

Cal. Rev. & Tax Code Section 17052.10(b)(3)(C)

(a) For taxable years beginning on or after January 1, 2021, and before January 1, 2026, there shall be allowed to a qualified taxpayer a credit against the “net tax,” as defined in Section 17039, in an amount equal to the qualified amount.

(b) For purposes of this section:

(1) “Electing qualified entity” means a qualified entity, as defined by Section 19902, that has elected to pay the elective tax under Part 10.4 (commencing with Section 19900).

(2) “Qualified amount” means an amount equal to 9.3 percent of the sum of the qualified taxpayer’s guaranteed payments as defined by Section 707(c) of the Internal Revenue Code, relating to guaranteed payments, and the qualified taxpayer’s pro rata share or distributive share, as applicable, of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in qualified net income, as defined in Section 19900, subject to the election made by an electing qualified entity under Part 10.4 (commencing with Section 19900).

(3) “Qualified taxpayer” means:

(A) A taxpayer, as defined in Section 17004, excluding partnerships, that is a partner, shareholder, or member of an electing qualified entity that consented to have the sum of their guaranteed payments and pro rata share or distributive share of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in the qualified net income, as defined in Section 19900, of the electing qualified entity.

(B) “Qualified taxpayer” does not include a business entity that is disregarded for federal tax purposes, as described in Section 23038, or its partners or members.

(C) Subparagraph (B) shall not apply to a limited liability company that is disregarded for federal tax purposes, as described in Section 23038, and meets both of the following:

(i) Is owned by a taxpayer, as defined in Section 17004, excluding partnerships, that consented to have the sum of their guaranteed payments and pro rata share or distributive share of income, as determined under this part and Part 11 (commencing with Section 23001), subject to tax under this part included in the qualified net income, as defined in Section 19900, of the electing qualified entity.

(ii) Is a partner, shareholder, or member of an electing qualified entity.



(c) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following taxable year, and succeeding four years, if necessary, until the credit is exhausted.

(d) (1) Any disallowance of a credit under this section due to any of the following conditions shall be treated as a mathematical error appearing on the return:

(A) Timely payment was not made under subdivision (b) of Section 19904.

(B) Payments made for the taxable year exceed the elective tax computed under Part 10.4 (commencing with Section 19900).

(C) No election was made or allowed under Part 10.4 (commencing with Section 19900).

(2) Any amount of tax resulting from such disallowance may be assessed by the Franchise Tax Board in the same manner as provided by Section 19051.

(e) (1) The Franchise Tax Board may adopt regulations that are necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any regulation, rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.

(f) For the purposes of complying with Section 41, the Legislature finds and declares that the goal of this tax credit is to provide tax relief to small businesses facing unprecedented economic hurdles due to COVID-19.

(g) The amendments made to this section by the act adding this subdivision shall apply for taxable years beginning on or after January 1, 2021, and before January 1, 2026.

(h) This section shall remain in effect only until December 1, 2026, and as of that date is repealed.

(Amended by Stats. 2022, Ch. 3, Sec. 8. (SB 113) Effective February 9, 2022. Repealed as of December 1, 2026, by its own provisions.)