

AMENDED IN ASSEMBLY JUNE 20, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 132

**Introduced by Assembly Member Holden
(Coauthor: Assembly Member Morrell)**

January 16, 2013

An act to amend Section 17085 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 132, as amended, Holden. Personal income taxes: retirement plans: early distributions.

The Personal Income Tax Law, in modified conformity to federal income tax laws, imposes an additional tax upon early distributions from specified retirement plans, as provided.

This bill would, for taxable years, beginning on or after January 1, 2014, and before January 1, 2017, exclude from that additional tax the first \$6,000 distributed to an individual for the purpose of paying qualified costs, as defined, with respect to acquisition indebtedness for a principal residence, 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 17085 of the Revenue and Taxation Code
2 is amended to read:

3 17085. Section 72 of the Internal Revenue Code, relating to
4 annuities, certain proceeds of endowment and life insurance
5 contracts, is modified as follows:

6 (a) The amendments and transitional rules made by Public Law
7 99-514 shall be applicable to this part for the same transactions
8 and the same years as they are applicable for federal purposes,
9 except that the repeal of Section 72(d) of the Internal Revenue
10 Code, relating to repeal of special rule for employees' annuities,
11 shall apply only to the following:

12 (1) Any individual whose annuity starting date is after December
13 31, 1986.

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

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

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

22 (2) An amount equal to the basis in the account or annuity
23 allowed by Section 17507 (relating to individual retirement
24 accounts and simplified employee pensions), the increased basis
25 allowed by Sections 17504 and 17506 (relating to plans of
26 self-employed individuals), the increased basis allowed by Section
27 17501, or the increased basis allowed by Section 17551 that is
28 remaining after adjustment for reductions in gross income under
29 this provision in prior taxable years.

30 (c) (1) Except as provided in paragraph (2), the amount of the
31 additional tax imposed under this part shall be computed in
32 accordance with Sections 72(m), (q), (t), and (v) of the Internal
33 Revenue Code, as applicable for federal income tax purposes for
34 the same taxable year, using a rate of 2½ percent, in lieu of the
35 rate provided in those sections.

36 (2) In the case where Section 72(t)(6) of the Internal Revenue
37 Code, relating to special rules for simple retirement accounts, as
38 applicable for federal income tax purposes for the same taxable

1 year, applies, the rate in paragraph (1) shall be 6 percent in lieu of
2 the 2½-percent rate specified therein.

3 (3) (A) For taxable years beginning on or after January 1, 2014,
4 and before January 1, 2017, Section 72(t)(2) of the Internal
5 Revenue Code, relating to subsection not to apply to certain
6 distributions, is modified to additionally provide that Section
7 72(t)(1) of the Internal Revenue Code, relating to imposition of
8 additional tax, shall not apply to distributions made to an individual
9 from a qualified retirement plan to the extent such distributions
10 do not exceed the aggregate amount of qualified principal residence
11 payment distributions.

12 (B) For the purposes of this paragraph:

13 (i) “Acquisition indebtedness” shall have the same meaning as
14 in Section 163(h)(3)(B) of the Internal Revenue Code, ~~except that~~
15 ~~the dollar limitation in Section 163(h)(3)(B)(ii) of the Internal~~
16 ~~Revenue Code shall not apply~~ Code.

17 (ii) “Qualified costs” means either of the following:

18 (I) Amounts paid as principal or interest on acquisition
19 indebtedness.

20 (II) Amounts paid as part of a loan modification that either
21 reduces the principal or interest of acquisition indebtedness.

22 (iii) “Qualified principal residence payment distribution” means
23 any payment or distribution received by an individual to the extent
24 that the payment or distribution is used by the individual before
25 the close of the 60th day after the day on which that payment or
26 distribution is received to pay qualified costs with respect to a
27 principal residence of the individual or spouse of the individual.

28 (C) This paragraph shall apply only if:

29 (i) The individual and, if married, the spouse of the individual,
30 collectively own no more than one residence that is used by either
31 the individual or the spouse of the individual, or by both, as a
32 principal residence (within the meaning of Section 121 of the
33 Internal Revenue Code, relating to exclusion of gain or sale of
34 principal residence) and neither the individual nor, if married, the
35 spouse of the individual, own any other residence that is used by
36 either the individual or spouse of the individual, or by both, as a
37 residence that is not a principal residence within the meaning of
38 Section 280A(d)(1) of the Internal Revenue Code, relating to use
39 as a residence.

- 1 (ii) The principal residence has a market value that is less than
- 2 the unpaid balance of acquisition indebtedness on that residence.
- 3 (D) The aggregate amount of distributions received by an
- 4 individual that may be treated as qualified principal residence
- 5 payment distributions under this paragraph shall not exceed a total
- 6 of six thousand dollars (\$6,000) for all taxable years.
- 7 (E) The Franchise Tax Board may promulgate regulations as
- 8 necessary or appropriate to carry out the purposes of this paragraph.
- 9 (d) Section 72(f)(2) of the Internal Revenue Code shall be
- 10 applicable without applying the exceptions which immediately
- 11 follow that paragraph.
- 12 (e) Section 72(e)(II) of the ~~Internal~~ *Internal* Revenue Code shall
- 13 not apply.
- 14 SEC. 2. This act provides for a tax levy within the meaning of
- 15 Article IV of the Constitution and shall go into immediate effect.

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