



General Assembly

Amendment

February Session, 2018

LCO No. 4137



Offered by:

SEN. HARTLEY, 15th Dist.
REP. SIMMONS, 144th Dist.
SEN. FRANTZ, 36th Dist.
REP. YACCARINO, 87th Dist.
REP. REYES, 75th Dist.

To: Subst. Senate Bill No. 263

File No. 572

Cal. No. 346

"AN ACT ELIMINATING CERTAIN UNCLAIMED AND SELDOM CLAIMED TAX CREDITS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 12-217e of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2018, and*
5 *applicable to income years commencing on or after January 1, 2018*):

6 (a) There shall be allowed as a credit against the tax imposed by this
7 chapter an amount equal to twenty-five per cent of that portion of such
8 tax which is allocable to any manufacturing facility, provided, for any
9 such facility which is located in an enterprise zone designated
10 pursuant to section 32-70 or in a municipality with an entertainment
11 district designated under section 32-76 or established under section 2

12 of public act 93-311 and which became eligible as a manufacturing
13 facility after the designation of such zone and for which not less than
14 one hundred fifty full-time employees or thirty per cent of the full-time
15 employment positions directly attributable to the manufacturing
16 facility were, during the last quarter of the income year of the
17 taxpayer, held by employees of the taxpayer who at the time of
18 employment were (1) residents of such zone, or (2) residents of such
19 municipality and eligible for training under the Federal
20 Comprehensive Employment Training Act or any other training
21 program that may replace the Comprehensive Employment Training
22 Act, a credit of fifty per cent shall be allowed. A position is directly
23 attributable to the manufacturing facility if: (A) The work is performed
24 or the base of operations is at the facility; (B) the position did not exist
25 prior to the construction, renovation, expansion or acquisition of the
26 facility; and (C) but for the construction, renovation, expansion or
27 acquisition of the facility, the position would not have existed,
28 provided nothing in this section shall preclude a position from being
29 considered directly attributable to a manufacturing facility if such
30 position formerly existed in an eligible manufacturing facility in the
31 same municipality under section 32-9p. For income years commencing
32 on and after January 1, 2012, the credit under this section for that
33 portion of the tax imposed by this chapter, which is allocable to any
34 manufacturing facility shall be available under the same terms and
35 conditions to that portion of such tax which is allocable to an eligible
36 facility. For purposes of this section, "eligible facility" means any
37 facility described in subparagraph (D) of subdivision (2) of subsection
38 (d) of section 32-9p.

39 (b) There shall be allowed as a credit against the tax imposed by this
40 chapter an amount equal to the following percentage of that portion of
41 such tax which is allocable to any service facility: (1) Fifteen per cent, if
42 there are three hundred or more but not more than five hundred
43 ninety-nine new employees working at such facility; (2) twenty per
44 cent if there are six hundred or more but not more than eight hundred
45 ninety-nine new employees working at such facility; (3) twenty-five

46 per cent, if there are nine hundred or more but not more than one
47 thousand one hundred ninety-nine new employees working at such
48 facility; (4) thirty per cent if there are one thousand two hundred or
49 more but not more than one thousand four hundred ninety-nine new
50 employees working at such facility; (5) forty per cent, if there are one
51 thousand five hundred or more but not more than one thousand nine
52 hundred ninety-nine new employees working at such facility; or (6)
53 fifty per cent if there are two thousand or more new employees
54 working at such facility. As used in this subsection: (A) "New
55 employee" means a person hired by a taxpayer to fill a position for a
56 new job or a person shifted from an existing location of the taxpayer
57 outside this state to a service facility in this state, provided (i) in no
58 case shall the total number of new employees allowed for purposes of
59 this credit exceed the total increase in the taxpayer's employment in
60 this state, which increase shall be the difference between (I) the
61 number of employees employed by the taxpayer in this state at the
62 time of application to the Commissioner of Revenue Services for such
63 credit plus the number of new employees who would be eligible for
64 inclusion under the credit allowed under this subsection without
65 regard to this calculation, and (II) the highest number of employees
66 employed by the taxpayer in this state in the year preceding the
67 taxpayer's application to the Commissioner of Revenue Services for
68 such credit, and (ii) a person shall be deemed to be a "new employee"
69 only if such person's duties in connection with the operation of the
70 facility are on a regular, full-time or equivalent or full-time and
71 permanent basis; and (B) "new job" means a job that did not exist in the
72 business of a taxpayer in this state prior to the taxpayer's application to
73 the Commissioner of Revenue Services for such credit and that is filled
74 by a new employee, but does not include a job created when an
75 employee is shifted from an existing location of the taxpayer in this
76 state to a service facility.

