

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1552

Introduced by Assembly Member Silva
*(Coauthors: Assembly Members Achadjian, Garrick, Hagman,
Jeffries, Miller, Olsen, Solorio, and Wagner)*
(Coauthors: Senators Cannella, Dutton, Fuller, and Harman)

January 26, 2012

An act to add Sections 17239 and 24356.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as amended, Silva. Income taxes: deductions: ~~Mello-Roos~~. *amounts paid on property tax bill.*

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions in computing income that is subject to tax under those laws.

This bill would allow a deduction, under both of those laws, of amounts paid ~~under the Mello-Roos Community Facilities Act of 1982~~ *on the property tax bill.*

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:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

1 (a) *It is a well-established federal position that a deduction for*
2 *personal property taxes is allowed to the extent the taxes are based*
3 *upon the assessed value of the property, also known as ad valorem*
4 *taxes, under Section 164 of the Internal Revenue Code.*

5 (b) *It is also a well-established federal position that a deduction*
6 *for real property taxes is not limited to ad valorem taxes under*
7 *Section 164 of the Internal Revenue Code.*

8 (c) *The Internal Revenue Code limits a deduction for personal*
9 *property taxes to ad valorem taxes, but no such limitation applies*
10 *to a deduction for real property taxes.*

11 (d) *It has been concluded that assessments under the Mello-Roos*
12 *Community Facilities Act of 1982 and certain other special taxes*
13 *in California are deductible under Section 164 of the Internal*
14 *Revenue Code even though they are not based upon the assessed*
15 *value of the property.*

16 (e) *California law conforms to the federal law described in*
17 *subdivisions (a) to (d), inclusive, and California taxpayers are*
18 *currently deducting taxes that are not based upon the assessed*
19 *value of the property.*

20 (f) *California is in a unique position with respect to the number*
21 *of taxpayers subject to assessments under the Mello-Roos*
22 *Community Facilities Act of 1982 and certain other special taxes,*
23 *and California taxpayers have a right to protect their current*
24 *property tax deduction.*

25 **SECTION 1.**

26 **SEC. 2.** Section 17239 is added to the Revenue and Taxation
27 Code, to read:

28 17239. For each taxable year beginning on or after January 1,
29 2012, there shall be allowed as a deduction the amount paid by
30 the taxpayer ~~pursuant to the Mello-Roos Community Facilities~~
31 ~~Act of 1982 (Chapter 2.5 (commencing with Section 53311) of~~
32 ~~Part 1 of Division 2 of Title 5 of the Government Code) on the~~
33 *property tax bill, including, but not limited to, real property taxes,*
34 *personal property taxes, special taxes, special assessments, fees,*
35 *or other charges.*

36 ~~SEC. 2.~~

37 **SEC. 3.** Section 24356.9 is added to the Revenue and Taxation
38 Code, to read:

39 24356.9. For each taxable year beginning on or after January
40 1, 2012, there shall be allowed as a deduction the amount paid by

1 the taxpayer pursuant to the Mello-Roos Community Facilities
2 Act of 1982 (Chapter 2.5 (commencing with Section 53311) of
3 Part 1 of Division 2 of Title 5 of the Government Code) on the
4 property tax bill, including, but not limited to, real property taxes,
5 personal property taxes, special taxes, special assessments, fees,
6 or other charges.

7 ~~SEC. 3.~~

8 *SEC. 4.* This act provides for a tax levy within the meaning of
9 Article IV of the Constitution and shall go into immediate effect.

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