

[Assembly Bill 2675](#) (Chiu)

Date: 05/02/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Section 6012.10

Effective: January 1, 2017 to January 1, 2020

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This analysis is limited to the bill's effect on the BOE-related tax programs

Summary: Provides a partial (6%) sales and use tax exclusion on 10% of the sales price of electric vehicle infrastructure (EV infrastructure), up to \$400,000, when purchased for use at a qualified dwelling.

Purpose: According to the author's office, to grow a robust network of EV infrastructure in California to keep up with the sales of electric vehicles.

Fiscal Impact Summary: Annual General Fund revenue loss of \$89,000.

Existing Law: California's Sales and Use Tax Law¹ imposes the sales tax on retailers for the privilege of selling tangible personal property at retail in this state or the use tax upon the storage, use, or other consumption of tangible personal property in this state, unless the law provides a specific exemption or exclusion.

California's sales and use tax rates: Effective January 1, 2017, California's statewide sales and use tax rate will be 7.25%.² The table below shows California's various sales and use tax rate components, that apply 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, and 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 Revenue Fund)	Local governments to fund health and welfare programs (RTC Sections 6051.2 and 6201.2)
0.50%	State (Local Public Safety Fund)	Local governments to fund public safety services (Section 35, Article XIII, State Constitution)
1.25%	Local (City/County) 1.00% City and County 0.25% County	(RTC Sections 7202 and 7203); City and county general operations Dedicated to county transportation purposes
7.25%	Total Statewide Rate	

Construction contractors. Under the Sales and Use Tax Law, specific rules apply to the furnishing and installing of tangible personal property pursuant to a construction contract. Contracts for improvements to real property constitute construction contracts, and the person who performs the construction contract is a construction contractor. Generally, a construction contractor is the consumer of materials, such as electrical wiring, concrete, and other items, furnished and installed in the performance of a

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

² The 0.25% tax imposed under Section 36 of Article XIII of the State Constitution (Proposition 30, The Schools and Local Public Safety Protection Act of 2012) will sunset December 31, 2016.

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construction contract. Therefore, tax generally applies to the sale of materials to the construction contractor. In contrast, a construction contractor is generally regarded as the retailer of fixtures (items that are accessory to a structure and don't lose their identity as accessories when installed), and the sales tax applies to the contractor's sale of the fixture.

Currently, the Sales and Use Tax Law does not provide any exclusion or exemption for the sale or purchase of electric vehicle infrastructure, or any related tax credit or rebate amount on these types of equipment.

State incentives. The California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007³ created the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) to provide grants, loans, loan guarantees, revolving loans, or appropriate measures to reduce California's dependence on petroleum. ARFVTP provides a loan and rebate program for small businesses that meet the criteria to install electric vehicle charging stations. Funded by the California Energy Commission, this program may provide up to 100% coverage to lenders on certain loan defaults. Borrowers may be eligible to receive a rebate of 10 - 15% of the enrolled loan amount if they had one or fewer late payments and the loan is paid off or it reaches 49 months.

Federal incentives. Existing law⁴ provides a federal income tax credit equivalent to 30% of the cost, not to exceed \$30,000, for any qualified alternative vehicle refueling property installed between January 1, 2015 and December 31, 2016.

Proposed Law: This bill excludes from the state portion (6%) of sales and use tax, 10% of the gross receipts or sales price of EV infrastructure, as defined, purchased for use at a qualified dwelling in this state from January 1, 2017 to January 1, 2020. The bill would limit the exclusion to that amount of gross receipts or sales price that does not exceed \$400,000.

"Electric vehicle infrastructure" is defined as structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, battery exchange stations, and rapid charging stations.

"Battery charging station" means any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the 2013 California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

"Rapid charging station" means an industrial grade electrical outlet that allows for faster charging of electric vehicle batteries through higher power levels that meet or exceed any existing standards, codes, or regulations in effect at the time of purchase.

"Qualified gross receipts" and "qualified sales price" mean the amount of gross receipts or sales price that does not exceed \$400,000.

"Qualified dwelling" means a multiunit dwelling, also known as multifamily residence or multifamily dwelling unit, a mobilehome or manufactured home located at a mobile home park, duplex, townhome, apartment, and condominium.

This bill also adds an income tax credit that would be administered by the Franchise Tax Board.

The sales and use tax exclusion is operative from January 1, 2017, until January 1, 2020.

Legislative History: During the 2009-10 Legislative Session, AB 1304 was introduced to entice California consumers to purchase electric vehicles (EVs) and encourage the infrastructure to support them. The bill would have provided a partial sales and use tax exemption for EVs, EV batteries, TPP that will become a component of EV infrastructure, and associated services. It was later amended to only include a sales and use tax exemption for the purchase of EVs. The bill failed in the Assembly Appropriations Committee.

³ AB 118, Stats. 2007, Ch. 750

⁴ [Internal Revenue Code \(IRC\) Section 30C](#)

Other bills have been introduced to propose sales and use tax exemptions for zero-emission or low-emission vehicles. Last year's [AB 945](#) (Ting) would have provided a partial sales and use tax exemption for the purchase of a qualified motor vehicle. The measure also failed in the Assembly Appropriations Committee.

