

Introduced by Senator Hollingsworth

December 1, 2008

An act to amend Sections 17041 and 19602 of, to add Section 17063.1 to, to repeal Sections 17043 and 19602.5 of, and to repeal Chapter 2.1 (commencing with Section 17062) of Part 10 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 13, as introduced, Hollingsworth. Personal income taxes.

The Personal Income Tax Law imposes a tax upon taxable income at various rates depending upon the amount of that income, and also imposes an alternative minimum tax based upon specified tax preference items.

This bill would, commencing with taxable years beginning on or after January 1, 2009, reduce all marginal tax rates, as provided, and would eliminate the tax on taxable income for taxable years beginning on or after January 1, 2013. This bill would also repeal the alternative minimum tax for taxable years beginning on or after January 1, 2013.

The Mental Health Services Act, enacted by initiative statute, establishes a state personal income tax surcharge of 1% on taxpayers with annual taxable incomes of more than \$1 million and uses the funds derived therefrom for expanding county mental health programs, as specified.

This bill would repeal that 1% surcharge along with associated provisions specifying the allocation of those revenues. This bill would provide that these repeal provisions would become operative only when submitted to, and approved by, the voters.

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

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

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state ~~who is not a part-year resident~~, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income ~~computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions~~:

If the taxable income is:	The tax is:
Not over \$3,650.....	1% of the taxable income
Over \$3,650 but not over \$8,650.....	\$36.50 plus 2% of the excess over \$3,650
Over \$8,650 but not over \$13,650.....	\$136.50 plus 4% of the excess over \$8,650
Over \$13,650 but not over \$18,950.....	\$336.50 plus 6% of the excess over \$13,650
Over \$18,950 but not over \$23,950.....	\$654.50 plus 8% of the excess over \$18,950
Over \$23,950.....	\$1,054.50 plus 9.3% of the excess over \$23,950

(b) ~~(1)~~—There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax ~~as calculated in paragraph (2)~~:

~~(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this~~

state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions: that shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when the resident is the head of household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over \$7,300.....	1% of the taxable income
Over \$7,300 but not over \$17,300.....	\$73 plus 2% of the excess over \$7,300
Over \$17,300 but not over \$22,300.....	\$273 plus 4% of the excess over \$17,300
Over \$22,300 but not over \$27,600.....	\$473 plus 6% of the excess over \$22,300
Over \$27,600 but not	

1	over \$32,600.....	\$791 plus 8% of the excess
2		over \$27,600
3	Over \$32,600.....	\$1,191 plus 9.3% of the excess
4		over \$32,600

5
6 (d) ~~(1)~~—There shall be imposed for each taxable year upon the
7 taxable income of every nonresident or part-year resident when
8 the nonresident or part-year resident is the head of a household,
9 as defined in Section 17042, a tax ~~as calculated in paragraph (2).~~

10 ~~(2) The tax imposed under paragraph (1) shall be calculated by~~
11 ~~multiplying the “taxable income of a nonresident or part-year~~
12 ~~resident,” as defined in subdivision (i), by a rate (expressed as a~~
13 ~~percentage) equal to the tax computed under subdivision (c) on~~
14 ~~the entire taxable income of the nonresident or part-year resident~~
15 ~~as if the nonresident or part-year resident were a resident of this~~
16 ~~state for the taxable year and as if the nonresident or part-year~~
17 ~~resident were a resident of this state for all prior taxable years for~~
18 ~~any carryover items, deferred income, suspended losses, or~~
19 ~~suspended deductions, divided by the amount of that income. that~~
20 ~~shall be equal to the tax computed under subdivision (c) as if the~~
21 ~~nonresident or part-year resident were a resident multiplied by~~
22 ~~the ratio of California adjusted gross income to total adjusted~~
23 ~~gross income from all sources. For purposes of computing the tax~~
24 ~~under subdivision (c) and gross income from all sources, the net~~
25 ~~operating loss deduction provided in Section 172 of the Internal~~
26 ~~Revenue Code, as modified by Section 17276, shall be computed~~
27 ~~as if the taxpayer was a resident for all prior years.~~

28 (e) There shall be imposed for each taxable year upon the taxable
29 income of every estate, trust, or common trust fund taxes equal to
30 the amount computed under subdivision (a) for an individual
31 having the same amount of taxable income.

32 (f) The tax imposed by this part is not a surtax.

33 (g) (1) Section 1(g) of the Internal Revenue Code, relating to
34 certain unearned income of minor children taxed as if the parent’s
35 income, shall apply, except as otherwise provided.

36 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,
37 relating to income included on parent’s return, is modified, for
38 purposes of this part, by substituting “1 percent” for “15 percent.”

39 (h) For each taxable year beginning on or after January 1, 1988,
40 the Franchise Tax Board shall recompute the income tax brackets

prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar (\$1).

