

ASSEMBLY BILL

No. 2687

**Introduced by Committee on Revenue and Taxation (Perea (Chair),
Beall, Charles Calderon, Cedillo, Fuentes, and Gordon)**

March 12, 2012

An act to repeal and add Section 17755 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2687, as introduced, Committee on Revenue and Taxation. Income taxes: charitable remainder trusts.

The Personal Income Tax Law does not conform to the federal Internal Revenue Code with regard to the taxation of specified trusts. Existing law exempts any charitable remainder annuity trust or charitable remainder unitrust from specified taxes unless that trust has unrelated business taxable income, in which case that trust shall be taxed, as provided.

This bill would, for taxable years beginning on or after January 1, 2011, provide that a charitable remainder annuity trust and a charitable remainder unitrust shall retain tax exempt status under the federal Internal Revenue Code and would otherwise restate and clarify the existing basis for tax liability on the part of those trusts by reason of unrelated business taxable income.

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. Section 17755 of the Revenue and Taxation Code
2 is repealed.

3 ~~17755. Section 664(c) of the Internal Revenue Code, relating~~
4 ~~to the taxation of trusts, shall not apply and, in lieu thereof, a~~
5 ~~charitable remainder annuity trust and a charitable remainder~~
6 ~~unitrust shall, for any taxable year, not be subject to any tax~~
7 ~~imposed under this part, unless that trust, for the taxable year, has~~
8 ~~unrelated business taxable income, within the meaning of Section~~
9 ~~23732, determined as if Chapter 4 (commencing with Section~~
10 ~~23701) of Part 11, applied to that trust.~~

11 SEC. 2. Section 17755 is added to the Revenue and Taxation
12 Code, to read:

13 17755. For taxable years beginning on or after January 1, 2011,
14 Section 664(c)(2) of the Internal Revenue Code, relating to excise
15 tax, shall not apply and, in lieu thereof, the unrelated business
16 taxable income (as defined in Section 23732) of every charitable
17 remainder annuity trust or charitable remainder unitrust shall be
18 subject to tax under Section 17651.

19 SEC. 3. The Legislature hereby finds and declares that the
20 amendments made by this act to add Section 17755 to the Revenue
21 and Taxation Code serves a public purpose by preventing the loss
22 of a tax exemption for charitable remainder annuity trusts and
23 charitable remainder unitrusts.

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

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