

[Assembly Bill 1710](#) (Calderon)

Date: 04/05/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Sections 6012.4

Effective: January 1, 2017

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***This analysis only addresses the provisions that impact the Board of Equalization (BOE).***

**Summary:** Excludes from the sales and 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.

**Purpose:** To provide financial incentives for low-income drivers to purchase zero-emission and near-zero emission vehicles.

**Fiscal Impact Summary:** State revenue loss of \$9.5 million annually.

**Existing Law:** Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law<sup>1</sup> 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 near-zero-emission vehicles.

**California's sales and use tax rates.** Effective January 1, 2017, California's statewide sales and use tax rate will be 7.25%.<sup>2</sup> The table below shows California's various sales and use tax rate components, that will 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, 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)
1.00%	Local (City/County) 0.75% City and County 0.25% County	(RTC Sections 7202 and 7203) General city and county operations County transportation purposes
<b>7.25%</b>	<b>Total Statewide Rate</b>	

**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.

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

<sup>2</sup> 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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**State incentives.** The *California Alternative and Renewable Fuel, Vehicle Technology, Clean Air, and Carbon Reduction Act of 2007*<sup>3</sup> 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 \$6,500 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 \$6,500 for fuel-cell electric vehicles, up to \$4,000 for all-battery electric vehicles, up to \$3,000 for plug-in hybrid electric light-duty vehicles, and up to \$900 for neighborhood electric vehicles and zero-emission motorcycles. The CVRP is administered statewide by the California Center for Sustainable Energy.

**Proposed Law:** This bill excludes from the gross receipts or sales price that portion of the cost of a new or used near-zero or zero-emission vehicle that does not exceed \$40,000 and purchased by a low-income purchaser.

The bill defines the following terms:

- "Low-income purchaser" means an individual or individuals whose household income does not exceed 80% of the median income of the county in which they reside as determined by the United States Department of Housing and Urban Development.
- "Near-zero-emission vehicle" means vehicles that utilize zero-emission technologies, enable technologies that provide a pathway to zero-emission operations, or incorporate other technologies that reduce criteria pollutants, toxic air contaminants, and greenhouse gas emissions, as defined by the State Air Resources Board in consultation with the State Energy Resources Conservation and Development Commission consistent with meeting the state's mid- and long-term air quality standards and climate goals.
- "Zero-emission vehicle" means vehicles that produce no emissions of criteria pollutants, toxic air contaminants, and greenhouse gases when stationary or operating, as determined by the State Air Resources Board.

Eligible near-zero and zero-emission vehicles purchased by a low-income purchaser 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 takes effect on January 1, 2017.

**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.

In April 2015, the Governor's Interagency Working Group on ZEV's issued an updated 2015 ZEV Action Plan, which outlines progress to date and identifies new actions state agencies will take in continued pursuit of the goals in the executive order. For the purposes of this 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. This plan also addresses medium- and heavy-duty vehicles, as well as zero-emission technologies for public transportation and freight transport.

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<sup>3</sup> AB 118, Stats. 2007, Ch. 750

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Currently, there are over 21 plug-in electric vehicle models available in California, with the Nissan Leaf, Chevrolet Volt, Tesla Model S, Toyota Prius, Ford Fusion Energi, and Fiat 500e leading U.S. sales. In 2014, five new brands of plug-in electric entered the market—Cadillac, Mercedes Benz, Porsche Hybrid, Kia Soul, and Volkswagen. The ARB Clean Vehicle Rebate Project shows ZEV sales as the greatest in Los Angeles and Santa Clara counties, where 24,835 and 14,399 rebates have been issued, respectively. Alameda, Orange, and San Diego County are also areas of high ZEV sales.

**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 died on the Senate Appropriations Committee suspense file.

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

Year	Bill	Summary
2015	AB 945 (Ting)	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)	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)	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)	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.
2009	AB 1304 (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.
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.
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.
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 CARB.
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.
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.

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**Commentary:**

**1. How would the proposed exemption work?** This bill partially exempts the first \$40,000 for the purchase of a near-emission or zero-emission vehicle by a low-income purchaser. The first \$40,000 would be subject to the 1.25% Bradley-Burns local sales or use taxes, and any applicable local district taxes. Only the first \$40,000 would be partially exempt; amounts over \$40,000 would be fully taxable. The following tables illustrate how the proposed exemption would work.

Example 1. A dealer sells a Nissan Leaf with a manufacturer’s suggested retail price of \$38,880 to a qualifying low-income purchaser:

< or > \$40,000 Cap	Amount (partially) excluded from sales or use tax	Amount subject to local sales or use tax (1.25%), plus any applicable district taxes	Amount in excess of \$40,000 Cap – taxable rate 7.25%, plus any applicable district taxes
< \$40,000 Cap	\$38,800	\$38,800	0

Example 2. A dealer sells a Tesla with a manufacturer’s suggested retail price of \$75,000 to a qualifying low-income purchaser.