(i) The income tax rates prescribed in subdivisions (a) and (c) shall be modified as follows:

(1) For any taxable year beginning on or after January 1, 2009, and before January 1, 2010, 1 percent shall be 0.80 percent, 2 percent shall be 1.6 percent, 4 percent shall be 3.2 percent, 6 percent shall be 4.8 percent, 8 percent shall be 6.4 percent, and 9.3 percent shall be 7.54 percent.

(2) For any taxable year beginning on or after January 1, 2010, and before January 1, 2011, 1 percent shall be 0.60 percent, 2 percent shall be 1.2 percent, 4 percent shall be 2.4 percent, 6 percent shall be 3.6 percent, 8 percent shall be 4.8 percent, and 9.3 percent shall be 5.58 percent.

(3) For any taxable year beginning on or after January 1, 2011, and before January 1, 2012, 1 percent shall be 0.40 percent, 2 percent shall be 0.80 percent, 4 percent shall be 1.6 percent, 6 percent shall be 2.4 percent, 8 percent shall be 3.2 percent, and 9.3 percent shall be 3.72 percent.

(4) For any taxable year beginning on or after January 1, 2012, and before January 1, 2013, 1 percent shall be 0.20 percent, 2 percent shall be 0.40 percent, 4 percent shall be 0.80 percent, 6 percent shall be 1.2 percent, 8 percent shall be 1.6 percent, and 9.3 percent shall be 1.86 percent.

(5) For any taxable year beginning on or after January 1, 2013, 1 percent shall be 0 percent, 2 percent shall be 0 percent, 4 percent shall be 0 percent, 6 percent shall be 0 percent, 8 percent shall be 0 percent, and 9.3 percent shall be 0 percent.

(i)

(j) (1) For purposes of this part, the term “taxable income of a nonresident or part-year resident” section, the term “California adjusted gross income” includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing “taxable” “California adjusted gross income of a nonresident or part-year resident” under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident. *adjusted gross income.*

(3) For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

SEC. 2. Section 17043 of the Revenue and Taxation Code is repealed.

17043. (a) For each taxable year beginning on or after January 1, 2005, in addition to any other taxes imposed by this part, an additional tax shall be imposed at the rate of 1 percent on that portion of a taxpayer’s taxable income in excess of one million dollars (\$1,000,000).

1 ~~(b) For purposes of applying Part 10.2 (commencing with~~
2 ~~Section 18401) of Division 2, the tax imposed under this section~~
3 ~~shall be treated as if imposed under Section 17041.~~

4 ~~(c) The following shall not apply to the tax imposed by this~~
5 ~~section:~~

6 ~~(1) The provisions of Section 17039, relating to the allowance~~
7 ~~of credits.~~

8 ~~(2) The provisions of Section 17041, relating to filing status~~
9 ~~and recomputation of the income tax brackets.~~

10 ~~(3) The provisions of Section 17045, relating to joint returns.~~

11 SEC. 3. Section 17063.1 is added to the Revenue and Taxation
12 Code, to read:

13 17063.1. This chapter shall remain in effect only until January
14 1, 2013, and as of that date is repealed.

15 SEC. 4. Section 19602 of the Revenue and Taxation Code is
16 amended to read:

17 19602. Except for amounts collected or accrued under Sections
18 17935, 17941, 17948, 19532, and 19561, ~~and revenues deposited~~
19 ~~pursuant to Section 19602.5~~, all moneys and remittances received
20 by the Franchise Tax Board as amounts imposed under Part 10
21 (commencing with Section 17001), and related penalties, additions
22 to tax, and interest imposed under this part, shall be deposited,
23 after clearance of remittances, in the State Treasury and credited
24 to the Personal Income Tax Fund.

25 SEC. 5. Section 19602.5 of the Revenue and Taxation Code
26 is repealed.

27 ~~19602.5. (a) There is in the State Treasury the Mental Health~~
28 ~~Services Fund (MHS Fund). The estimated revenue from the~~
29 ~~additional tax imposed under Section 17043 for the applicable~~
30 ~~fiscal year, as determined under subparagraph (B) of paragraph~~
31 ~~(3) of subdivision (c), shall be deposited to the MHS Fund on a~~
32 ~~monthly basis, subject to an annual adjustment as described in this~~
33 ~~section.~~

34 ~~(b) (1) Beginning with fiscal year 2004-2005 and for each~~
35 ~~fiscal year thereafter, the Controller shall deposit on a monthly~~
36 ~~basis in the MHS Fund an amount equal to the applicable~~
37 ~~percentage of net personal income tax receipts as defined in~~
38 ~~paragraph (4).~~

39 ~~(2) (A) Except as provided in subparagraph (B), the applicable~~
40 ~~percentage referred to in paragraph (1) shall be 1.76 percent.~~

1 ~~(B) For fiscal year 2004–2005, the applicable percentage shall~~
2 ~~be 0.70 percent.~~

3 ~~(3) Beginning with fiscal year 2006–2007, monthly deposits to~~
4 ~~the MHS Fund pursuant to this subdivision are subject to~~
5 ~~suspension pursuant to subdivision (f).~~

