alessandri (Revenue) 916.445.0840

Summary: Exempts from the state sales and use tax a used electric vehicle purchased by a person trading in a vehicle of model year 2009 or older.

Purpose: To provide financial incentives to low-income drivers to purchase used electric vehicles which, in turn, will increase their consumption in disadvantaged communities.

Fiscal Impact Summary: State revenue loss of $1.3 million annually.

Existing Law: Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law[1] imposes the sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. Currently, the Sales and Use Tax Law does not provide any exemption or exclusion for sales and purchases of electric vehicles or any other zero-emission or partial-zero-emission vehicles.

California's sales and use tax rates. As of January 1, 2017, California's statewide sales and use tax rate is 7.25%. The table below shows California's various sales and use tax rate components applicable as of January 1, 2017 (the table excludes voter-approved city and county district taxes):

Rate	Jurisdiction	Purpose/Authority
3.9375%	State (General Fund)	State general purposes (Revenue and Taxation Code (RTC) Sections 6051, 6051.3, 6201, 6201.3)
1.0625%	Local Revenue Fund 2011	Realignment of local public safety services (RTC Sections 6051.15 and 6201.15)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
0.50%	State (Local Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
1.25%	Local (City/County) 1.00% City and County 0.25% County	(RTC Sections 7202 and 7203) General city and county operations County transportation purposes
7.25%	**Total Statewide Rate**	

Federal incentives. Existing Internal Revenue Code (IRC) Section 30D provides a federal income tax incentive of up to $7,500 for purchases of electric and certain plug-in hybrid electric vehicles, which include passenger vehicles and light trucks. The credit amount varies based on the capacity of the battery used to fuel the vehicle. Small neighborhood electric vehicles do not qualify.

IRC Section 30D defines the term "new qualified plug-in electric drive motor vehicle" to mean a motor vehicle that:

[1] Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code (RTC).

- Is propelled to a significant extent by an electric motor that draws electricity from a battery that has a capacity of not less than 4 kilowatt hours and is capable of being recharged from an external source of electricity,
- Has a gross vehicle weight of less than 14,000 pounds,
- Is made by a manufacturer, as defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposed of the administration of title II of the Clean Air Act[2],
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act, which defines "motor vehicle" as any vehicle that is manufactured primarily for use on public streets, roads, and highways, and that has at least four (4) wheels,
- The original use of the vehicle commences with the taxpayer, and
- The vehicle is acquired for use or lease by the taxpayer and not for resale.

The IRS identifies and maintains on their website https://www.irs.gov/businesses/qualified-vehicles-acquired-after-12-31-2009 a list of vehicles qualifying for the IRC 30D federal tax incentives, including the incentive amount.

State incentives. The *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007*[3] created the California Air Resources Board's (ARB) Air Quality Improvement Program (AQIP), to fund clean vehicle and equipment projects. Under the AQIP, the ARB established the Clean Vehicle Rebate Project (CVRP) to promote the use of zero-emission vehicles.

Under the **CVRP**, rebates of up to $5,000 are issued to partially offset the higher cost of zero-emission vehicles and plug-in hybrid electric vehicles. The rebates are available for light-duty cars and trucks, low-speed neighborhood electric cars, and zero-emission motorcycles. CVRP enables the purchaser or lessee of an eligible vehicle to receive a rebate of up to $5,000 for fuel-cell electric vehicles, up to $2,500 for all-battery electric vehicles, up to $1,500 for plug-in hybrid electric light-duty vehicles, up to $900 for neighborhood electric vehicles and zero-emission motorcycles.[4] The CVRP is administered statewide by the California Center for Sustainable Energy.

Proposed Law: Until January 1, 2025, this bill exempts from the sales and use tax a qualified motor vehicle purchased by a qualified buyer. The bill defines the following terms:

- "Qualified motor vehicle" means a secondhand motor vehicle that meets the definition in IRC Section 30D of a "new qualified plug-in electric drive motor vehicle," except the original use of that vehicle will not commence with the taxpayer.
- "Qualified buyer" means an individual trading in a motor vehicle of model year 2009 or older if that individual has been the owner of the vehicle for the 12-month period immediately preceding the trade in and purchase of another vehicle.

Eligible used electric vehicles purchased by a qualified buyer would be subject to a tax levied by a city, county, or district pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law.

The bill requires the ARB to undertake a cost-benefit analysis of the proposed sales and use tax exemption and the greenhouse gas emission reduction from the vehicles traded in for the period July 1, 2018 to July 1, 2020, and to submit a report to the Legislature by July 1, 2021.

