

AMENDED IN SENATE JUNE 16, 2010

AMENDED IN SENATE MAY 27, 2010

AMENDED IN ASSEMBLY JANUARY 25, 2010

AMENDED IN ASSEMBLY JANUARY 13, 2010

AMENDED IN ASSEMBLY JANUARY 6, 2010

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member Block
(Coauthors: Assembly Members Blumenfield, Brownley, Nava,
Ruskin, and Salas)

Introduced by Assembly Member Torres

February 27, 2009

~~An act to amend, repeal, and add Section 25110 of, and to add and repeal Section 17052.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Section 107.10 to the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, ~~Block Torres. Taxation: personal income tax credit: corporation taxes: tax havens. Property taxation: possessory interests: publicly owned low-income housing.~~

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests

among those property interests subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive.

This bill would clarify, for purposes of the definition of a taxable possessory interest, that the possession or use of publicly owned low-income housing by low-income tenants, as defined, is not independent. This bill would state that its provisions are declaratory of existing law.

~~The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.~~

~~This bill would authorize a credit against those taxes for certain qualified teachers in an amount equal to \$500 for each taxable year beginning on or after January 1, 2011, and before January 1, 2012, and in an amount equal to \$850 for each taxable year beginning on and after January 1, 2012, and before January 1, 2014, as specified.~~

~~The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified apportionment formula based on the property, payroll, and sales within and without this state, except as otherwise provided. That law allows corporations to elect whether their income is determined on a water's-edge basis or on a worldwide unitary basis. In general, a corporation that makes a water's-edge election is subject to tax on income only from sources within the United States but is required to take into account the income and apportionment factors of certain specified affiliated entities.~~

~~This bill would expand the list of specified affiliated entities for taxable years beginning on or after July 1, 2011, and before July 1, 2014, to include a corporation that is incorporated, headquartered, or located in a country that is a tax haven, as defined, and would make related legislative findings and declarations.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.
State-mandated local program: no.

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

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

1 (a) The provision of housing is of vital statewide importance to
2 the health, safety, and welfare of the residents of this state and the
3 basic housing goal of the state is to provide a decent home and
4 suitable living environment for every California family.

5 (b) There is an urgent and continuing need to provide affordable
6 housing to meet the increasingly unfulfilled housing needs of the
7 state.

8 (c) Private enterprise and investment cannot economically
9 achieve the needed construction of decent, safe, and sanitary
10 housing at rents or purchase prices which persons and families
11 of lower income can afford.

12 (d) State law establishes in every city and county a housing
13 authority with the responsibility of addressing the lack of adequate
14 housing for persons of lower income.

15 (e) It is the policy of the state that each housing authority
16 manage and operate its housing projects in an efficient manner
17 so as to enable it to fix the rentals for dwelling accommodations
18 at the lowest possible rates consistent with it providing decent,
19 safe, and sanitary dwelling accommodations, and that no housing
20 authority shall construct or operate any such project for profit, or
21 as a source of revenue to the city or the county.

22 (f) The purpose behind the taxation of possessory interests is
23 to protect the public domain from private profit without tax
24 liability.

25 (g) The use of public housing by low-income persons is an
26 essential public use of publicly owned property that serves only
27 to benefit the government and is necessary to further a statewide
28 public purpose, which can be distinguished from those types of
29 private uses with a profit motive for which the possessory interest
30 tax was intended to apply.

31 SEC. 2. Section 107.10 is added to the Revenue and Taxation
32 Code, to read:

33 107.10. (a) For purposes of applying paragraph (1) of
34 subdivision (a) of Section 107 to a lease of publicly owned
35 low-income housing, the possession of, claim to, or right to the
36 possession of, land or improvements is not independent if the lessee
37 is a low-income tenant.

38 (b) For purposes of this section, "low-income tenant" has the
39 same meaning as "lower income households" as defined by Section
40 50079.5 of the Health and Safety Code.

1 SEC. 3. (a) *It is the intent of the Legislature in enacting this*
2 *act to provide legislative direction to county assessors, the State*
3 *Board of Equalization, the courts, and other involved parties*
4 *regarding the interpretation of the term “independent” as it relates*
5 *to publicly owned low-income housing.*

6 (b) *Section 107.10 of the Revenue and Taxation Code, as added*
7 *by this act, does not constitute a change in, but rather, is*
8 *declaratory of, existing law. Therefore, because this act is*
9 *declaratory of existing law, no provision of state law, including,*
10 *but not limited to, Section 8 of Article XVI of the California*
11 *Constitution, requires reimbursement to any entity for any ad*
12 *valorem property tax revenue losses that may result from this act.*

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15 **All matter omitted in this version of the bill**
16 **appears in the bill as amended in the**
17 **Senate, May 27, 2010. (JR11)**
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