< or > \$40,000 Cap	Amount (partially) excluded from sales or use tax	Amount subject to local sales or use tax (1.25%), plus any applicable district taxes	Amount in excess of \$40,000 Cap - taxable rate 7.25%, plus any applicable district taxes
> \$40,000 Cap	\$40,000	\$40,000	\$35,000

- 2. Vehicle dealers’ must verify if purchaser meets low-income requirement.** Low-income purchasers are defined as individual or individuals whose household income does not exceed 80% of the median income of the county in which they reside as determined by the United States Department of Housing and Urban Development (HUD). HUD maintains median family income limits by state and county and fiscal year on its website: <https://www.huduser.gov/portal/datasets/il/il2015/2015summary.odn>. The website also breaks down income limits as low income (80% area median Income), very low income (50% area median income), and extremely low income. These income limits are based on the number of persons in a household. For example, HUD’s the median income for Sacramento County for fiscal year 2015 is \$71,500. The bill should clarify how the purchaser’s income data would be verified by the delaer. Would the purchaser’s income be based on an entire prior fiscal year? Would the 80% county median income be based on a specified number of persons in the household? The author should amend the bill to provide clarity on this provision.
- 3. Vehicle dealers’ record keeping responsibilities.** Dealers claiming an exemption for qualifying vehicle sales must obtain and retain from the purchaser documents demonstrating that the purchaser meets the low-income requirements. Supporting documents may include federal or state income tax returns, pay stubs, or bank statements. Dealers may encounter difficulties with purchasers resisting or refusing to provide records.
- 4. Definition of near-zero-emission and zero-emission vehicles.** The bill defines near-zero and zero-emission vehicles and provides that these vehicles will be determined by the ARB. This is an important requirement as vehicle dealers, purchasers and BOE staff will not know which vehicles qualify. The author may also consider amending the bill to require the ARB to maintain a listing of all eligible vehicles and to provide that listing to the BOE. This will enable dealers and purchasers to find out which vehicles qualify for the proposed exemption.
- 5. Types of eligible vehicles.** The ARB website lists over 20 zero-emission vehicles that qualify for a clear air vehicle decal for use in high occupancy vehicle lanes. Makes and models that qualify include the BMW i3, Chevy Spark, Fiat 500e, Ford Focus, Kia Soul, Nissan Leaf, Tesla, Toyota Mirai,

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and Volkswagen. Makes and models that qualify as enhanced advanced technology partial zero-emission standard or transitional zero-emission standard include certain plug-in hybrids and compressed natural gas vehicles such as Audi A3 e-tron, Chevy Volt, Ford Fusion Energi, Hyundai Sonata, Honda Accord, Honda Civic natural gas, and Toyota Prius.

6. **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 in which only the state tax portion (5%) of the sales and use tax rate is exempted, such as the farm equipment and teleproduction equipment exemptions. 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.
7. **Related Legislation.** AB 1851 (Gray and Ting), among other things, excludes from the sales and use tax the trade-in value of a vehicle on the purchase of a qualified clean air vehicle.

**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 California Air Resources Board (CARB)*, there were 41,901 zero emission vehicles (ZEVs) sold during FY 2014-15. The growth of new car sales is predicted to continue at 1.1% according to *National Auto Dealers Association (NADA)*. Applying this growth rate to the sale of qualifying ZEVs yields an increase of 461 vehicles per fiscal year. By FY 2017-18, approximately 43,022 of these vehicles will be sold.

Data from *GreenCarReports.com* shows prices for electric vehicles for the 2016 model year range from \$23,800 up to \$106,200. According to data from CARB, about 36% of qualifying vehicles sold in FY 15-16 cost less than \$40,000, or about 15,412 vehicles, at an average price of \$31,185. The remainder of sales, approximately 65%, or 27,610 vehicles, was for vehicles over \$40,000, with an average price of \$68,456.

The revenue loss for qualifying vehicles sold under \$40,000 is approximately \$28,837,393 (15,412 ZEVs x \$31,185 cost x 6% (exemption rate) = \$28,837,393). For qualifying vehicles sold over \$40,000, the revenue loss of approximately \$66,264,000 (27,610 ZEVs x \$40,000 cost x 6% (exemption rate) = \$66,264,000).

A study by the *University of California*<sup>4</sup> indicates it is likely that no more than 10% of the buyers will be eligible for the credit. Therefore, if the projected sales and use tax loss is reduced by 90%, the losses for ZEVs less than \$40,000 are about \$2,883,704, and for ZEVs more than \$40,000 are about \$6,626,000.

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<sup>4</sup> Borenstein and Davis, 2015 Haas Energy Institute, Berkeley CA. See [ei.hass.berkeley.edu](http://ei.hass.berkeley.edu)  
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**Data**

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Projected qualifying cars FY 2017-18	43,022
Purchases Qualifying Under \$40K	15,412
Purchases Qualifying Over \$40K	27,610

**Price of Cars**

Average Price of Car Over \$40,000	\$	31,185
Average Price of Car Under \$40,000	\$	68,456

**Total**

Under \$40K: (15,412 x \$31,185) x 6%	\$	28,837,393
Percentage of Low Income Purchasers Qualifying (10%)	\$	2,883,739
Over \$40K: (27,610 x \$40,000) x 6%	\$	66,264,000
Percentage of Low Income Purchasers Qualifying (10%)	\$	6,626,400

**Revenue Summary.** The estimated state sales and use tax revenue loss is \$9.5 million annually.

State General Fund	3.9375%	\$	6,241,000
Local Revenue 2011	1.0625%	\$	1,684,000
Local Revenue 1991	0.50%	\$	792,500
Public Safety Fund	0.50%	\$	<u>792,500</u>
Total state revenue loss		\$	<u><u>9,510,000</u></u>

**Qualifying Remarks.** A straight line projection of growth of new ZEV sales was used.

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