

ASSEMBLY BILL

No. 1240

Introduced by Assembly Member Logue

February 18, 2011

An act to amend Section 17207 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1240, as introduced, Logue. Personal income taxation: disaster loss.

The Personal Income Tax Law provides for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.

This bill would make technical, nonsubstantive changes to this provision.

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

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

- 1 SECTION 1. Section 17207 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 17207. (a) An excess disaster loss, as defined in subdivision
- 4 (c), shall be carried to other taxable years as provided in
- 5 subdivision (b), with respect to losses resulting from any of the
- 6 following disasters:

- 1 (1) Forest fire, or any other related casualty occurring in 1985
2 in California.
- 3 (2) Storm, flooding, or any other related casualty occurring in
4 1986 in California.
- 5 (3) Any loss sustained during 1987 as a result of a forest fire,
6 or any other related casualty.
- 7 (4) Earthquake, aftershock, or any other related casualty
8 occurring in 1987 in California.
- 9 (5) Earthquake, aftershock, or any other related casualty
10 occurring in 1989 in California.
- 11 (6) Any loss sustained during 1990 as a result of fire, or any
12 other related casualty in California.
- 13 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
14 of 1991, or any other related casualty.
- 15 (8) Any loss sustained as a result of storm, flooding, or any
16 other related casualty occurring in February 1992 in California.
- 17 (9) Earthquake, aftershock, or any other related casualty
18 occurring in April 1992 in the County of Humboldt.
- 19 (10) Riots, arson, or any other related casualty occurring in
20 April or May 1992 in California.
- 21 (11) Any loss sustained as a result of the earthquakes that
22 occurred in the County of San Bernardino in June and July of 1992,
23 or any other related casualty.
- 24 (12) Any loss sustained as a result of the Fountain Fire that
25 occurred in the County of Shasta, or as a result of either of the
26 fires in the Counties of Calaveras and Trinity that occurred in
27 August 1992, or any other related casualty.
- 28 (13) Any loss sustained as a result of storm, flooding, or any
29 other related casualty that occurred in the Counties of Alpine,
30 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
31 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
32 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
33 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
34 Fillmore in January 1993.
- 35 (14) Any loss sustained as a result of a fire that occurred in the
36 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
37 Diego, and Ventura, during October or November of 1993, or any
38 other related casualty.

1 (15) Any loss sustained as a result of the earthquake, aftershocks,
2 or any other related casualty that occurred in the Counties of Los
3 Angeles, Orange, and Ventura on or after January 17, 1994.

4 (16) Any loss sustained as a result of a fire that occurred in the
5 County of San Luis Obispo during August of 1994, or any other
6 related casualty.

7 (17) Any loss sustained as a result of the storms or flooding
8 occurring in 1995, or any other related casualty, sustained in any
9 county of this state subject to a disaster declaration with respect
10 to the storms and flooding.

11 (18) Any loss sustained as a result of the storms or flooding
12 occurring in December 1996 or January 1997, or any related
13 casualty, sustained in any county of this state subject to a disaster
14 declaration with respect to the storms or flooding.

15 (19) Any loss sustained as a result of the storms or flooding
16 occurring in February 1998, or any related casualty, sustained in
17 any county of this state subject to a disaster declaration with respect
18 to the storms or flooding.

19 (20) Any loss sustained as a result of a freeze occurring in the
20 winter of 1998–99, or any related casualty, sustained in any county
21 of this state subject to a disaster declaration with respect to the
22 freeze.

23 (21) Any loss sustained as a result of an earthquake occurring
24 in September 2000, that was included in the Governor’s
25 proclamation of a state of emergency for the County of Napa.

26 (22) Any loss sustained as a result of the Middle River levee
27 break in San Joaquin County occurring in June 2004.

28 (23) Any losses sustained as a result of the fires that occurred
29 in the Counties of Los Angeles, Riverside, San Bernardino, San
30 Diego, and Ventura in October and November 2003, or as a result
31 of floods, mudflows, and debris flows, directly related to fires.

32 (24) Any losses sustained in the Counties of Santa Barbara and
33 San Luis Obispo as a result of the San Simeon earthquake,
34 aftershocks, and any other related casualties.

35 (25) Any losses sustained as a result of the wildfires that
36 occurred in Shasta County, commencing August 11, 2004, and
37 any other related casualty.

38 (26) Any loss sustained in the Counties of Kern, Los Angeles,
39 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
40 and Ventura as a result of the severe rainstorms, related flooding

1 and slides, and any other related casualties, that occurred in
2 December 2004, January 2005, February 2005, March 2005, or
3 June 2005.

