

AMENDED IN SENATE APRIL 17, 2012

SENATE BILL

No. 1552

Introduced by Senator Gaines

February 24, 2012

An act to amend ~~Section~~ *Sections 17020.6, 17085, 18631, and 23045* of, and to repeal *Sections 18037.5 and 24950.5* of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1552, as amended, Gaines. Taxation: qualified long-term care insurance.

The Personal Income Tax Law conforms to the federal Internal Revenue Code with regard to qualified long-term care insurance, with certain exceptions.

This bill would remove the exceptions, and would conform the Personal Income Tax Law to the federal income tax law with regard to qualified long-term care insurance, as provided.

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 17020.6 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17020.6. For purposes of this part:
- 4 (a) Section 7702 of the Internal Revenue Code, relating to life
- 5 insurance contracts, shall apply, *except as otherwise provided.*

1 (b) Section 7702A of the Internal Revenue Code, relating to
2 modified endowment contract defined, shall apply, *except as*
3 *otherwise provided.*

4 (c) Section 7702B of the Internal Revenue Code, relating to
5 treatment of qualified long-term care insurance, shall apply, *except*
6 *as otherwise provided.*

7 (d) *The amendments made to this section by the act adding this*
8 *subdivision shall apply to taxable years beginning on or after*
9 *January 1, 2012.*

10 SEC. 2. *Section 17085 of the Revenue and Taxation Code is*
11 *amended to read:*

12 17085. Section 72 of the Internal Revenue Code, relating to
13 annuities; certain proceeds of endowment and life insurance
14 contracts, is modified as follows:

15 (a) The amendments and transitional rules made by Public Law
16 99-514 shall be applicable to this part for the same transactions
17 and the same years as they are applicable for federal purposes,
18 except that the repeal of Section 72(d) of the Internal Revenue
19 Code, relating to repeal of special rule for employees' annuities,
20 shall apply only to the following:

21 (1) Any individual whose annuity starting date is after December
22 31, 1986.

23 (2) At the election of the taxpayer, any individual whose annuity
24 starting date is after July 1, 1986, and before January 1, 1987.

25 (b) The amount of a distribution from an individual retirement
26 account or annuity or employee trust or employee annuity that is
27 includable in gross income for federal purposes shall be reduced
28 for purposes of this part by the lesser of either of the following:

29 (1) An amount equal to the amount includable in federal gross
30 income for the taxable year.

31 (2) An amount equal to the basis in the account or annuity
32 allowed by Section 17507 (relating to individual retirement
33 accounts and simplified employee pensions), the increased basis
34 allowed by Sections 17504 and 17506 (relating to plans of
35 self-employed individuals), the increased basis allowed by Section
36 17501, or the increased basis allowed by Section 17551 that is
37 remaining after adjustment for reductions in gross income under
38 this provision in prior taxable years.

39 (c) (1) Except as provided in paragraph (2), the amount of the
40 penalty imposed under this part shall be computed in accordance

1 with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code,
2 as applicable for federal income tax purposes for the same taxable
3 year, using a rate of 2½ percent, in lieu of the rate provided in
4 those sections.

5 (2) In the case where Section 72(t)(6) of the Internal Revenue
6 Code, relating to special rules for simple retirement accounts, as
7 applicable for federal income tax purposes for the same taxable
8 year, applies, the rate in paragraph (1) shall be 6 percent in lieu of
9 the 2½ percent rate specified therein.

10 (d) Section 72(f)(2) of the Internal Revenue Code shall be
11 applicable without applying the exceptions which immediately
12 follow that paragraph.

13 ~~(e) The amendments made by Section 844 of the Pension~~
14 ~~Protection Act of 2006 (Public Law 109-280) to Section 72(e) of~~
15 ~~the Internal Revenue Code, shall not apply.~~

16 (e) *The amendments made to this section by the act amending*
17 *this subdivision shall apply to taxable years beginning on or after*
18 *January 1, 2012.*

19 *SEC. 3. Section 18037.5 of the Revenue and Taxation Code is*
20 *repealed.*

21 ~~18037.5. The amendments made by Section 844 of the Pension~~
22 ~~Protection Act of 2006 (Public Law 109-280) to Section 1035 of~~
23 ~~the Internal Revenue Code, shall not apply.~~

24 *SEC. 4. Section 18631 of the Revenue and Taxation Code is*
25 *amended to read:*

26 18631. (a) This article does not apply to any payment of
27 interest obligations not taxable under Part 10 (commencing with
28 Section 17001) or Part 11 (commencing with Section 23001).

29 (b) Except as otherwise provided, every person required to file
30 an information return with the Secretary of the Treasury under any
31 of the federal sections listed in subdivision (c) may be required to
32 file a copy of the federal information return with the Franchise
33 Tax Board at the time and in the manner as it may, by forms and
34 instructions, require.

35 (c) Subdivision (b) shall apply to each of the following:

36 (1) Section 6034A of the Internal Revenue Code, relating to
37 information to beneficiaries of estates and trusts.

38 (2) Section 6039 of the Internal Revenue Code, relating to
39 returns required in connection with certain options.

1 (3) Section 6039C of the Internal Revenue Code, relating to
2 returns with respect to foreign persons holding direct investments
3 in United States real property interests, if that person holds a direct
4 investment in a California real property as defined in Section
5 18662.

6 (4) Section 6041 of the Internal Revenue Code, relating to
7 information at source.

8 (5) Section 6041A of the Internal Revenue Code, relating to
9 returns regarding payments of remuneration for services and direct
10 sales, except that no return or statement shall be required with
11 respect to direct sales pursuant to Section 6041A(b) of the Internal
12 Revenue Code.

