



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	06/15/13	Bill No:	Assembly Bill 1077
Tax Program:	Sales and Use	Author:	Muratsuchi and Ting
Sponsor:	CaIETC	Code Sections:	RTC 6378.5
Related Bills:	AB 220 (Ting) SB 221 (Pavley) SB 732 (Berryhill)	Effective Date:	01/01/14

This analysis will only address the provisions that impact the State Board of Equalization (BOE).

BILL SUMMARY

This bill exempts from the state portion (5.5%) of the sales and use tax the greater of the following:

- (1) the sum of a specified Internal Revenue Code (IRC) tax credit and any specified state incentive program amount allowed on the purchase of a qualified motor fuel vehicle; or,
- (2) the trade-in value of a vehicle for the purchase of a qualified motor fuel vehicle.

Summary of Amendments

Since the previous analysis, this bill was amended to exempt from the state sales and use tax the trade-in value of a motor vehicle if the trade in value is greater than the proposed IRS tax credit and state incentive program amount for the purchase of a qualified motor vehicle.

ANALYSIS

CURRENT LAW

Except where the law provides a specific exemption or exclusion, California’s Sales and Use Tax Law¹ 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 zero-emission or low-emission vehicles, or for any related tax credit or rebate amount on these vehicles.

The 7.5% statewide sales and use tax rate is made up of the following components²:

Rate	Jurisdiction	Purpose/Authority
3.6875%	State (General Fund)	General state purposes (RTC Sections 6051, 6201)
0.25%	State (General Fund)	General state purposes (RTC Sections 6051.3, 6201.3)

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

² The additional transactions and use taxes, also known as district taxes, levied by various local jurisdictions are not reflected in this chart.

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Rate	Jurisdiction	Purpose/Authority
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5, operative 7/1/04)
0.50%	State (Local Public Safety Fund)	Local public safety services (Section 35, Article XIII, State Constitution)
0.25%	State (Education Protection Account)	Supports school districts, county offices of education, charter schools, and community college districts (Section 36, Article XIII, State Constitution, operative 1/1/13 to 12/31/16)
0.50%	State (Local Revenue Fund)	Local health and welfare programs (RTC Sections 6051.2 and 6201.2)
1.0625%	State (Local Revenue Fund 2011)	County public safety programs (RTC Sections 6051.15 and 6201.15)
1.00%	Local (City/County) 0.75% City and County 0.25% County	(RTC Section 7203.1, operative 7/1/04) County transportation General city and county operations
7.50%	Total Statewide Rate	

Federal incentives. Existing IRC Section 30D provides a federal income tax incentive of up to \$7,500 for purchases of electric and 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.

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. Two programs administered under the AQIP are the Clean Vehicle Rebate Project (CVRP) and the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP).

Under the **CVRP**, rebates of up to \$2,500 are issued to partially offset the higher cost of zero-emission vehicles (ZEV) 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. The CVRP is administered statewide by the [California Center for Sustainable Energy](#).

The **HVIP** offers vouchers from \$8,000 to \$45,000, on a first-come, first served basis, to offset approximately half of the additional cost of eligible new hybrid and electric trucks and buses. The ARB [identifies](#) eligible truck and bus models, with pre-set amounts offered for each eligible vehicle.

A third program, the **Carl Moyer Program - On-Road Heavy-Duty Voucher Incentive Program** (VIP) is designed to provide funding for 10 or fewer vehicle fleets to quickly replace or retrofit older heavy-duty diesel vehicles. Vouchers range from \$10,000 to \$45,000, depending on such factors as the miles traveled per year, the weight class of

³ AB 118, Stats. 2007, Ch. 750

the old truck, and emission standard of the new replacement truck. Other VIP eligibility requirements are: (1) vehicle is owned and operated in California for each of the previous two years, (2) gross vehicle weight rating is greater than 19,500 pounds, and (3) vehicle's in state usage is at least 75% of the miles traveled or fuel consumed over the last two years. Trucks must be purchased through a participating dealership.

PROPOSED LAW

This bill exempts from the state (5.5%) sales and use tax the greater of either:

- (1) the sum of any credit allowed under IRC Section 30D, relating to new qualified plug-in electric drive vehicles, and any amount received, awarded, or allowed pursuant to a state incentive program for the purchase of a qualified motor vehicle; or
- (2) the trade-in value of a vehicle that is traded in for the qualified motor vehicle if the trade-in vehicle's value is separately stated on the invoice or bill of sale or similar document provided to the purchaser.