As a tax levy, the bill takes effect immediately, but is operative on July 1, 2018.

[2] 42 U.S.C. 7521 et seq.
[3] AB 118, Stats. 2007, Ch. 750
[4] Purchasers and lessees are not eligible for CVRP rebates if their gross annual incomes are above certain thresholds. The income cap applies to all eligible vehicle types except fuel-cell electric vehicles. Purchasers and lessees with household incomes less than or equal to 300 percent of the federal poverty level are eligible for an increased rebate amount of $2,000.

Background: In March 2012, Governor Brown issued Executive Order B-16-2012 directing state government to help accelerate the market for ZEVs in California. This Executive Order calls for 1.5 million ZEVs in California by 2025. The 2013 ZEV Action Plan was developed by the Governor's Interagency Working Group on ZEVs, and identified specific strategies and actions that state agencies would take to meet the executive order's goals. For the purposes of this executive order and action plan, ZEVs include hydrogen fuel cell electric vehicles and plug-in electric vehicles, which include both pure battery electric vehicles and plug-in hybrid electric vehicles.

In October 2016, the Governor's Interagency Working Group on ZEV's issued an updated 2016 ZEV Action Plan, which identifies new actions state agencies will take to meet the executive order goal of 1.5 million ZEVs on California roadways by 2025.

Legislative History: During the 1989-90 Legislative Session, SB 1006 (Ch. 990, Leonard, Stats. 1990) was enacted to encourage the development and popularization of low-emission vehicles capable of using alternative fuels. Among other things, this measure added RTC Section 6356.5 to provide, until January 1, 1995, a sales and use tax exemption for the incremental costs of the sale or use of new low-emission vehicles as identified by the ARB. Although this section was repealed by its own terms on January 1, 1995, the Legislature considered two bills to extend the sunset date: SB 381 (Hayden, 1993) which failed passage in the Senate, and SB 1883 (Campbell, 1994) which failed in the Senate Appropriations Committee.

Other proposed exemptions for zero-emission or low-emission vehicles included:

Year	Bill	Summary
2016	AB 1851 (Gray & Ting)	Among its provisions, would have excluded from the sales or use tax the trade-in value of a vehicle applied to the purchase of a qualified clean air vehicle.
2016	Calderon	Among its provisions, would have excluded from the sales or use tax that portion of a new or used near-zero or zero-emission vehicle that does not exceed $40,000 and purchased by a low-income purchaser.
2015	AB 945 (Ting)	Would have exempted from the state General Fund (3.9375%) of the sales and use tax the greater of the following: (1) the sum of a specified IRC tax credit and any specified state incentive program amount allowed on the purchase of a qualified motor vehicle, or (2) the trade-in value of a vehicle for the purchase of a qualified motor vehicle.
2013	AB 220 (Ting)	Would have proposed either a state 4.4375% sales tax exemption or a state 5.4375% sales tax exclusion on purchases of specified low-emission vehicles.
2013	AB 1077 (Muratsuchi)	Would have exempted from the state portion (5.5%) of the sales and use tax the greater of the following: (1) the sum of a specified IRC tax credit and any specified state incentive program amount allowed on the purchase of a qualified motor vehicle, or (2) the trade-in value of a vehicle for the purchase of a qualified motor vehicle.
2013	SB 221 (Pavley)	Would have excluded from the state sale and use tax (6.5%) a specified IRC tax credit, and any state incentive program amounts allowed on the purchase of a new alternative fuel vehicle.

Commentary:

1. **Effect of the bill.** This bill exempts from the 6% state sales and use tax rate purchases of a used all-electric or plug-in hybrid electric vehicle by an individual trading in an older vehicle (model year 2009 or older) if that individual has been the owner of the vehicle for the 12-month period immediately preceding the trade in and purchase of the qualifying vehicle. Qualifying vehicle purchases would be subject to the 1.25% Bradley-Burns local sales and use taxes, and any applicable local district taxes.

2. **Definition of qualified motor vehicle.** Qualifying vehicles would be used vehicles that meet the requirements for the Qualified Plug-in Electric Drive Motor Vehicle federal tax credit, which includes all-electric and plug-in hybrid electric vehicles. The IRS identifies and maintains on its website a list of vehicles qualifying for the IRC 30D federal tax credits, including the credit amount.