4 (27) Any loss sustained in the Counties of Alameda, Alpine,
5 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
6 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
7 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
8 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
9 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
10 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
11 the severe rainstorms, related flooding and slides, and any other
12 related casualties, that occurred in December 2005, January 2006,
13 March 2006, or April 2006.

14 (28) Any loss sustained in the County of San Bernardino as a
15 result of the wildfires that occurred in July 2006.

16 (29) Any loss sustained in the Counties of Riverside and Ventura
17 as a result of wildfires that occurred during the 2006 calendar year.

18 (30) Any loss sustained in the Counties of El Dorado, Fresno,
19 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
20 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
21 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
22 of the Governor's proclamations of a state of emergency for the
23 severe freezing conditions that occurred in January 2007.

24 (31) Any loss sustained in the County of El Dorado as a result
25 of wildfires that occurred in June 2007.

26 (32) Any loss sustained in the Counties of Santa Barbara and
27 Ventura as a result of the Zaca Fire that occurred during the 2007
28 calendar year.

29 (33) Any loss sustained in the County of Inyo as a result of
30 wildfires that commenced in July 2007.

31 (34) Any loss sustained in the Counties of Los Angeles, Orange,
32 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
33 as a result of wildfires that occurred during the 2007 calendar year
34 that were the subject of the Governor's disaster proclamations of
35 September 15, 2007, and October 21, 2007.

36 (35) Any loss sustained in the County of Riverside as a result
37 of extremely strong and damaging winds that occurred in October
38 2007.

39 (36) Any loss sustained in the Counties of Butte, Kern,
40 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,

1 Shasta, and Trinity as a result of wildfires that occurred in May or
2 June 2008 that were the subject of the Governor’s proclamations
3 of a state of emergency.

4 (37) Any loss sustained in the County of Santa Barbara as a
5 result of wildfires that occurred in July 2008.

6 (38) Any loss sustained in the County of Inyo as a result of the
7 severe rainstorms, related flooding and landslides, and any other
8 related casualties, that occurred in July 2008.

9 (39) Any loss sustained in the County of Humboldt as a result
10 of wildfires that commenced in May 2008.

11 (40) Any loss sustained in the County of Santa Barbara as a
12 result of wildfires that commenced in November 2008.

13 (41) Any loss sustained in the Counties of Los Angeles and
14 Ventura as a result of wildfires that commenced in October 2008
15 or November 2008 that were the subject of the Governor’s
16 proclamations of a state of emergency.

17 (42) Any loss sustained in the Counties of Orange, Riverside,
18 and San Bernardino as a result of wildfires that commenced in
19 November 2008.

20 (43) Any loss sustained in the County of Santa Barbara as a
21 result of wildfires that commenced in May 2009.

22 (b) (1) In the case of any loss allowed under Section 165(c) of
23 the Internal Revenue Code, relating to limitation of losses of
24 individuals, any excess disaster loss shall be carried forward to
25 each of the five taxable years following the taxable year for which
26 the loss is claimed. However, if there is any excess disaster loss
27 remaining after the five-year period, then the applicable percentage,
28 as set forth in paragraph (1) of subdivision (b) of Section 17276,
29 of that excess disaster loss shall be carried forward to each of the
30 next 10 taxable years.

31 (2) The entire amount of any excess disaster loss as defined in
32 subdivision (c) shall be carried to the earliest of the taxable years
33 to which, by reason of subdivision (b), the loss may be carried.
34 The portion of the loss which shall be carried to each of the other
35 taxable years shall be the excess, if any, of the amount of excess
36 disaster loss over the sum of the adjusted taxable income for each
37 of the prior taxable years to which that excess disaster loss is
38 carried.

39 (c) “Excess disaster loss” means a disaster loss computed
40 pursuant to Section 165 of the Internal Revenue Code which

1 exceeds the adjusted taxable income of the year of loss or, if the
2 election under Section 165(i) of the Internal Revenue Code is
3 made, the adjusted taxable income of the year preceding the loss.

4 (d) The provisions of this section and Section 165(i) of the
5 Internal Revenue Code shall be applicable to any of the losses
6 listed in subdivision (a) sustained in any county or city in this state
7 which was proclaimed by the Governor to be in a state of disaster.

8 (e) Losses allowable under this section may not be taken into
9 account in computing a net operating loss deduction under Section
10 172 of the Internal Revenue Code.

11 (f) For purposes of this section, “adjusted taxable income” shall
12 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

13 (g) For losses described in paragraphs (15) to (43), inclusive,
14 of subdivision (a), the election under Section 165(i) of the Internal
15 Revenue Code may be made on a return or amended return filed
16 on or before the due date of the return (determined with regard to
17 extension) for the taxable year in which the disaster occurred.