The bill defines "qualified motor vehicle" to mean a motor vehicle that receives, or is awarded or allowed, either or both of the following:

- A credit for a Qualified Plug-in Electric Drive Motor Vehicle under Section 30D of the Internal Revenue Code.
- A state incentive amount under the Clean Vehicle Rebate Project, the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project, or the On-Road Heavy-Duty Voucher Incentive Program within the Carl Moyer Program.

Exempt vehicles would be subject to the 0.5% Local Revenue Fund, 0.5% Local Public Safety Fund, and any tax levied pursuant to Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law.

The bill would take effect immediately as a tax levy, but would become operative January 1, 2014, until January 1, 2022.

BACKGROUND

In March 2012, Governor Brown issued the Executive Order B-16-2012 directing state government to help accelerate the market for ZEVs in California. The [2013 ZEV Action Plan](#) was developed by the Governor's Interagency Working Group on ZEVs, and identifies specific strategies and actions that state agencies will 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. The action plan addresses light-duty passenger vehicles and heavier vehicles such as freight trucks and public buses.

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)

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which failed passage in the Senate, and SB 1883 (Campbell, 1994) which died on the Senate Appropriations Committee suspense file.

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

Year	Bill	Summary
1995	SB 780 (Leonard)	State and local tax exemption for the incremental costs of purchasing a low-emission vehicle or for the full cost of purchasing a retrofit device to make a vehicle low-emission in its operation.
1996	AB 3162 (Burton)	State and local tax exemption for the incremental costs of purchasing a new low-emission vehicle or for the full cost of purchasing a retrofit device to convert a conventional vehicle into a low-emission vehicle.
1997	SB 1096 (Brulte)	Among its provisions, provides a state and local tax exemption for the incremental costs of purchasing certain heavy motor vehicles whose engines meet specific requirements for certification by the ARB.
1998	AB 2085 (Ortiz)	Among its provisions, provides a state and local tax exemption for the sale of a new low-emission vehicle, as defined.
2001	AB 554 (Campbell)	State sales and use tax exemption for a specific percentage of the gross receipts from sales of ultra-low emission vehicles, super ultra-low emission vehicles, partially zero emission vehicles, zero emission vehicles, and advanced technology partial zero emission vehicles.
2009	AB 1309 (Saldana)	State and local tax exemption, until January 1, 2015, for the sale and purchase of electric vehicles, as defined. The exemption would be limited to 100 electric vehicles per manufacturer.

COMMENTS

1. **Sponsor and purpose.** The California Electric Transportation Coalition (CaETC) is sponsoring this bill to help make alternative fuel vehicles more cost competitive with conventionally powered cars, trucks, and SUVs. They contend California's environment and economy demands more alternative fuel vehicles on the roads. Moreover, this bill is consistent with Governor Brown's 2013 ZEV Action Plan.
2. **The June 15, 2013, amendments** make technical corrections and Department of Motor Vehicle-related changes. **The June 6, 2013, amendments** exempt the trade-in value of a motor vehicle traded in for a qualified motor vehicle, if the trade value is greater than the proposed IRS tax credit or state incentive amount. They also add Assembly Member Ting as a co-author.
3. **Identifying eligible vehicles appears uncomplicated.** The IRS identifies and maintains on their [website](#) a list of vehicles qualifying for the IRC 30D federal tax incentives, including the incentive amount. Vehicles qualifying for a state incentive program are identified by the ARB. A current list of these eligible cars, trucks, and buses are available on the program's [website](#), including information on the incentive amount.
4. **Currently eligible vehicles.** For the federal tax incentive, eligible vehicles include plug-in hybrid electric vehicles and ZEVs driven only by an electric motor, which include battery and fuel cell electric vehicles. The ZEV or plug-in hybrid electric vehicle must have a battery with a minimum capacity of 4 kilowatt-hours. Small neighborhood electric vehicles do not qualify for this federal incentive. Plug-in hybrid electric vehicles include the Chevrolet Volt and Ford Fusion Energi. Electric-only

vehicles include the Nissan Leaf and Smart Fortwo vehicle. A list of qualified vehicles is maintained on the IRS website

The three state incentive programs are CVRP, HVIP, and VIP. The CVRP qualifying vehicles are ZEVs and plug-in hybrid electric vehicles. ZEVs include: (1) battery and fuel cell electric light duty cars and trucks, (2) neighborhood electric vehicles that are categorized as low-speed vehicles with four wheels and a weight of 3,000 pounds or less, and (3) two- to three- wheeled motorcycles as defined in Vehicle Code Section 400.

