

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY MAY 15, 2007

AMENDED IN ASSEMBLY MAY 9, 2007

AMENDED IN ASSEMBLY MARCH 5, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 21

**Introduced by Assembly Member Jones
(Principal coauthor: ~~Assembly Member Solorio~~)
(Coauthors: ~~Assembly Members Beall, De Leon, Hancock,
Krekorian, Leno, Mullin, and Portantino~~)**

December 4, 2006

An act to add ~~Section 17052.1~~ *Sections 6248.5 and 17052.1* to the Revenue and Taxation Code, relating to taxation, ~~making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~ *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 21, as amended, Jones. Income taxes: earned income tax credit: *sales and use taxes: presumptions.*

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws.

This bill would, for taxable years beginning on or after January 1, ~~2007~~ *2008*, allow a credit ~~computed by multiplying, as applicable, the federal credit amount, as defined, or the part-year resident credit amount, as defined, by 15% and subtracting therefrom the alternative minimum tax, as specified~~ *based upon earned income, as defined, in modified*

conformity to the earned income credit allowed by federal law, as provided. This bill would provide that the credit would be refundable and would thereby make an appropriation.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. That law provides, on or after July 1, 2007, a rebuttable presumption that any vehicle purchased outside this state which is brought into this state within 90 days from the date of its purchase was acquired for storage, use, or other consumption in the state.

This bill would provide a rebuttable presumption that any vessel purchased outside this state which is brought into this state within 12 months from the date of its purchase was acquired for storage, use, or other consumption in this state if specified requirements are met, as provided.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. Section 6248.5 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6248.5. (a) There shall be a rebuttable presumption that any
- 4 vessel purchased outside of this state on and after the effective
- 5 date of this section, and which is brought into California within
- 6 12 months from the date of its purchase, was acquired for storage,
- 7 use, or other consumption in this state and is subject to use tax if
- 8 any of the following occur:
- 9 (1) The vessel was purchased by a California resident as defined
- 10 in Section 516 of the Vehicle Code. For purposes of this section,
- 11 closely held corporations and limited liability corporations (LLC's)
- 12 shall also be considered California residents if 50 percent or more
- 13 of the shares or membership interests are held by shareholders or
- 14 members who are residents of California as defined in Section 516
- 15 of the Vehicle Code.
- 16 (2) The vessel was subject to property tax in this state during
- 17 the first 12 months of ownership.

1 (3) *If purchased by a nonresident of California, the vessel is*
2 *used or stored in this state more than one-half of the time during*
3 *the first 12 months of ownership.*

4 (b) *This presumption may be controverted by documentary*
5 *evidence that the vessel was purchased for use outside of this state*
6 *during the first 12 months of ownership. This evidence may include,*
7 *but is not limited to, evidence of registration of that vessel with*
8 *the proper authority, outside of this state.*

9 (c) *This section shall not apply to any vessel used in interstate*
10 *or foreign commerce, pursuant to regulations prescribed by the*
11 *board.*

12 (d) *The amendments made to this section by the act adding this*
13 *subdivision do not apply to any vessel that is either purchased, or*
14 *is the subject of a binding purchase contract that is entered into,*
15 *on or before the operative date of this subdivision.*

16 (e) *Notwithstanding subdivision (a), vessels brought into this*
17 *state exclusively for the purpose of repair, retrofit, or modification*
18 *shall not be deemed to be acquired for storage, use, or other*
19 *consumption in this state if the repair, retrofit, or modification is*
20 *performed by a repair facility that holds an appropriate permit*
21 *issued by the board and is licensed to do business by the county*
22 *in which it is located.*

23 (f) *This section shall apply only to any purchase of a vessel*
24 *occurring on or after July 1, 2008.*

25 SEC. 2. *Section 17052.1 is added to the Revenue and Taxation*
26 *Code, to read:*

27 17052.1. (a) *For each taxable year beginning on or after*
28 *January 1, 2008, there shall be allowed as a credit against the*
29 *“net tax,” as defined by Section 17039, an amount determined in*
30 *accordance with Section 32 of the Internal Revenue Code, modified*
31 *as follows:*

32 (1) *In lieu of the percentages specified in Section 32(b)(1) of*
33 *the Internal Revenue Code, the earned income amount shall be*
34 *five thousand dollars (\$5,000) and the phaseout amount shall be*
35 *nine thousand nine hundred dollars (\$9,900) for all eligible*
36 *individuals.*

37 (2) *In lieu of the amounts specified in Section 32(b)(2) of the*
38 *Internal Revenue Code, the earned income amount shall be five*
39 *thousand dollars (\$5,000) and the phaseout amount shall be nine*
40 *thousand nine hundred dollars (\$9,900) for all eligible individuals.*

1 (3) *In the case of two eligible individuals who properly file a*
2 *joint return, only one (1) credit under this section shall be allowed*
3 *for each such joint return.*

4 (4) *For the first taxable year beginning on or after January 1,*
5 *2008, the amount of the credit allowable pursuant to this section*
6 *shall be 90 percent of the amount otherwise allowable if this*
7 *paragraph were disregarded.*

8 (b) (1) *Section 32(c)(1)(A) of the Internal Revenue Code shall*
9 *not apply, and in lieu thereof “eligible individual” shall mean any*
10 *individual who has at least one qualifying child and properly files*
11 *either a joint return or as a head of household (as defined under*
12 *Section 17042).*

