

AMENDED IN SENATE JUNE 25, 2014
AMENDED IN SENATE MAY 29, 2014
AMENDED IN SENATE JULY 3, 2013
AMENDED IN ASSEMBLY MAY 24, 2013
AMENDED IN ASSEMBLY MAY 8, 2013
AMENDED IN ASSEMBLY APRIL 24, 2013
AMENDED IN ASSEMBLY APRIL 16, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 922

Introduced by Assembly Member Maienschein

February 22, 2013

An act to add Sections ~~17207.9, 17207.13, 24347.13, and 24347.14~~ *17207.13 and 24347.13* to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 922, as amended, Maienschein. Income taxes: deductions: disaster relief: County of San Diego.

The Personal Income Tax Law and the Corporation Tax Law provide for *a deduction and* 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*. Those laws further allow a taxpayer to elect to

deduct those disaster losses on the return for the taxable year preceding the taxable year in which the disaster occurred.

This bill would extend these provisions to losses sustained in the County of San Diego as a result of the wildfires that occurred in May 2014 *for which the Governor proclaimed a state emergency.* ~~This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.~~

~~The Personal Income Tax Law and the Corporation Tax Law allow individual and corporate taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their individual and corporate tax liabilities. Existing law provides a carryover period of 20 years and allows net operating losses to be carrybacks to each of the preceding 2 taxable years, as provided.~~

~~This bill would authorize a taxpayer to make an election to claim a deduction for any losses sustained in the County of San Diego as a result of the wildfires that occurred in May 2014 on the tax return for the preceding year, as provided. This bill would provide that any provision of law that suspends, defers, reduces, or otherwise diminishes the deduction of a net operating loss does not apply to a net operating loss attributable to those wildfires that occurred in May 2014 in the County of San Diego.~~

This bill would make a legislative finding and declaration relating to the statewide public purpose served by the 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. Section 17207.9 is added to the Revenue and~~
- 2 ~~Taxation Code, to read:~~
- 3 ~~17207.9. (a) An excess disaster loss, as defined in subdivision~~
- 4 ~~(e), shall be carried to other taxable years as provided in~~
- 5 ~~subdivision (b), with respect to losses sustained in the County of~~
- 6 ~~San Diego as a result of the wildfires that occurred in May 2014.~~
- 7 ~~(b) (1) In the case of any loss allowed under Section 165(e) of~~
- 8 ~~the Internal Revenue Code, relating to limitation of losses of~~
- 9 ~~individuals, any excess disaster loss shall be carried forward to~~
- 10 ~~each of the five taxable years following the taxable year for which~~
- 11 ~~the loss is claimed. However, if there is any excess disaster loss~~

1 remaining after the five-year period, then the applicable percentage;
2 as set forth in paragraph (1) of subdivision (b) of Section 17276.20;
3 of that excess disaster loss shall be carried forward to each of the
4 next 15 taxable years.

5 (2) ~~The entire amount of any excess disaster loss as defined in~~
6 ~~subdivision (c) shall be carried to the earliest of the taxable years~~
7 ~~to which, by reason of subdivision (b), the loss may be carried.~~
8 ~~The portion of the loss which shall be carried to each of the other~~
9 ~~taxable years shall be the excess, if any, of the amount of excess~~
10 ~~disaster loss over the sum of the adjusted taxable income for each~~
11 ~~of the prior taxable years to which that excess disaster loss is~~
12 ~~carried.~~

13 (e) ~~“Excess disaster loss” means a disaster loss computed~~
14 ~~pursuant to Section 165 of the Internal Revenue Code which~~
15 ~~exceeds the adjusted taxable income of the year of loss or, if the~~
16 ~~election under Section 165(i) of the Internal Revenue Code is~~
17 ~~made, the adjusted taxable income of the year preceding the loss.~~

18 (d) ~~This section and Section 165(i) of the Internal Revenue Code~~
19 ~~shall be applicable to any of the losses listed in subdivision (a)~~
20 ~~sustained in any county or city in this state which was proclaimed~~
21 ~~by the Governor to be in a state of disaster.~~

22 (e) ~~Losses allowable under this section shall not be taken into~~
23 ~~account in computing a net operating loss deduction under Section~~
24 ~~172 of the Internal Revenue Code.~~

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

27 (g) ~~For losses described in subdivision (a), the election under~~
28 ~~Section 165(i) of the Internal Revenue Code may be made on a~~
29 ~~return or amended return filed on or before the due date of the~~
30 ~~return (determined with regard to extension) for the taxable year~~
31 ~~in which the disaster occurred.~~

32 **SEC. 2.**

33 **SECTION 1.** Section 17207.13 is added to the Revenue and
34 Taxation Code, to read:

35 17207.13. (a) Section 165(i) of the Internal Revenue Code
36 shall be applicable to any losses sustained in the County of San
37 Diego as a result of the wildfires that occurred in May 2014.

