

AMENDED IN ASSEMBLY APRIL 11, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2771

**Introduced by Assembly Member Irwin
(Principal coauthor: Assembly Member Low)**

February 19, 2016

An act to amend Section 18001 of the Revenue and Taxation Code, relating to taxation, ~~and declaring the urgency thereof, to take effect immediately. to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2771, as amended, Irwin. Personal income taxes: credits: taxes paid to another state.

The Personal Income Tax Law provides a credit against the taxes imposed by that law to residents for specified taxes paid to another state on income derived from sources within that state. Existing law, *for purposes of a calculation used in determining the credit amount*, determines that income by applying the nonresident sourcing rules for determining income from sources within California, including the single sales factor apportionment formula.

~~This bill~~ *bill, for purposes of the above-described calculation*, would provide that California's single sales factor apportionment formula, and the regulations issued thereunder, shall not be applied in lieu of another state's apportionment rules when determining income derived from sources in that state.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$ -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 18001 of the Revenue and Taxation Code
2 is amended to read:
3 18001. (a) Subject to the following conditions, residents shall
4 be allowed a credit against the “net tax” (as defined by Section
5 17039) for net income taxes imposed by and paid to another state
6 (not including any preference, alternative, or minimum tax
7 comparable to the tax imposed by Section 17062) on income
8 taxable under this part:
9 (1) The credit shall be allowed only for taxes paid to the other
10 state (not including any preference, alternative, or minimum tax
11 comparable to the tax imposed by Section 17062) on income
12 derived from sources within that state which is taxable under its
13 laws irrespective of the residence or domicile of the recipient.
14 This paragraph shall not apply to residents to whom subdivision
15 (b) of Section 17014 applies.
16 (2) The credit shall not be allowed if the other state allows
17 residents of this state a credit against the taxes imposed by that
18 state (not including any preference, alternative, or minimum tax
19 comparable to the tax imposed by Section 17062) for “net tax” (as
20 defined by Section 17039) paid or payable under this part.
21 (3) The credit shall not exceed the proportion of the “net tax”
22 (as defined by Section 17039) payable under this part as the income
23 subject to tax in the other state (not including any preference,
24 alternative, or minimum tax comparable to the tax imposed by
25 Section 17062) and also taxable under this part bears to the
26 taxpayer’s entire income upon which the “net tax” (as defined by
27 Section 17039) is imposed by this part.
28 (4) No credit shall be allowed under this section for any tax
29 imposed by Section 17062.
30 (b) For purposes of this section, the amount of “net income
31 taxes” paid to another state shall include the taxpayer’s pro rata
32 share of any taxes on, or according to, or measured by, income or
33 profits paid or accrued, which were paid by an S corporation, as
34 provided by Section 18006.

1 (c) For purposes of this section, “income derived from sources
2 within that state” shall be determined by applying the nonresident
3 sourcing rules for determining income from sources within this
4 state, as specified in Chapter 11 (commencing with Section 17951),
5 and the regulations thereunder, except that the apportionment rules
6 in Sections 25128 to 25139, inclusive, and the regulations
7 thereunder, shall not be applied in lieu of that other state’s
8 apportionment rules.

9 ~~SEC. 2. This act is an urgency statute necessary for the~~
10 ~~immediate preservation of the public peace, health, or safety within~~
11 ~~the meaning of Article IV of the Constitution and shall go into~~
12 ~~immediate effect. The facts constituting the necessity are:~~

13 ~~In order to reduce the burden of filing tax returns and to increase~~
14 ~~ease of compliance with existing tax laws, it is necessary that this~~
15 ~~act take effect immediately.~~

16 *SEC. 2. This act provides for a tax levy within the meaning of*
17 *Article IV of the Constitution and shall go into immediate effect.*