77 (c) The portion of such tax which is allocable to such a
78 manufacturing facility, service facility or eligible facility shall be
79 determined by multiplying such tax by a fraction computed as the

80 simple arithmetical mean of the following fractions: First, a fraction the
81 numerator of which is the average monthly net book value in the
82 income year of the manufacturing facility, service facility or eligible
83 facility, and machinery and equipment acquired for and installed in
84 the manufacturing facility, service facility or eligible facility, without
85 deduction on account of any encumbrance thereon, or if rented to the
86 taxpayer, the value of the manufacturing facility, service facility or
87 eligible facility, and machinery and equipment acquired for and
88 installed in the manufacturing facility, service facility or eligible
89 facility, computed by multiplying the gross rents payable by the
90 taxpayer for the manufacturing facility, service facility or eligible
91 facility, and such machinery and equipment during the income year or
92 period by eight, and the denominator of which is the sum of the
93 average monthly net book value of all real property and machinery
94 and equipment held and owned by the taxpayer in the state, without
95 deduction on account of any encumbrance thereon and the value of all
96 real property and machinery and equipment rented to the taxpayer in
97 the state, computed by multiplying the gross rents payable during the
98 income year by eight; and second, a fraction the numerator of which is
99 all wages, salaries and other compensation paid during the income
100 year to employees of the taxpayer whose positions are directly
101 attributable to the manufacturing facility, service facility or eligible
102 facility and the denominator of which is the wages, salaries and other
103 compensation paid during the income year to all employees of the
104 taxpayer in the state. An employee's position is directly so attributable
105 if (1) the employee's service is performed or his base of operations is at
106 the manufacturing facility, service facility or eligible facility, (2) the
107 position did not exist prior to the construction, renovation, expansion
108 or acquisition of the manufacturing facility, service facility or eligible
109 facility, and (3) but for the construction, renovation, expansion or
110 acquisition of the manufacturing facility, service facility or eligible
111 facility the position would not have existed. For the purposes of this
112 subsection, "gross rents" means gross rents as defined in section 12-218.

113 (d) The credit allowed by this section may be claimed only by the

114 initial occupant or occupants of the manufacturing facility, service
115 facility or eligible facility. The owner of the manufacturing facility,
116 service facility or eligible facility may not claim the credit unless the
117 owner is also an occupant. The credit may first be claimed on the tax
118 return for the taxpayer's income year which begins during the calendar
119 year next succeeding the calendar year in which the taxpayer was
120 issued an eligibility certificate, and may be claimed in each of the
121 following nine income years. If within such period, however, any
122 facility for which an eligibility certificate has been issued ceases to
123 qualify as a manufacturing facility, service facility or eligible facility, or
124 any occupant of a manufacturing facility, service facility or eligible
125 facility ceases to be an occupant, the entitlement to the credit allowed
126 by this section shall terminate in the income year in which the
127 qualification or occupancy ceases, and there shall not be a pro rata
128 application of the credit to such income year. No credit allowed by this
129 section may be first claimed for any income year commencing on or
130 after January 1, 2018.