For the HVIP, medium-duty and heavy-duty hybrid and electric buses or trucks, including an aerial boom truck equipped with zero-emission power take-off, are eligible.

Lastly, for the VIP, new 2010 model year or later heavy-duty truck with a California certified engine purchased through a participating dealership.

5. **Amount of the incentives.** The bill provides a partial exclusion of 5.5 percent from the sales and use tax for specified federal and state tax incentive program amounts:

Federal tax incentive amount. Eligible electric and plug-in hybrid electric vehicles qualify for a maximum \$7,500. The incentive amount varies based on the capacity of the battery used to fuel the vehicle. Vehicles such as the Nissan LEAF, with a 24 kWh capacity battery, are eligible for the maximum \$7,500 credit; whereas the 2012-13 Toyota Prius plug-in hybrid, only qualifies for a \$2,500 credit.

California CVRP. The incentive amount is capped at \$2,500. ZEVs powered by batteries or fuel cell generally qualify for the maximum incentive. Vehicles such as the Nissan LEAF and Ford Focus Electric qualify for the maximum \$2,500 incentive. Zero-emission motorcycles and low speed neighborhood electric vehicles qualify for incentives up to a \$900. For plug-in hybrid electric vehicles, the incentive amount is capped at \$1,500. These vehicle incentives can be reserved on the date of, and not prior to, vehicle purchase.

California HVIP. The HVIP voucher incentives range from \$8,000 to \$45,000 for eligible buses or trucks depending upon the bus or truck's gross vehicle weight rating. However, with additional incentives, HVIP voucher amounts can reach \$65,000 per bus or truck. The heavier the vehicle's gross vehicle weight rating, the greater the voucher incentive. For example, a plug-in hybrid truck with a gross vehicle weight of 10,000 pounds would receive a base voucher of \$15,000. If that same truck demonstrates at least a 40% fuel economy, it may receive an additional \$5,000 to \$10,000 incentive.

California VIP. For new truck replacements, voucher incentives range from \$10,000 to \$45,000 and depend on factors such as miles traveled per year, the weight class of the old truck, the emission standard of the replacement truck.

6. **How would the proposed exemption work?** The bill exempts the greater of (1) any applicable federal and state incentive amounts, or (2) a vehicle's trade-in value on the purchase of a qualified motor vehicle. For example, a Nissan Leaf, which has a manufacturer's suggested retail price (MSRP) of \$38,800, would qualify for a \$7,500 federal tax credit and a \$2,500 state Clean Vehicle Rebate Project incentive. The total federal and state incentive amount would therefore be \$10,000.

The key then is the value of the trade-in. The following table illustrates the net taxable amount depending upon the trade-in value.

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Determining Net Taxable Amount				
Selling Price (MSRP)	Trade-in Value	Federal and State Credits	⁴ Greater Amount: Trade-in or Credit(s)?	Taxable Amount Net of Trade-in or Credit
\$38,800	\$7,000	\$10,000	\$10,000	\$28,800
\$38,800	\$12,000	\$10,000	\$12,000	\$26,800