13 (6) Section 6042 of the Internal Revenue Code, relating to
14 returns regarding payments of dividends and corporate earnings
15 and profits.

16 (7) Section 6045 of the Internal Revenue Code, relating to
17 returns of brokers.

18 (8) Section 6049 of the Internal Revenue Code, relating to
19 returns regarding payments of interest.

20 (9) Section 6050H of the Internal Revenue Code, relating to
21 returns relating to mortgage interest received in trade or business
22 from individuals.

23 (10) (A) Section 6050I of the Internal Revenue Code, relating
24 to returns relating to cash received in trade or business, etc., except
25 that Section 6050I(g) of the Internal Revenue Code, relating to
26 cash received by criminal court, shall not apply.

27 (B) (i) The Attorney General shall, upon court order following
28 a showing ex parte to a magistrate of an articulable suspicion that
29 an individual or entity has committed a felony offense to which a
30 federal information return is related, be provided a copy of a federal
31 information return filed with the Franchise Tax Board under this
32 paragraph. The Attorney General may make a return or information
33 therefrom available to a district attorney subject to regulations
34 promulgated by the Attorney General. The regulations shall require
35 the district attorney seeking the return or information to specify
36 in writing the specific reasons for believing that a felony offense
37 has been committed to which the return or information is related.

38 (ii) Any information or return obtained by the Attorney General
39 or a district attorney pursuant to this subparagraph shall be

1 confidential and used only for investigative or prosecutorial
2 purposes.

3 (11) Section 6050J of the Internal Revenue Code, relating to
4 returns relating to foreclosures and abandonments of security.

5 (12) (A) Section 6050K of the Internal Revenue Code, relating
6 to returns relating to exchanges of certain partnership interests.

7 (B) In addition to the general requirement under subparagraph
8 (A), a transferor of a partnership interest shall be required to notify
9 the partnership of that exchange in accordance with Section
10 6050K(c) of the Internal Revenue Code.

11 (13) Section 6050L of the Internal Revenue Code, relating to
12 returns relating to certain donated property.

13 (14) Section 6050N of the Internal Revenue Code, relating to
14 returns regarding payments of royalties.

15 (15) Section 6050P of the Internal Revenue Code, relating to
16 returns relating to the cancellation of indebtedness by certain
17 entities.

18 (16) Section 6050Q of the Internal Revenue Code, relating to
19 certain long-term care benefits.

20 (17) Section 6050R of the Internal Revenue Code, relating to
21 returns relating to certain purchases of fish.

22 (18) Section 6050S of the Internal Revenue Code, relating to
23 returns relating to higher education tuition and related expenses.

24 (19) Section 6052 of the Internal Revenue Code, relating to
25 returns regarding payment of wages in the form of group-term life
26 insurance.

27 (20) Section 6034(a) of the Internal Revenue Code, relating to
28 returns of split-interest trusts.

29 (21) Section 6039I of the Internal Revenue Code, relating to
30 returns and records with respect to employer-owned life insurance
31 contracts.

32 (22) Section 6039J of the Internal Revenue Code, relating to
33 information reporting with respect to commodity credit corporation
34 transactions.

35 (23) *Section 6050U of the Internal Revenue Code, relating to*
36 *charges or payments for qualified long-term care insurance*
37 *contracts under combined arrangements.*

38 ~~(23)~~

1 (24) Section 6050V of the Internal Revenue Code, relating to
2 returns relating to applicable insurance contracts in which certain
3 exempt organizations hold interests.

4 ~~(24)~~

5 (25) Section 6050W of the Internal Revenue Code, relating to
6 returns relating to payments made in settlement of payment card
7 and third party network transactions.

8 ~~(25)~~

9 (26) Any information return that is required to be filed with the
10 Secretary of the Treasury pursuant to a provision of Part III of
11 Subchapter A of Chapter 61 of Subtitle F (commencing with
12 Section 6031) of the Internal Revenue Code that is added to the
13 Internal Revenue Code by a public law enacted on or after January
14 1, 2009.

15 (d) Every person required to make a return under subdivision
16 (b) shall also furnish a statement to each person whose name is
17 required to be set forth in the return, as required to do so by the
18 Internal Revenue Code.

19 *SEC. 5. Section 23045 of the Revenue and Taxation Code is*
20 *amended to read:*

21 23045. For purposes of this part:

22 (a) Section 7702 of the Internal Revenue Code, relating to life
23 insurance contract defined, shall apply, except as otherwise
24 provided.

25 (b) Section 7702A of the Internal Revenue Code, relating to
26 modified endowment contract defined, shall apply, except as
27 otherwise provided.

28 (c) ~~(1)~~ Section 7702B of the Internal Revenue Code, relating
29 to treatment of qualified long-term care insurance, shall apply,
30 except as otherwise provided.

31 ~~(2) The amendments made by Section 844 of the Pension~~
32 ~~Protection Act of 2006 (Public Law 109-280) to Section 7702B~~
33 ~~of the Internal Revenue Code shall not apply.~~

34 (d) *The amendments made to this section by the act adding this*
35 *subdivision shall apply to taxable years beginning on or after*
36 *January 1, 2012.*

37 *SEC. 6. Section 24950.5 of the Revenue and Taxation Code is*
38 *repealed.*

1 ~~24950.5.~~ The amendments made by Section 844 of the Pension
2 ~~Protection Act of 2006 (Public Law 109-280) to Section 1035 of~~
3 ~~the Internal Revenue Code shall not apply.~~

4 ~~SEC. 2.~~

5 ~~SEC. 7.~~ This act provides for a tax levy within the meaning of
6 Article IV of the Constitution and shall go into immediate effect.

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