3. **Currently eligible vehicles.** The IRS website lists over 20 all-electric or plug-in hybrid electric vehicles that qualify for the IRC Section 30D tax incentive. Makes and models that qualify include the BMW i3, Chevy Spark, Fiat 500, Ford Focus Electric, Kia Soul, Mitsubishi i-Mi, Nissan Leaf, and Volkswagen e-Golf. Makes and models that qualify as plug-in hybrid electric include Audi A3 e-tron, BMW i8, Cadillac ELR, Chevy Volt, Ford C-Max Energi, Ford Fusion Energi, Hyundai Sonata, Porsche Cayenne, and Porsche Panamera.

4. **Vehicle dealers' record keeping responsibilities.** Vehicle dealers would be required to keep records to verify that the vehicle sold is a qualifying vehicle for the IRC 30D federal tax credit. In addition, dealers must retain documentation to support that the trade-in vehicle is a model year 2009 or older. Also, dealers must retain documentation to support that the qualified buyer owned the trade-in vehicle for a 12-month period immediately preceding the purchase of a qualified vehicle.

5. **Partial exemptions complicate administration.** Currently, most sales and use tax exemptions are applied to the total applicable sales and use tax. However, several partial exemptions exist, such as farm equipment and machinery exemption, in which only the state tax portion (5%[5]) of the sales and use tax rate are exempted. These partial exemptions are difficult for both retailers and the BOE, and complicate return preparation and processing. Moreover, errors attributable to these partial exemptions occur frequently. This results in additional return processing workload for the BOE.

6. **Related Legislation.** AB 1081 (Burke) excludes from the sales or use tax the trade-in value of a vehicle on the purchase of a qualified clean air vehicle. AB 1341 (Calderon), among other things, excludes from the gross receipts and sales price that portion of the cost of a new near-zero or zero-emission vehicle purchased by a low-income purchaser that does not exceed $40,000.

Costs: BOE will incur administrative costs to reprogram for the partial exemption, modify and process returns, notify car dealers, audit claimed exemptions, revise the BOE's regulation and publications, and answer inquiries from the general public. A cost estimate is pending.

Revenue Impact: **Background, Methodology, and Assumptions**. According to data from the National Automobile Dealers Association (NADA), there were 7 million used cars sold in the United States in 2016. Since the California market share is approximately 12% of the US total, 840,000 used cars were sold by California dealers in 2016. Electric vehicles (EVs) make up approximately 1% of the total vehicle market, or 8,400 EVs.

The NADA forecasts a growth in EV sales of approximately 2.8%. Therefore, used EVs sold in California for Fiscal Year (FY) 2017-18 is 8,635 (8,400 used EVs X 2.8% growth = 8,635), and 8,877 in FY 2018-19.

The NADA indicates that approximately 24% of all used cars purchased at a dealership are accompanied by a trade-in. Therefore, the projected number of qualifying used EVs for FY 2017-18 is 2, 072 (8,635 used EVs X 24% with trade-in = 2, 072), and 2, 130 in FY 2018-19.

Market data from Car and Driver shows EVs hold only approximately 31% of their purchase price. Various sources provide an average new EV purchase price of $32,464. Therefore, the average used EV selling price is approximately $10,064 ($32,464 new EV price X 31% resale price = $10,064).

This bill specifies that to be eligible for the exemption, the purchaser must trade in a vehicle that is model year 2009 or older. BOE staff assumes all trade-ins will fall into this category.

[5] 3.9375% General Fund and 1.0625% Local Revenue Fund 2011

Combining used EV sales that are accompanied by trade-ins with the selling price of used EVs results in a total value of qualifying EVs sold of $20.8 million in FY 2017-18 (2,072 qualifying used EVs X $10,064 average used EV selling price = $20.8 million), and $21.4 million in FY 2018-19.

Since this bill exempts 6% of the total sales and use tax rate from the purchase of a qualifying used EV, estimated revenue loss would be $1.2 million in FY 2017-18 ($20.8 million taxable sales X 6% exemption rate = $1.2 million), $1.3 million in FY 2018-19 ($21.4 million taxable sales X 6% exemption rate = $1.3 million).

Revenue Summary. The revenue impact from this bill is estimated to be:

SUT Exempted		**2017-18**	**2018-19**
Basic	3.9375%	$ 821,000	$ 844,000
Local Rev '11	1.0625%	$ 222,000	$ 228,000
Local Rev '91	0.5000%	$ 104,000	$ 107,000
Public Safety	0.5000%	$ 104,000	$ 107,000
Total	6.0000%	$ 1,251,000	$ 1,286,000

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.