38 (b) For losses described in subdivision (a), the election under
39 Section 165(i) of the Internal Revenue Code may be made on a
40 return or amended return filed on or before the due date of the

1 return, determined with regard to extension, for the taxable year
2 in which the disaster occurred.

3 (c) Unless specifically provided otherwise, any law that
4 suspends, defers, reduces, or otherwise diminishes the deduction
5 of a net operating loss shall not apply to a net operating loss
6 attributable to the loss described in subdivision (a).

7 ~~SEC. 3.~~

8 *SEC. 2.* Section 24347.13 is added to the Revenue and Taxation
9 Code, to read:

10 24347.13. (a) Section 165(i) of the Internal Revenue Code
11 shall be applicable to any losses sustained in the County of San
12 Diego as a result of the wildfires that occurred in May 2014.

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

18 (c) Unless specifically provided otherwise, any law that
19 suspends, defers, reduces, or otherwise diminishes the deduction
20 of a net operating loss shall not apply to a net operating loss
21 attributable to the loss described in subdivision (a).

22 ~~SEC. 4.~~ Section 24347.14 is added to the Revenue and Taxation
23 Code, to read:

24 ~~24347.14. (a) An excess disaster loss, as defined in subdivision~~
25 ~~(c), shall be carried to other taxable years as provided in~~
26 ~~subdivision (b), with respect to losses sustained in the County of~~
27 ~~San Diego as a result of the wildfires that occurred in May 2014.~~

28 ~~(b) (1) In the case of any loss allowed under Section 165 of the~~
29 ~~Internal Revenue Code, relating to losses, any excess disaster loss~~
30 ~~shall be carried forward to each of the five taxable years following~~
31 ~~the taxable year for which the loss is claimed. However, if there~~
32 ~~is any excess disaster loss remaining after the five-year period,~~
33 ~~then the applicable percentage, as set forth in paragraph (1) of~~
34 ~~subdivision (b) of Section 24416.20, of that excess disaster loss~~
35 ~~shall be carried forward to each of the next 15 taxable years.~~

36 ~~(2) The entire amount of any excess disaster loss as defined in~~
37 ~~subdivision (c) shall be carried to the earliest of the taxable years~~
38 ~~to which, by reason of subdivision (b), the loss may be carried.~~
39 ~~The portion of the loss which shall be carried to each of the other~~
40 ~~taxable years shall be the excess, if any, of the amount of excess~~

1 disaster loss over the sum of the net income for each of the prior
2 taxable years to which that excess disaster loss is carried.

3 (e) ~~“Excess disaster loss” means a disaster loss computed~~
4 ~~pursuant to Section 165 of the Internal Revenue Code, which~~
5 ~~exceeds the net income of the year of loss or, if the election under~~
6 ~~Section 165(i) of the Internal Revenue Code is made, the net~~
7 ~~income of the year preceding the loss.~~

8 (d) ~~This section and Section 165(i) of the Internal Revenue Code~~
9 ~~shall be applicable to any of the losses listed in subdivision (a)~~
10 ~~sustained in any county or city in this state which was proclaimed~~
11 ~~by the Governor to be in a state of disaster.~~

12 (e) ~~Any corporation subject to Section 25101 or 25101.15 that~~
13 ~~has disaster losses pursuant to this section shall determine the~~
14 ~~excess disaster loss to be carried to other taxable years under the~~
15 ~~principles specified in Section 25108 relating to net operating~~
16 ~~losses.~~

17 (f) ~~Losses allowable under this section shall not be taken into~~
18 ~~account in computing a net operating loss deduction under Section~~
19 ~~172 of the Internal Revenue Code.~~

20 (g) ~~For losses described in subdivision (a), the election under~~
21 ~~Section 165(i) of the Internal Revenue Code may be made on a~~
22 ~~return or amended return filed on or before the due date of the~~
23 ~~return (determined with regard to extension) for the taxable year~~
24 ~~in which the disaster occurred.~~

25 ~~SEC. 5.~~

26 *SEC. 3.* The Legislature finds and declares that this act fulfills
27 a statewide public purpose because all of the following:

28 (a) On May 14, 2014, the Governor of California made a finding
29 that conditions of extreme peril to public health and safety to
30 persons and property exist due to the wildfires occurring in May
31 2014 in the County of San Diego and proclaimed a state of
32 emergency to exist within that county, thus qualifying affected
33 persons for various forms of governmental assistance and relief.

34 (b) This act is consistent with, and supplements, the proclaimed
35 disaster assistance and relief by providing necessary tax relief to
36 the affected jurisdiction and persons to allow them to maintain
37 essential basic services and repair damage to, and restore, their
38 homes and businesses.

1 ~~SEC. 6.~~
2 *SEC. 4.* This act provides for a tax levy within the meaning
3 of Article IV of the Constitution and shall go into immediate effect.

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