

AMENDED IN ASSEMBLY MAY 2, 2011
AMENDED IN ASSEMBLY MARCH 25, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1130

Introduced by Assembly Member Skinner

February 18, 2011

An act to amend Section 17041 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Skinner. Income taxes: tax rates.

The Personal Income Tax Law imposes a tax upon taxable income at various rates depending upon the amount of that income.

This bill would, for taxable years beginning on or after January 1, 2011, ~~increase the tax rate applicable to~~ *impose tax at the rate of 10.3%, instead of tax at the current rate of 9.3%, on taxable income over \$500,000 to 10.3%.*

This bill would ~~constitute~~ *include* a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

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

Vote: $\frac{2}{3}$. 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) (1) 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

(2) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage.

(3) For taxable years beginning on or after January 1, 2011, ~~the 9.3 percent rate referenced in paragraph (1) shall instead be imposed at the rate of 10.3 percent upon taxable income over five hundred thousand dollars (\$500,000). The provisions of Section~~

the income tax brackets and rates set forth in paragraph (1) are modified for that portion of taxable income that is over five hundred thousand dollars (\$500,000), so that the tax rate is 10.3 percent of the excess over five hundred thousand dollars (\$500,000). The income tax bracket specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), but only for taxable years beginning on or after January 1, 2011. The provisions of Section 17045 shall not apply to the tax imposed by this paragraph.

(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) (1) 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:

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

1	Over \$17,300 but not	
2	over \$22,300.....	\$273 plus 4% of the excess
3		over \$17,300
4	Over \$22,300 but not	
5	over \$27,600.....	\$473 plus 6% of the excess
6		over \$22,300
7	Over \$27,600 but not	
8	over \$32,600.....	\$791 plus 8% of the excess
9		over \$27,600
10	Over \$32,600.....	\$1,191 plus 9.3% of the excess
11		over \$32,600

12
 13 (2) For taxable years beginning on or after January 1, 2009, and
 14 before January 1, 2011, the percentages specified in the table in
 15 paragraph (1) shall be increased by adding 0.25 percent to each
 16 percentage.

17 (3) For taxable years beginning on or after January 1, 2011, ~~the~~
 18 ~~9.3 percent rate referenced in paragraph (1) shall instead be~~
 19 ~~imposed at the rate of 10.3 percent upon taxable income over five~~
 20 ~~hundred thousand dollars (\$500,000); the income tax brackets and~~
 21 ~~rates set forth in paragraph (1) are modified for that portion of~~
 22 ~~taxable income that is over five hundred thousand dollars~~
 23 ~~(\$500,000), so that the tax rate is 10.3 percent of the excess over~~
 24 ~~five hundred thousand dollars (\$500,000). The income tax bracket~~
 25 ~~specified in this paragraph shall be recomputed, as otherwise~~
 26 ~~provided in subdivision (h), but only for taxable years beginning~~
 27 ~~on or after January 1, 2011.~~

28 (d) (1) There shall be imposed for each taxable year upon the
 29 taxable income of every nonresident or part-year resident when
 30 the nonresident or part-year resident is the head of a household,
 31 as defined in Section 17042, a tax as calculated in paragraph (2).

32 (2) The tax imposed under paragraph (1) shall be calculated by
 33 multiplying the "taxable income of a nonresident or part-year
 34 resident," as defined in subdivision (i), by a rate (expressed as a
 35 percentage) equal to the tax computed under subdivision (c) on
 36 the entire taxable income of the nonresident or part-year resident
 37 as if the nonresident or part-year resident were a resident of this
 38 state for the taxable year and as if the nonresident or part-year
 39 resident were a resident of this state for all prior taxable years for

1 any carryover items, deferred income, suspended losses, or
2 suspended deductions, divided by the amount of that income.

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

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

8 (g) (1) Section 1(g) of the Internal Revenue Code, relating to
9 certain unearned income of children taxed as if parent's income,
10 shall apply, except as otherwise provided.

11 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code is
12 modified, for purposes of this part, by substituting "1 percent" for
13 "10 percent."

14 (h) For each taxable year beginning on or after January 1, 1988,
15 the Franchise Tax Board shall recompute the income tax brackets
16 prescribed in subdivisions (a) and (c). That computation shall be
17 made as follows:

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

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

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

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

30 (i) (1) For purposes of this part, the term "taxable income of a
31 nonresident or part-year resident" includes each of the following:

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

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

(2) For purposes of computing “taxable 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.

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

CORRECTIONS:

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