

Senate Bill No. 1055

CHAPTER 282

An act to add Section 17144.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 2008. Filed with Secretary of State September 25, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1055, Machado. Taxation: cancellation of indebtedness: mortgage debt forgiveness.

The Personal Income Tax Law, in modified conformity to federal income tax laws, requires a borrower to include in his or her income, with certain exceptions, the amount of debt canceled or discharged, as specified.

This bill would provide further conformity to federal income tax laws by conforming to specified provisions of the federal Mortgage Forgiveness Debt Relief Act of 2007, relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from a taxpayer's income if that debt is discharged after January 1, 2007, and before January 1, 2009, as provided.

This bill would take effect immediately as a tax levy.

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

SECTION 1. Section 17144.5 is added to the Revenue and Taxation Code, to read:

17144.5. (a) Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, as amended by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), shall apply, except as otherwise provided.

(b) Section 108(a)(1)(E) of the Internal Revenue Code, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), is modified by substituting the phrase "January 1, 2009" for "January 1, 2010" contained therein.

(c) Section 108(a)(1)(E) of the Internal Revenue Code, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), is additionally modified to provide that the amount excluded from gross income shall not exceed \$250,000 (\$125,000 in the case of a married individual filing a separate return).

(d) Section 108(h)(2) of the Internal Revenue Code, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), is modified by substituting the phrase "(within the meaning of

section 163(h)(3)(B), applied by substituting ‘\$800,000 (\$400,000’ for ‘\$1,000,000 (\$500,000’ in clause (ii) thereof)” for the phrase “(within the meaning of section 163(h)(3)(B), applied by substituting ‘\$2,000,000 (\$1,000,000’ for ‘\$1,000,000 (\$500,000’ in clause (ii) thereof)” contained therein.

(e) This section shall apply to discharges of indebtedness occurring on or after January 1, 2007, and, notwithstanding any other law to the contrary, no penalties or interest shall be due with respect to the discharge of qualified principal residence indebtedness during the 2007 taxable year regardless of whether or not the taxpayer reports the discharge on his or her return for the 2007 taxable year.

SEC. 2. The Legislature finds and declares that the mortgage debt tax relief allowed to taxpayers in connection with the discharge of qualified principal residence indebtedness, as described in this act, serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

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