

Introduced by Senator Calderon

January 26, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 97, as introduced, Calderon. 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.

The Personal Income Tax Law conforms 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 extend the operation of those provisions to debt that is discharged after January 1, 2007, and before January 1, 2010.

This bill would also provide conformity to specified provisions of the federal Emergency Economic Stabilization Act of 2008 relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from a taxpayer's income if that debt is discharged on or after January 1, 2009.

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:

SECTION 1. Section 17144.5 of the Revenue and Taxation Code is amended 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) and by Section 303 of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), 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)~~

(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 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)~~

(c) 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)~~

(d) 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.

1 (e) *The changes made to this section by the act adding this*
2 *subdivision shall apply to discharges of indebtedness occurring*
3 *on or after January 1, 2009, and, notwithstanding any other law*
4 *to the contrary, no penalties or interest shall be due with respect*
5 *to the discharge of qualified principal residence indebtedness*
6 *during the 2009 taxable year, regardless of whether or not the*
7 *taxpayer reports the discharge on his or her return for the 2009*
8 *taxable year.*

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