

**ASSEMBLY BILL**

**No. 1918**

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**Introduced by Assembly Members Niello and Garcia  
(Coauthors: Assembly Members Houston and Villines)**

February 8, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, as introduced, Niello. Income taxes: principal residence.

The Personal Income Tax Law, in modified conformity with federal income tax laws, authorizes an exclusion from gross income for qualified principal residence indebtedness, as defined, but requires specified discharges of indebtedness to be included in gross income.

This bill would, in modified conformity with federal law, provide for an exclusion from gross income for discharges of indebtedness on a principal residence that occur on or after January 1, 2007.

This bill would take effect immediately as a tax levy.

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

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

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

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

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

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

22 (f) (1) *Paragraph (1) of Section 108(a) of the Internal Revenue*  
23 *Code is modified by striking “or” at the end of subparagraph (C),*  
24 *by striking the period at the end of subparagraph (D) and inserting*  
25 *“, or” and by inserting after subparagraph (D) the following new*  
26 *subparagraph:*

27 *(E) The indebtedness discharged is qualified principal residence*  
28 *indebtedness which is discharged before January 1, 2010.*

29 (2) *For purposes of this section, the term “qualified principal*  
30 *residence indebtedness” means acquisition indebtedness (within*  
31 *the meaning of Section 163(h)(3)(B) of the Internal Revenue Code,*  
32 *applied by substituting “\$2,000,000 (\$1,000,000” for “\$1,000,000*  
33 *(\$500,000” in clause (ii) thereof) with respect to the principal*  
34 *residence of the taxpayer.*

35 (g) *For purposes of this section, all of the following rules shall*  
36 *apply:*

37 (1) *The amount excluded from gross income by reason of Section*  
38 *108 (a)(1)(E) of the Internal Revenue Code shall be applied to*  
39 *reduce (but not below zero) the basis of the principal residence of*  
40 *the taxpayer.*

1 (2) Section 108 (a)(1)(E) of the Internal Revenue Code shall  
2 not apply to the discharge of a loan if the discharge is on account  
3 of services performed for the lender or any other factor not directly  
4 related to a decline in the value of the residence or to the financial  
5 condition of the taxpayer.

6 (3) If any loan is discharged, in whole or in part, and only a  
7 portion of that loan is qualified principal residence indebtedness,  
8 Section 108 (a)(1)(E) of the Internal Revenue Code shall apply  
9 only to so much of the amount discharged as exceeds the amount  
10 of the loan (as determined immediately before such discharge)  
11 that is not qualified principal residence indebtedness.

12 (4) The term “principal residence” has the same meaning as  
13 when used in Section 121 of the Internal Revenue Code.

14 (h) (1) Section 108(a)(2)(A) of the Internal Revenue Code is  
15 modified by substituting “(D), and (E)” in lieu of “and D.”

16 (2) Section 108 (a)(1)(B) of the Internal Revenue Code shall  
17 not apply to a discharge to which Section 108 (a)(1)(E) of the  
18 Internal Revenue Code, as modified by this section, applies unless  
19 the taxpayer elects to apply paragraph (1)(B) of Section 108(a) of  
20 the Internal Revenue Code in lieu of paragraph (1)(E) of Section  
21 108(a) of the Internal Revenue Code.

22 (i) The amendments to this section by the act adding this  
23 subdivision shall apply to discharges of indebtedness that occur  
24 on or after January 1, 2007.

25 SEC. 2. This act provides for a tax levy within the meaning of  
26 Article IV of the Constitution and shall go into immediate effect.