6 ~~(4) For purposes of this subdivision, “net personal income tax~~
7 ~~receipts” refers to amounts received by the Franchise Tax Board~~
8 ~~and the Employment Development Department under the Personal~~
9 ~~Income Tax Law, as reported by the Franchise Tax Board to the~~
10 ~~Department of Finance pursuant to law, regulation, procedure, and~~
11 ~~practice (commonly referred to as the “102 Report”) in effect on~~
12 ~~the effective date of the act establishing this section.~~

13 ~~(c) No later than March 1, 2006, and each March 1 thereafter,~~
14 ~~the Department of Finance, in consultation with the Franchise Tax~~
15 ~~Board, shall determine the annual adjustment amount for the~~
16 ~~following fiscal year.~~

17 ~~(1) The “annual adjustment amount” for any fiscal year shall~~
18 ~~be an amount equal to the amount determined by subtracting the~~
19 ~~“revenue adjustment amount” for the applicable revenue adjustment~~
20 ~~fiscal year, as determined by the Franchise Tax Board under~~
21 ~~paragraph (3), from the “tax liability adjustment amount” for~~
22 ~~applicable tax liability adjustment tax year, as determined by the~~
23 ~~Franchise Tax Board under paragraph (2).~~

24 ~~(2) (A) (i) The “tax liability adjustment amount” for a tax year~~
25 ~~is equal to the amount determined by subtracting the estimated tax~~
26 ~~liability increase from the additional tax imposed under Section~~
27 ~~17043 for the applicable year under subparagraph (B) from the~~
28 ~~amount of the actual tax liability increase from the additional tax~~
29 ~~imposed under Section 17043 for the applicable tax year, based~~
30 ~~on the returns filed for that tax year.~~

31 ~~(ii) For purposes of the determinations required under this~~
32 ~~paragraph, actual tax liability increase from the additional tax~~
33 ~~means the increase in tax liability resulting from the tax of 1~~
34 ~~percent imposed under Section 17043, as reflected on the original~~
35 ~~returns filed by October 15 of the year after the close of the~~
36 ~~applicable tax year.~~

37 ~~(iii) The applicable tax year referred to in this paragraph means~~
38 ~~the 12-calendar month taxable year beginning on January 1 of the~~
39 ~~year that is two years before the beginning of the fiscal year for~~
40 ~~which an annual adjustment amount is calculated.~~

1 ~~(B) (i) The estimated tax liability increase from the additional~~
2 ~~tax for the following tax years is:~~

3 ~~(ii) The “estimated tax liability increase from the additional tax”~~
4 ~~for the tax year beginning in 2009 and each tax year thereafter~~
5 ~~shall be determined by applying an annual growth rate of 7 percent~~
6 ~~to the “estimated tax liability increase from additional tax” of the~~
7 ~~immediately preceding tax year.~~

8 ~~(3) (A) The “revenue adjustment amount” is equal to the amount~~
9 ~~determined by subtracting the “estimated revenue from the~~
10 ~~additional tax” for the applicable fiscal year, as determined under~~
11 ~~subparagraph (B), from the actual amount transferred for the~~
12 ~~applicable fiscal year.~~

13 ~~(B) (i) The “estimated revenue from the additional tax” for the~~
14 ~~following applicable fiscal years is:~~

15 ~~(ii) The “estimated revenue from the additional tax” for~~
16 ~~applicable fiscal year 2007–08 and each applicable fiscal year~~
17 ~~thereafter shall be determined by applying an annual growth rate~~
18 ~~of 7 percent to the “estimated revenue from the additional tax” of~~
19 ~~the immediately preceding applicable fiscal year.~~

20 ~~(iii) The applicable fiscal year referred to in this paragraph~~
21 ~~means the fiscal year that is two years before the fiscal year for~~
22 ~~which an annual adjustment amount is calculated.~~

23 ~~(d) The Department of Finance shall notify the Legislature and~~
24 ~~the Controller of the results of the determinations required under~~
25 ~~subdivision (c) no later than 10 business days after the~~
26 ~~determinations are final.~~

27 ~~(e) If the annual adjustment amount for a fiscal year is a positive~~
28 ~~number, the Controller shall transfer that amount from the General~~
29 ~~Fund to the MHS Fund on July 1 of that fiscal year.~~

30 ~~(f) If the annual adjustment amount for a fiscal year is a negative~~
31 ~~number, the Controller shall suspend monthly transfers to the MHS~~
32 ~~Fund for that fiscal year, as otherwise required by paragraph (1)~~
33 ~~of subdivision (b), until the total amount of suspended deposits~~
34 ~~for that fiscal year equals the amount of the negative annual~~
35 ~~adjustment amount for that fiscal year.~~

36 SEC. 6. Sections 2, 4, and 5 of this act affect an initiative statute
37 and shall take effect and become operative only when submitted
38 to, and approved by, the voters of California, pursuant to

- 1 subdivision (c) of Section 10 of Article II of the California
- 2 Constitution.

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