

ASSEMBLY BILL

No. 115

Introduced by Assembly Member Klehs

January 12, 2005

An act to amend Sections 17144 and 24307 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 115, as introduced, Klehs. Personal income and corporation taxes.

The Personal Income Tax Law and the Corporation Tax Law, by reference to specified federal statutes, specify the manner in which "gross income" is calculated for purposes of those laws. These provisions generally require that "gross income" include indebtedness that has been discharged, except for specified discharges of indebtedness.

This bill would exclude from the calculation of gross income under the Personal Income Tax Law and the Corporation Tax Law certain discharges of indebtedness that were recently excluded from gross income under federal law, as specified. This bill would also remove the exclusion from gross income, and therefore include within the calculation of gross income, specified cancellations of indebtedness.

This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17144 of the Revenue and Taxation
2 Code is amended to read:

3 17144. (a) Section 108(b)(2)(B) of the Internal Revenue
4 Code, relating to general business credit, is modified by
5 substituting “this part” in lieu of “Section 38 (relating to general
6 business credit).”

7 (b) Section 108(b)(2)(G) of the Internal Revenue Code,
8 relating to foreign tax credit carryovers, shall not apply.

9 (c) Section 108(b)(3)(B) of the Internal Revenue Code,
10 relating to credit carryover reduction, is modified by substituting
11 “11.1 cents” in lieu of “33 1/3 cents” in each place in which it
12 appears. In the case where more than one credit is allowable
13 under this part, the credits shall be reduced on a pro rata basis.

14 (d) Section 108(g)(3)(B) of the Internal Revenue Code,
15 relating to adjusted tax attributes, is modified by substituting
16 “(\$9)” in lieu of “(\$3).”

17 (e) (1) If a taxpayer makes an election for federal income tax
18 purposes under Section 108(c) of the Internal Revenue Code,
19 relating to treatment of discharge of qualified real property
20 business indebtedness, a separate election shall not be allowed
21 under paragraph (3) of subdivision (e) of Section 17024.5 and the
22 federal election shall be binding for purposes of this part.

23 (2) If a taxpayer has not made an election for federal income
24 tax purposes under Section 108(c) of the Internal Revenue Code,
25 relating to treatment of discharge of qualified real property
26 business indebtedness, then the taxpayer shall not be allowed to
27 make that election for purposes of this part.

28 (f) The amendments made to Section 108(d)(7)(A) of the
29 Internal Revenue Code, relating to certain provisions to be
30 applied at the corporate level, by Section 402 of the Job Creation
31 and Worker Assistance Act of 2002 (Public Law 107-147), shall
32 apply to discharges of indebtedness after December 31, 2001, in
33 taxable years ending after that date. This subdivision shall not
34 apply to any discharge of indebtedness made before March 1,
35 2002, pursuant to a plan of reorganization filed with a bankruptcy
36 court on or before October 11, 2001.

37 (g) *The amendments made to Section 108 of the Internal*
38 *Revenue Code, relating to the exclusion for payments to*

1 *individuals under national health service corps loan repayment*
2 *program and certain state loan repayment programs and relating*
3 *to the recognition of cancellation of indebtedness income*
4 *realized on satisfaction of debt with partnership interest, by*
5 *Section 320 and Section 896, respectively, of the American Jobs*
6 *Creation Act of 2004 (Public Law 108-357), shall apply to the*
7 *same extent as those amendments are applicable for federal*
8 *purposes.*

9 SEC. 2. Section 24307 of the Revenue and Taxation Code is
10 amended to read:

11 24307. (a) Section 108 of the Internal Revenue Code, relating
12 to income from discharge of indebtedness, shall apply, except as
13 otherwise provided.

14 (b) Section 108(b)(2)(B) of the Internal Revenue Code,
15 relating to general business credit, is modified by substituting
16 “this part” in lieu of “Section 38 (relating to general business
17 credit).”

18 (c) Section 108(b)(2)(G) of the Internal Revenue Code,
19 relating to foreign tax credit carryovers, shall not apply.

20 (d) Section 108(b)(3)(B) of the Internal Revenue Code,
21 relating to credit carryover reduction, is modified by substituting
22 “11.1 cents” in lieu of “33 $\frac{1}{3}$ cents” in each place in which it
23 appears. In the case where more than one credit is allowable
24 under this part, the credits shall be reduced on a pro rata basis.

25 (e) Section 108(g)(3)(B) of the Internal Revenue Code,
26 relating to adjusted tax attributes, is modified by substituting
27 “\$9” in lieu of “\$3.”

28 (f) (1) ~~The amendments to Section 108 of the Internal~~
29 ~~Revenue Code made by Section 13150 of the Revenue~~
30 ~~Reconciliation Act of 1993 (Public Law 103-66), relating to~~
31 ~~exclusion from gross income for income from discharge of~~
32 ~~qualified real property business indebtedness, shall apply to~~
33 ~~discharges occurring on or after January 1, 1996, in taxable years~~
34 ~~beginning on or after January 1, 1996.~~

35 (2) ~~If a taxpayer makes an election for federal income tax~~
36 ~~purposes under Section 108(c) of the Internal Revenue Code,~~
37 ~~relating to treatment of discharge of qualified real property~~
38 ~~business indebtedness, a separate election shall not be allowed~~
39 ~~under paragraph (3) of subdivision (e) of Section 23051.5 and the~~
40 ~~federal election shall be binding for purposes of this part.~~

1 ~~(3)~~

2 (2) If a taxpayer has not made an election for federal income
3 tax purposes under Section 108(c) of the Internal Revenue Code,
4 relating to treatment of discharge of qualified real property
5 business indebtedness, then the taxpayer shall not be allowed to
6 make that election for purposes of this part.

7 ~~(g) The amendments to Section 108 of the Internal Revenue~~
8 ~~Code made by Section 13226 of the Revenue Reconciliation Act~~
9 ~~of 1993 (Public Law 103-66), relating to modifications of~~
10 ~~discharge of indebtedness provisions, shall apply to discharges~~
11 ~~occurring on or after January 1, 1996, in taxable years beginning~~
12 ~~on or after January 1, 1996.~~

13 ~~(h) The amendments made to Section 108(d)(7)(A) of the~~
14 ~~Internal Revenue Code, relating to certain provisions to be~~
15 ~~applied at the corporate level by Section 402 of the Job Creation~~
16 ~~and Worker Assistance Act of 2002 (Public Law 107-147), shall~~
17 ~~apply to discharges of indebtedness after December 31, 2001, in~~
18 ~~taxable years ending after that date. This subdivision shall not~~
19 ~~apply to any discharge of indebtedness made before March 1,~~
20 ~~2002, pursuant to a plan of reorganization filed with a bankruptcy~~
21 ~~court on or before October 11, 2001.~~

22 *(h) The amendments made to Section 108 of the Internal*
23 *Revenue Code, relating to the recognition of cancellation of*
24 *indebtedness income realized on satisfaction of debt with*
25 *partnership interest by Section 896 of the American Jobs*
26 *Creation Act of 2004 (Public Law 108-357), shall apply to the*
27 *same extent as those amendments are applicable for federal*
28 *purposes.*

29 SEC. 3. This act provides for a tax levy within the meaning of
30 Article IV of the Constitution and shall go into immediate effect.