131 (e) Any subsequent occupant or occupants of a manufacturing
132 facility, service facility or eligible facility for which an eligibility
133 certificate has been issued may claim the credit allowed by this section
134 in accordance with subsection (c) of this section but only after
135 obtaining a new eligibility certificate with respect to the manufacturing
136 facility, service facility or eligible facility being occupied in the manner
137 provided in section 32-9r, as amended by this act.

138 (f) The Commissioner of Economic and Community Development
139 shall, upon request, provide a copy of the applicable eligibility
140 certificate to the Commissioner of Revenue Services.

141 Sec. 2. Section 32-9r of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective July 1, 2018*):

143 (a) Any person may apply to the department for a determination as
144 to whether the facility described in an application qualifies as a
145 manufacturing facility or service facility. Applications for eligibility

146 certificates are to be made on the forms and in the manner prescribed
147 by the department. In evaluating each application the department may
148 require the submission of all books, records, documents, drawings,
149 specifications, certifications and other evidentiary items which it
150 deems appropriate. No eligibility certificate shall be issued after March
151 1, 1991, for a manufacturing facility located in a distressed
152 municipality which does not qualify as a targeted investment
153 community unless the department has issued to the applicant a
154 commitment letter for such facility prior to March 1, 1991.
155 Notwithstanding the provisions of this subsection, an eligibility
156 certificate may be issued by the department after March 1, 1991, for a
157 qualified manufacturing facility acquired, constructed or substantially
158 renovated in a distressed municipality provided the commissioner
159 determines that such acquisition, construction or substantial
160 renovation was initiated prior to March 1, 1991, and was legitimately
161 induced by the prospect of assistance under section 12-217e, as
162 amended by this act, and subdivisions (59) and (60) of section 12-81,
163 respectively. The department may issue an eligibility certificate for a
164 qualified manufacturing facility or a qualified service facility located in
165 a targeted investment community upon determination by the
166 commissioner (A) that the acquisition, construction or substantial
167 renovation relating to the qualified manufacturing facility or qualified
168 service facility in such community was induced by the prospect of
169 assistance under [section 12-217e and] subdivisions (59) and (60) of
170 section 12-81; and (B) the applicant demonstrates an economic need or
171 there is an economic benefit to the state. The department shall issue an
172 eligibility certificate for a qualified manufacturing facility located in an
173 airport development zone established pursuant to section 32-75d, and
174 may issue an eligibility certificate for a facility described in
175 subparagraph (D) of subdivision (2) of subsection (d) of section 32-9p,
176 upon determination by the department (i) that the acquisition,
177 construction or substantial renovation relating to the qualified
178 manufacturing facility or facility described in said subparagraph (D) in
179 the airport development zone was induced by the prospect of
180 assistance under [section 12-217e and] subdivisions (59) and (60) of

181 section 12-81; (ii) the applicant demonstrates an economic need and
182 there is an economic benefit to the state without causing an economic
183 detriment to or conflict with an existing zone; and (iii) that the
184 applicant serves an airport-related function or relies substantially on
185 airport services. The department shall issue an eligibility certificate if
186 the commissioner determines (1) that the manufacturing facility is
187 located in an enterprise zone designated pursuant to section 32-70 and
188 is a qualified manufacturing facility, or (2) that the facility is a plant,
189 building, other real property improvement, or part thereof, which is
190 located in a municipality with an entertainment district designated
191 under section 32-76 or established under section 2 of public act 93-311,
192 and which qualifies as a "manufacturing facility" under subsection (d)
193 of section 32-9p in that it is to be used in the production of
194 entertainment products, including multimedia products, or as part of
195 the airing, display or provision of live entertainment for stage or
196 broadcast, including support services such as set manufacturers,
197 scenery makers, sound and video equipment providers and
198 manufacturers, stage and screen writers, providers of capital for the
199 entertainment industry and agents for talent, writers, producers and
200 music properties and technological infrastructure support including,
201 but not limited to, fiber optics, necessary to support multimedia and
202 other entertainment formats, except entertainment provided by or
203 shown at a gambling or gaming facility or a facility whose primary
204 business is the sale or serving of alcoholic beverages.