13 (2) *Section 32(c)(1)(C) of the Internal Revenue Code, relating*
14 *to exception for individual claiming benefits under Section 911 of*
15 *the Internal Revenue Code, shall not apply.*

16 (3) *Section 32(c)(1)(D) of the Internal Revenue Code, relating*
17 *to limitation on eligibility of nonresident aliens, shall not apply.*

18 (4) (A) *Section 32(c)(2)(A) of the Internal Revenue Code is*
19 *modified to additionally provide that the term “earned income”*
20 *is limited to the amount of earned income attributable to*
21 *employment or self-employment in this state that is in excess of*
22 *the applicable earned income threshold amount.*

23 (B) *The “earned income threshold amount” for a taxable year*
24 *is an amount equal to the sum of (i) the standard deduction for*
25 *that taxable year for taxpayers filing a joint return or as head of*
26 *household plus (ii) an amount equal to any applicable personal*
27 *exemption credits and dependent credits (but no more than two*
28 *dependent credits) for that taxable year, divided by the applicable*
29 *average marginal tax rate based on the filing status of the taxpayer*
30 *for that taxable year.*

31 (5) *Section 32(c)(3)(A) of the Internal Revenue Code, relating*
32 *to qualifying child in general, is modified by deleting “paragraph*
33 *(1)(D) thereof or.”*

34 (6) *Section 32(c)(3)(C) of the Internal Revenue Code, relating*
35 *to place of abode, shall not apply.*

36 (7) *Section 32(f) of the Internal Revenue Code, relating to*
37 *amount of credit to be determined under tables, is modified by*
38 *substituting “Franchise Tax Board” for “Secretary” and to*
39 *additionally provide that Chapter 3.5 (commencing with Section*
40 *11340) of Part 1 of Division 3 of Title 2 of the Government Code*

1 shall not apply to any tables required to be promulgated by the
2 Franchise Tax Board under Section 32(f) of the Internal Revenue
3 Code, as applicable for purposes of this section.

4 (8) Section 32(g) of the Internal Revenue Code, relating to
5 coordination with advance payments of earned income credit, shall
6 not apply.

7 (9) Section 32(j) of the Internal Revenue Code, relating to
8 inflation adjustments, shall not apply.

9 (10) Section 32(l) of the Internal Revenue Code, relating to
10 coordination with certain means-tested programs, shall not apply.

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

13 SECTION 1. ~~Section 17052.1 is added to the Revenue and~~
14 ~~Taxation Code, to read:~~

15 ~~17052.1. (a) For each taxable year beginning on or after~~
16 ~~January 1, 2007, there shall be allowed as a credit against the “net~~
17 ~~tax” (as defined by Section 17039) an amount determined under~~
18 ~~subdivision (b).~~

19 ~~(b) Except as otherwise provided in this section, the amount of~~
20 ~~the credit allowed under subdivision (a) shall be computed by~~
21 ~~multiplying the “federal credit amount” (as defined in subdivision~~
22 ~~(e)) by 15 percent and subtracting therefrom the amount of tax~~
23 ~~imposed by Section 17062 (relating to alternative minimum tax),~~
24 ~~if any, for the same taxable year.~~

25 ~~(c) For purposes of this section, “federal credit amount” means~~
26 ~~the amount determined under Section 32 of the Internal Revenue~~
27 ~~Code.~~

28 ~~(d) No credit shall be allowed under this section to any~~
29 ~~person who is married (within the meaning of Section 17021.5)~~
30 ~~and files a separate return for the taxable year.~~

31 ~~(e) (1) The amount of credit allowed under subdivision (a) to~~
32 ~~a person who is a nonresident for any portion of the taxable year~~
33 ~~and who is eligible for the “federal credit amount” shall be~~
34 ~~computed by multiplying the “part-year resident credit amount”~~
35 ~~by 15 percent and subtracting therefrom the amount of tax imposed~~
36 ~~by Section 17062, relating to alternative minimum tax, if any, for~~
37 ~~the same taxable year.~~

38 ~~(2) “Part-year resident credit amount” means the “federal credit~~
39 ~~amount” based on California adjusted gross income as defined in~~
40 ~~Section 17301.3.~~

1 (f) For purposes of this section, any reference to Section 32 of
2 the Internal Revenue Code means the Internal Revenue Code as
3 applicable for federal purposes.

4 (g) If the amount allowable as a credit under this section exceeds
5 the tax liability computed under this part, the excess shall be
6 credited against other amounts due, if any, and the balance, if any,
7 shall be refunded to the taxpayer.

8 (h) Notwithstanding any other state law, and to the extent
9 permitted by federal law, amounts refunded pursuant to subdivision
10 (g) shall be treated the same as the federal credit defined in
11 subdivision (c) for the purpose of determining eligibility to receive
12 benefits under Division 9 (commencing with Section 10000) of
13 the Welfare and Institutions Code or amounts of those benefits.

14 SEC. 2. It is the intent of the Legislature that state funds spent
15 for the purposes of an earned income tax credit shall be balanced
16 by a commensurate increase in state revenues realized from the
17 closure of loopholes in the Revenue and Taxation Code and from
18 the repeal or modification of outmoded, ineffective, or unfair tax
19 expenditures.

20 SEC. 3. This act is an urgency statute necessary for the
21 immediate preservation of the public peace, health, or safety within
22 the meaning of Article IV of the Constitution and shall go into
23 immediate effect. The facts constituting the necessity are:

24 In order to provide equality and fairness to all taxpayers, it is
25 necessary that this act go into immediate effect.