7. **Vehicle dealers’ record keeping responsibilities.** Vehicle dealers would be required to keep records to verify the incentive amounts. The vehicle sale or lease contract must separately state the amount of federal and/or state incentives received by the customer.
8. **Partial exemptions complicate tax administration.** Currently, most sales and use tax exemptions and exclusions apply to the total applicable sales and use tax. However, several partial exemptions exist in which only the state tax portion (5.5%) of the sales and use tax rate are exempted, such as the farm equipment and machinery exemption. These partial exemptions are difficult for both retailers and the BOE. They complicate both return preparation and processing. Moreover, errors attributable to these partial exemptions occur frequently. This results in an additional return processing workload for the BOE.
9. **Related legislation.** Bills introduced this year that exempt specified vehicle purchases include:
 - **AB 220 (Ting)** provides either a state 4.4375% sales tax exemption or a state 5.4375% sales tax exclusion on purchases of specified low-emission vehicles.
 - **SB 221 (Pavley)** excludes from the sales and use tax any IRC electric or qualified plug-in electric vehicles tax credit, and any amount received, awarded, or allowed under a state alternative fuel vehicle incentive program.
 - **SB 732 (Berryhill)** excludes from sales and use tax the trade-in value of a passenger vehicle for a new passenger vehicle, including a new motorcycle and pickup truck, until January 1, 2017.

COST ESTIMATE

An estimate is pending to determine costs to reprogram for the partial exemption, revise and process returns, notify retailers, audit claimed exemptions, and answer taxpayers’ and the general public’s inquiries.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

According to data from *The California Center for Sustainable Energy* (CCSE), there are five types of electric vehicles qualifying for these purchase incentives. The maximum incentive possible is \$10,000. The average rebate amount is \$4250. The CCSE administers the Clean Vehicle Rebate Project, and their data indicates approximately 11,200 qualifying vehicles were sold in 2012.

⁴The greater amount of the trade-in or credit would be partially subject to tax at the rate of 2.0%, plus any applicable district taxes (0.5% Local Revenue Fund, 0.5% Local Public Safety Fund, and 1.0% Bradley-Burns local sales tax = 2.0%). The net taxable amount would be subject to tax at the full state and local tax rate of 7.5%, plus any applicable district taxes.

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According to *National Automobile Dealers Association (NADA)*, the 2012 average selling price for used cars was \$17,300. New car dealers normally use the wholesale value of a used car when traded-in on a new vehicle. The wholesale value of the trade-in is estimated to be about 62% of the retail selling price of the used car. Thus, the average trade-in value is \$10,700 (62% x \$17,300 = \$10,700).

According to NADA, approximately 57% of used cars were obtained as trade-ins on new car purchases. Applying this percentage to the number of qualifying vehicles sold yields 6,384 vehicles (11,200 qualifying vehicles x 57% with trade-ins = 6,384). The remaining 4,816 qualifying vehicles are eligible for the rebate exemption.

Since the average trade-in value exceeds the maximum possible incentive value, we use the trade-in value. Thus, the value of vehicle trade-ins on the purchase of qualifying vehicles will be \$68,308,800 (6,384 qualifying vehicles sold with trade-ins x \$10,700 average trade-in value = \$68,308,800). The value of rebates for qualifying vehicles without trade-ins is \$20,468,000 (4,816 qualifying vehicles sold x \$4250 average rebate = \$20,468,000). Thus the total amount subject to the proposed exemption would be \$88,776,800 (\$68,308,800 + \$20,468,000 = \$88,776,800).

This exemption does not apply to taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law, Transactions and Use Tax Law, the Local Revenue Fund, and the Local Public Safety Fund. Thus, the applicable sales and use tax exemption rate is 5.5%. Accordingly, the sales and use tax revenue loss will be \$4.9 million (\$88,776,800 exemption x 5.5% sales tax = \$4.9 million).

REVENUE SUMMARY

Beginning in calendar year 2014, this bill will result in an annual state and local revenue loss of \$4.9 million as follows:

Jurisdiction	Revenue 000's
State (4.1875%)	\$ 3,718
Fiscal Recovery Fund (0.25%)	222
Local Revenue Fund 2011 (1.0625%)	943
Total	\$ 4,883

Qualifying Remarks. Trade-in value may vary greatly, and in some cases the rebate value may be more than trade-in value. We used average trade-in value data from industry since it exceeded the maximum possible rebate value.

The ARB administers the California Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP). There are many types of delivery van, bus, and semi-tractor commercial vehicles that qualify for rebates under this program. However, as of May 21, 2013, FY 2012-13 HVIP funds have been exhausted. Nonetheless, if these funds are restored in FY 2013-14, the revenue impact of this bill would increase accordingly.

In 2016, the Education Protection Account (Proposition 30) tax (0.25%) will expire, reducing the sales tax exemption from 5.5 to 5.25%, with a corresponding drop in revenue from this bill.

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