Commentary:

1. **Effect of the bill.** From January 1, 2017, to January 1, 2020, this bill provides a sales and use tax exclusion on 10% of the “gross receipts” and “sales price” for qualified electric vehicle infrastructure, up to \$400,000, when purchased for use at a qualified dwelling in this state. The exclusion is only for the state portion (6%) and doesn't include the local sales and use tax or transactions and use taxes.
2. **Retailer's responsibility.** The partial sales and use tax exclusions the BOE currently administers are based on the entire sales price, not a percentage of the sales price with a cap. This exclusion could require the retailer to charge two different tax rates on a transaction, depending if the cap is reached. This could increase errors in collecting and reporting the correct tax amount.
3. **It is unclear to whom the \$400,000 cap applies.** As currently written, the \$400,000 cap could be construed to apply to each qualified dwelling, the totals sales of EV infrastructure by a retailer, or to the entirety of the exclusion. This analysis assumes the exclusion applies to sales to persons at each qualified dwelling.
4. **The exclusion could apply to unintended recipients.** The exclusion applies to structures, machinery and equipment necessary and integral to support an electric vehicle for use at a qualified dwelling. Since “electric vehicle” isn't defined, it could include ride-on-toy cars, scooters, golf carts, and off-road electric vehicles. Also, because qualified dwelling is defined as an apartment, townhome, duplex, etc., a person simply residing in an individual unit could qualify for the exclusion when purchasing charging equipment for their electric golf cart.
5. **Proof of “qualified dwelling.”** The retailer would need to verify and retain documentation on each transaction to substantiate the exclusion for audit purposes. The bill should provide a clear means for a retailer to document their exempt sales.
6. **Partial exclusions complicate administration.** Currently, most sales and use tax exemptions and exclusions apply to the total applicable sales and use tax. However, a few partial exemptions exist in California law that exempt only the state tax portion of the state and local sales and use tax rate, such as sales and purchases of teleproduction equipment and farm equipment. These partial exclusions are difficult for both retailers and the BOE to administer. They complicate return preparation and return processing. Errors on returns attributable to these partial exclusions occur frequently, which results in additional return processing workload for the BOE.

Costs: BOE would incur costs to identify qualified EV infrastructure equipment, update the BOE's website, notify retailers, revise the BOE's publications, and answer inquiries from taxpayers. An estimate of these costs is pending.

Revenue Impact:

Background, Methodology, and Assumptions. Identifying the value of electric vehicle infrastructure equipment is challenging, however, BOE staff estimated these values by making assumptions and combining data from the following sources:

1. The California Air Resources Board (ARB), *Electric Vehicle Charging Infrastructure*, (presentation)
2. U.S. Energy Information Administration (EIA)

While charging station costs vary considerably, after reviewing several reports, staff concluded that typical equipment costs for electric vehicle charging equipment are about \$4,000 per charging outlet, a figure cited in the ARB presentation.

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The EIA has data showing the current number of public charging station outlets in California. However, the EIA did not have annual data on numbers of charging station outlets. To determine an annual growth rate, staff downloaded EIA’s data on numbers of charging stations in California and calculated the growth rate for 2015. (The number of outlets may vary from station to station) This growth rate was assumed for determining numbers of charging station outlets installed in 2016 and 2017.

Combining the above data, staff estimates that 3,709 public charging station outlets will be installed in 2017, having an equipment purchase value of about \$14.8 million, as shown in the table on page 5. The table also shows specific data sources and estimated revenues. Staff didn’t account for individual purchases of EV infrastructure.

Revenue Summary. The annual estimated revenue loss is about \$89,000.

Qualifying Remarks. The BOE Research and Statistics Section made these estimates using professional judgment on the most accurate information available at the time. Staff is continuing to research electric vehicle charging costs and projected numbers of outlets, and may modify the estimates if more definitive information becomes available. Furthermore, staff neither addressed the impacts of the \$400,000 cap on the sales value nor individual purchases of EV Infrastructure because limited data is available to make such a determination.

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

Equipment Cost per Electric Vehicle Charging Outlet	\$4,000
Number of Electric Vehicle Charging Outlets in California in 2015	9,260
2015 Growth Rate of CA Charging Stations	30.7%
2016 Outlets	12,099
2017 Outlets	15,807
Outlets Installed in 2017	3,709
Total Costs of Equipment in 2017	14,834,951
10% of Equipment Costs	1,483,495
Statewide Tax Rate	6.00%
Revenues	\$89,010

Sources:

Equipment Costs

Typical cost determined from a review of the sources below :

Electric Vehicle Charging Infrastructure, Craig Childers,
California Air Resources Board

<http://www.arb.ca.gov/msprog/zevprog/infrastructure/0909meeting/childers.pdf>

*Plugging In: A Stakeholder Investment Guide for Public
Electric-Vehicle Charging Infrastructure*

James W. May and Matt Mattila, Rocky Mountain Institute, July 2009

<http://www.rmi.org/Content/Files/Plugging%20In%20-%20A%20Stakeholder%20Investment%20Guide.pdf>

Financial Viability Of Non-Residential Electric Vehicle Charging Stations

UCLA Anderson School of Management, Luskin School of Public Affairs, August 2012

<http://luskin.ucla.edu/sites/default/files/Non-Residential%20Charging%20Stations.pdf>

Fueling Station Outlet Counts and Charging Station Growth Rate

Energy Information Administration (EIA)

Fueling Station Outlet Counts:

"Alternative Fueling Station Counts by State," Updated 3/15/2016

http://www.afdc.energy.gov/fuels/stations_counts.html

Charging Station Growth Rate:

"Alternative Fuels Data Center, Locate Stations," All Data Download, 3/16/2016

<http://www.afdc.energy.gov>

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