

AMENDED IN ASSEMBLY MAY 10, 2011  
AMENDED IN ASSEMBLY MARCH 31, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1196**

---

---

**Introduced by Assembly Member Allen**

February 18, 2011

---

---

An act to add ~~Section~~ *Sections 17044.2 and 17052.1* to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1196, as amended, Allen. Income taxes: *rates*: credit: earned income.

(1) *The Personal Income Tax Law, which is administered by the Franchise Tax Board, imposes taxes upon the taxable income of individual taxpayers, at specified rates, based on the amount of the taxpayer's taxable income.*

*This bill, for taxable years beginning on or after January 1, 2012, would impose an additional tax at the rate of 0.7% on the taxpayer's taxable income that exceeds \$1,000,000. This bill would require all revenues received by the Franchise Tax Board from those taxes be deposited in the Earned Income Tax Credit Fund, a continuously appropriated fund established by this bill, for the purposes of providing taxpayer refunds for the earned income tax credit, as provided.*

~~The~~

(2) *The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including certain credits that are allowed in modified conformity to credits allowed by federal income tax laws.*

This bill would, for taxable years beginning on or after January 1, 2012, allow a credit computed by multiplying the federal credit amount, as defined, by 15% and subtracting therefrom the alternative minimum tax, as specified. This bill would provide that the credit would be refundable and would make an appropriation therefor.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
 State-mandated local program: no.

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

1     SECTION 1. Section 17044.2 is added to the Revenue and  
 2     Taxation Code, to read:

3     17044.2. (a) For each taxable year beginning on or after  
 4     January 1, 2012, in addition to any other taxes imposed by this  
 5     part, an additional tax at the rate of 0.7 percent shall be imposed  
 6     on the portion of a taxpayer’s taxable income that exceeds one  
 7     million dollars (\$1,000,000).

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

11     (c) The following shall not apply to the tax imposed by this  
 12     section:

13     (1) The provisions of Section 17039, relating to the allowance  
 14     of credits.

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

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

18     (d) Notwithstanding any other provision of this part, all  
 19     revenues, less refunds, derived from the tax imposed pursuant to  
 20     this section shall be deposited in the Earned Income Tax Credit  
 21     Fund, hereby established in the State Treasury. Notwithstanding  
 22     Section 13340 of the Government Code, all moneys in the fund are  
 23     hereby continuously appropriated, without regard to fiscal year,  
 24     to the Franchise Tax Board for making refunds pursuant to  
 25     subdivision (e) of Section 17052.1.

26     ~~SECTION 1.~~

27     SEC. 2. Section 17052.1 is added to the Revenue and Taxation  
 28     Code, to read:

29     17052.1. (a) For each taxable year beginning on or after  
 30     January 1, 2012, there shall be allowed as a credit against the “net

1 tax,” as defined by Section 17039, an amount determined under  
2 subdivision (b).

3 (b) Except as otherwise provided in this section, the amount of  
4 the credit allowed under subdivision (a) shall be computed by  
5 multiplying the “federal credit amount,” as defined in subdivision  
6 (c), by 15 percent and subtracting therefrom the amount of tax  
7 imposed by Section 17062, relating to the alternative minimum  
8 tax, if any, for the same taxable year.

9 (c) For purposes of this section, “federal credit amount” means  
10 the amount determined under Section 32 of the Internal Revenue  
11 Code as in effect on January 1, 2011.

12 (d) A credit shall not be allowed under this section to any of the  
13 following:

14 (1) Any person who is ~~treated~~ as a nonresident for any portion  
15 of the taxable year.

16 (2) Any person who is married, within the meaning of Section  
17 17021.5, and files a separate return for the taxable year.

18 (e) *(1)* If the amount allowable as a credit under this section  
19 exceeds the tax liability computed under this part, the excess shall  
20 be credited against other amounts due, if any, and the balance, if  
21 any, shall be refunded to the taxpayer. ~~Notwithstanding Section~~  
22 ~~13340 of the Government Code, and without regard to fiscal year,~~  
23 ~~there is hereby continuously appropriated from the General Fund~~  
24 ~~those amounts necessary to make the refunds pursuant to this~~  
25 ~~subdivisions.~~

26 *(2)* *If the amounts refunded to taxpayers pursuant to this section*  
27 *exceed the amount available in the Earned Income Tax Credit*  
28 *Fund, the Franchise Tax Board shall establish a wait list for*  
29 *refunds, with an order of priority based on the date the taxpayer’s*  
30 *return was received by the Franchise Tax Board. The Franchise*  
31 *Tax Board shall notify a taxpayer if he or she has been placed on*  
32 *the wait list.*

33 (f) Notwithstanding any other state law, and to the extent  
34 permitted by federal law, amounts refunded pursuant to subdivision  
35 (e) shall be treated the same as the federal credit defined in  
36 subdivision (c) for the purpose of determining eligibility to receive  
37 benefits under Division 9 (commencing with Section 10000) of  
38 the Welfare and Institutions Code or amounts of those benefits.

O