205 (b) The department shall reach a determination as to the eligibility
206 of a facility within a reasonable time period, but may postpone the
207 determination to the extent required to verify to its satisfaction that
208 there is a high likelihood that any proposed facility will actually be
209 constructed, expanded, substantially renovated or acquired. [Upon]
210 Prior to July 1, 2018, upon a favorable finding, the department shall
211 issue to the applicant a certificate to the effect that the facility
212 concerned is a manufacturing facility or a service facility and is eligible
213 for assistance under section 12-217e, as amended by this act, and
214 subdivisions (59) and (60) of section 12-81. On and after July 1, 2018,

215 upon a favorable finding, the department shall issue to the applicant a
216 certificate to the effect that the facility concerned is a manufacturing
217 facility or a service facility and is eligible for assistance under
218 subdivisions (59) and (60) of section 12-81.

219 (c) Except as specified in subsection (d) of this section, upon an
220 unfavorable determination the department shall issue a notice to the
221 applicant to the effect that the facility concerned has been determined
222 not to be a manufacturing facility or a service facility, together with a
223 statement in reasonable detail as to the reasons for the unfavorable
224 determination. Any aggrieved applicant shall be afforded an
225 opportunity for a public hearing on the matter within thirty days
226 following issuance of the notice. The department shall reconsider the
227 application based upon the information presented at the public
228 hearing and reaffirm or change its earlier determination within ten
229 days of the hearing.

230 (d) Upon an unfavorable determination regarding an application
231 concerning an airport development zone, the department shall issue a
232 notice to the applicant to the effect that the facility concerned has been
233 determined not to be a manufacturing facility or a service facility,
234 together with a statement in reasonable detail as to the reasons for the
235 unfavorable determination. Any aggrieved applicant shall be afforded
236 an opportunity for a public hearing on the matter within thirty days
237 following issuance of the notice. The department shall reconsider the
238 application based upon the information presented at the public
239 hearing and reaffirm or change its earlier determination within ten
240 days of the hearing.

241 (e) The decision of the department rendered pursuant to subsection
242 (c) or (d) of this section to issue an eligibility certificate or to deny an
243 application for the issuance of an eligibility certificate either upon the
244 expiration of thirty days without a public hearing following an initial
245 unfavorable determination or upon any reconsideration of the
246 application pursuant to subsection (c) or (d) of this section is
247 conclusive and final as to the matters thereby decided, and chapter 54

248 shall not apply to the administrative determinations authorized to be
249 made by this section.

250 (f) Any person who claims a benefit under section 12-217e, as
251 amended by this act, or subdivisions (59) and (60) of section 12-81 shall
252 notify the department of any change in fact or circumstance which
253 may bear upon the continued qualification as a manufacturing facility
254 or a service facility for which an eligibility certificate has been issued.
255 Upon receipt of such information or upon independent investigation,
256 the department may revoke the eligibility certificate in the manner
257 provided in subsection (c) of this section.

258 (g) The commissioner shall adopt regulations, in accordance with
259 chapter 54, to carry out the provisions of this section. Such regulations
260 shall provide that establishments in the category of business support
261 services, as defined in subsection (b) of section 32-222, or
262 manufacturing facilities, as defined in subsection (d) of section 32-9p,
263 may be eligible for a certificate if they are located in an enterprise zone.

264 Sec. 3. Section 12-217v of the general statutes is repealed. (*Effective*
265 *July 1, 2018*)"

| | | |
|---|--|------------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2018, and applicable to income years commencing on or after January 1, 2018</i> | 12-217e |
| Sec. 2 | <i>July 1, 2018</i> | 32-9r |
| Sec. 3 | <i>July 1, 2018</i> | Repealer section |