

[Assembly Bill 1851](#) (Gray and Ting)

Date: 04/13/16

Program: Sales and Use Tax

Sponsor: Author

Revenue and Taxation Code Sections 6011 and 6012

Effective: January 1, 2017 to January 1, 2026

Michele Pielsticker (Chief) 916.322.2376

Debra Waltz (Analyst) 916.324.1890

Patrick Alessandri (Revenue) 916.445.0840

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

**Summary:** Excludes from the sales tax the trade-in value of a vehicle applied to the purchase of a qualified clean air vehicle.

**Purpose:** To provide financial incentives to consumers to purchase zero-emission and partial-zero emission vehicles.

**Fiscal Impact Summary:** State and local revenue loss of \$ 39.9 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 partial-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 Internal Revenue Code 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. 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 \$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, up to \$900 for neighborhood electric vehicles 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.

**Proposed Law:** Until January 1, 2026, this bill excludes from the gross receipts or sales price the trade-in value of a vehicle that is traded in for a qualified motor vehicle if the trade-in vehicle's value is separately stated on the invoice, bill of sale, or similar document provided to the purchaser.

The bill defines "qualified motor vehicle" to mean a vehicle that meets either of the following:

- California's super ultra-low emission vehicle standard for exhaust emissions and the federal inherently low-emission vehicle evaporative emission standard, as defined in Part 88 of Title 40 of the Code of Federal Regulations as that part read on January 1, 2016.
- California's enhanced advanced technology partial zero-emission vehicle standard or transitional zero-emission vehicle standard.

The bill is operative January 1, 2017.

**Background:** In March 2012, Governor Brown issued 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) which failed passage in the Senate, and SB 1883 (Campbell, 1994) which failed in the Senate Appropriations Committee.

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

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

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.

### Commentary:

- 1. Effect of the bill.** This bill provides a sales and use tax exclusion (7.25%, plus any applicable voter-approved city and county district taxes) if a purchaser trades in an older vehicle at the time of purchasing a clean air vehicle. The exclusion is calculated by subtracting the trade-in value of the older vehicle from the purchase price of the qualifying vehicle. For example, if a dealer sells a Nissan Leaf for \$38,800, and accepts a \$10,000 trade in on an older Honda Accord, sales tax is computed on the \$28,800 net difference.
- 2. Definition of qualified motor vehicle.** Qualifying vehicles must meet California's super ultra-low-emission vehicle standard for exhaust emissions and the federal inherently low-emission vehicle evaporative emission standard or meet California's enhanced advanced technology partial zero-emission vehicle standard or transitional zero-emission vehicle standard. BOE staff notes that the definition in this bill is the same definition used for vehicles qualifying for either the white or green clean air vehicle decal that allows the vehicle to be used in high occupancy vehicle (HOV) lanes on California freeways.<sup>4</sup> These vehicles include 100% battery electric, hydrogen fuel cell, plug-in hybrid, and compressed natural gas. The ARB maintains a list of these qualifying vehicles on their web site.

<sup>4</sup> Vehicle Code Section 5205.5.

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BOE staff does not have the expertise to determine if a vehicle meets the specified emissions standards in this bill. Therefore the bill should be amended to define “qualified motor vehicle” to include those vehicles identified by the ARB.

- 3. Eligible vehicles.** Eligible vehicles in this bill also qualify for a white or green clean air vehicle decal for use in HOV lanes. Makes and models that qualify as zero-emission vehicles include the BMW i3, Chevy Spark, Fiat 500e, Ford Focus, Kia Soul, Nissan Leaf, Tesla, Toyota Mirai, and Volkswagen e-Golf. Certain makes and models of vehicles that qualify as super ultra-low emission vehicle (SULEV) and federal inherently low-emission vehicles (ILEV) include the IMPCO Chevrolet G2500, BAF Technologies F350 and F250 pickups, and Landi Renzo E350 wagons and vans. Makes and models that qualify as enhanced advanced technology partial zero-emission vehicle (PZEV) standard or transitional zero-emission vehicle (TZEV) standard include plug-in hybrids and compressed natural gas vehicles such as Audi A3 e-tron, BMW i3 Rex, Chevy Volt, Ford Fusion Energi, Honda Accord, Honda Civic natural gas, and Toyota Prius.
- 4. Vehicle dealers’ record keeping responsibilities.** Vehicle dealers would be required to keep records to verify the trade-in value amounts. Also, the vehicle sale or lease contract must separately state the amount of the trade-in value given to the customer.
- 5. Related Legislation.** [AB 1710](#) (Calderon), among other things, excludes from the gross receipts and sales price that portion of the cost of a new or used near-zero or zero-emission vehicle purchased by a low-income purchaser that does not exceed \$40,000.

**Costs:** BOE will incur absorbable administrative costs to notify car dealers, audit claimed exclusions, revise the BOE’s regulation and publications, and answer inquiries from the general public.

### **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 National Auto Dealers Association (NADA) indicates that the average used car selling price is \$18,111. The industry trade-in value is the wholesale price, which is 62% of the selling price, thus the average trade-in value is \$11,229 ( $\$18,111 \times 62\% = \$11,229$ ).

According to NADA, the growth of new car sales was 1.1% for FY 14-15. This rate is assumed for future years. Applying this growth rate to the sale of qualifying ZEVs yields an increase of 461 vehicles per fiscal year.

Therefore, the total sales and use tax revenue loss for FY 2016-17 is estimated to be \$39,482,439 ( $41,901 \text{ ZEVs} \times 1.1\% \text{ growth} \times \$11,229 \text{ Trade-in value} = \$39,482,439$ ) and \$39,916,746 for FY 2017-18.

**Revenue Summary.** The revenue impact from this bill is as follows:

		<u>2016-17</u>	<u>2017-18</u>
State	3.9375%	\$ 18,935,701	\$ 19,143,994
Local Rev 2011	1.0625%	\$ 5,109,634	\$ 5,165,840
Local Rev 1991	0.5000%	\$ 2,404,533	\$ 2,430,983
Public Safety	0.5000%	\$ 2,404,533	\$ 2,430,983
Bradley Burns	1.2500%	\$ 6,011,334	\$ 6,077,458
Special Districts	0.9600%	\$ 4,616,704	\$ 4,667,488
<b>Total</b>		<b>\$ 39,482,439</b>	<b>\$ 39,916,746</b>

**Qualifying Remarks.** A straight line projection of growth of new ZEV sales was used, and a 100% participation in the program was assumed.

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