

Introduced by Senator Nguyen

February 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1449, as introduced, Nguyen. Personal income tax: credit for taxes paid.

The Personal Income Tax Law allows a credit against the net tax imposed by that law to residents for specified taxes paid to another state on income derived from sources within that state. That law requires income derived from sources within that state to be determined by applying nonresident sourcing rules for determining income from sources within this state.

This bill would, instead, require the apportionment and allocation rules of the other state to be used to determine the source of income derived from that state, to the extent that doing so will either maintain or increase the amount of the credit that a taxpayer is allowed.

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. It is the intent of the Legislature to do the
- 2 following:
- 3 (a) Require that the Other State Tax Credit be administered in
- 4 a manner to help prevent California residents from being subject
- 5 to taxation on more than 100 percent of their income.

1 (b) Modify existing law to prevent the risk of there being an
2 impermissible burden on interstate commerce resulting from the
3 potential burden of multiple taxation.

4 SEC. 2. Section 18001 of the Revenue and Taxation Code is
5 amended to read:

6 18001. (a) Subject to the following conditions, residents shall
7 be allowed a credit against the “net tax” (as defined by Section
8 17039) for net income taxes imposed by and paid to another state
9 (not including any preference, alternative, or minimum tax
10 comparable to the tax imposed by Section 17062) on income
11 taxable under this part:

12 (1) The credit shall be allowed only for taxes paid to the other
13 state (not including any preference, alternative, or minimum tax
14 comparable to the tax imposed by Section 17062) on income
15 derived from sources within that state which is taxable under its
16 laws irrespective of the residence or domicile of the recipient.

17 This paragraph shall not apply to residents to whom subdivision
18 (b) of Section 17014 applies.

19 (2) The credit shall not be allowed if the other state allows
20 residents of this state a credit against the taxes imposed by that
21 state (not including any preference, alternative, or minimum tax
22 comparable to the tax imposed by Section 17062) for “net tax” (as
23 defined by Section 17039) paid or payable under this part.

24 (3) The credit shall not exceed the proportion of the “net tax”
25 (as defined by Section 17039) payable under this part as the income
26 subject to tax in the other state (not including any preference,
27 alternative, or minimum tax comparable to the tax imposed by
28 Section 17062) and also taxable under this part bears to the
29 taxpayer’s entire income upon which the “net tax” (as defined by
30 Section 17039) is imposed by this part.

31 (4) No credit shall be allowed under this section for any tax
32 imposed by Section 17062.

33 (b) For purposes of this section, the amount of “net income
34 taxes” paid to another state shall include the taxpayer’s pro rata
35 share of any taxes on, or according to, or measured by, income or
36 profits paid or accrued, which were paid by an S corporation, as
37 provided by Section 18006.

38 (c) (1) For purposes of this section, “income derived from
39 sources within that state” shall be determined by applying the
40 nonresident sourcing rules for determining income from sources

1 within this state, as specified in Chapter 11 (commencing with
2 Section 17951), and the regulations ~~thereunder~~ *thereunder, except*
3 *that the apportionment and allocation rules of the other state shall*
4 *apply in lieu of Article 2 (commencing with Section 25120) of*
5 *Chapter 17 of Part 11.*

6 (2) *The changes made in paragraph (1) by the act adding this*
7 *paragraph shall apply only to the extent that it will either maintain*
8 *or increase the amount of the credit that a taxpayer is allowed.*

9 SEC. 3. This act provides for a tax levy within the meaning of
10 Article IV of the Constitution and shall go into immediate effect.

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