AMENDED IN SENATE JULY 26, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL No. 1257

Introduced by Assembly Member Caldera

February 23, 1995

~~An act to add Section 1641.2 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.~~ *An act to amend Sections 17041 and 17062 of, and to add, repeal, and add Section 17053.32 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1257, as amended, Caldera. ~~Property taxation: assessments: reductions~~ *Income taxes: rates: credits*.

The Personal Income Tax Law imposes a tax upon taxable income at various rates depending upon the amount of that income. The highest marginal tax rates for taxable years beginning on or after January 1, 1991, and before January 1, 1996, are (1) 10% for that portion of taxable income over $100,000, but not over $200,000, in the case of every resident of this state who is not a head of household, and 10% for that portion of taxable income exceeding $136,115, but not over $272,230, in the case of a resident who is a head of household, and (2) 11% for that portion of taxable income exceeding $200,000, in the case of every resident of this state who is not a head of household, and 11% for that portion of taxable *income exceeding $272,230, in the case of a resident who is a head of household.*

This bill would extend the January 1, 1996, date to January 1, 1999, thereby extending the operation of those highest marginal rates.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would provide, under that law, a credit for each taxable year beginning on or after January 1, 1995, and before January 1, 1999, in an amount equal to specified percentages of the federal earned income tax credit, as modified. The bill would allow any credit in excess of the taxpayer's tax liability, as specified, to be refunded to the taxpayer only if funds are appropriated for that purpose by the Legislature.

The Personal Income Tax Law provides for the levy of an alternative minimum tax in conformity with federal law, subject to certain modifications that include a tentative minimum tax. The tentative minimum tax is imposed on specified items of income and items of tax preference. The Personal Income Tax Law imposes a tentative minimum tax rate of 8.5% for each taxable year beginning on or after January 1, 1991, and before January 1, 1996, and 7% for each taxable year beginning on or after January 1, 1996.

This bill would extend the operation of the 8.5% rate to also apply to those taxable years beginning before January 1, 1999.

This bill would provide that it would not become operative unless SB 14 is not enacted during 1995, or that bill, as enacted, does not amend specified provisions.

This bill would take effect immediately as a tax levy.

~~Under existing law, if a county assessment appeals board fails to hear evidence and make a final determination on an application for reduction in assessment of property within 2 years of the timely filing of the application, the taxpayer's opinion of market value as reflected on the application for reduction shall be the controlling value for purposes of assessment until a final determination on that application is actually made.~~

~~This bill would provide that, notwithstanding that provision, if within 90 days of the expiration of the 2-year period the taxpayer objects to an assessment appeals board~~

~~member or makes an application for a hearing officer's recommendation to be heard before the county board, the 2-year period shall be extended by 90 days.~~

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

Vote: ~~$^2/_3$~~ *majority*. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 1641.2 is added to the Revenue and Taxation Code, to read:~~

~~1641.2. Notwithstanding the provisions of Section 1604, if within 90 days of the expiration of the two-year period specified in Section 1604 within which a county board must hear evidence and make a final determination on an application for reduction in assessment, a taxpayer or his or her agent objects to an assessment appeals board member pursuant to Section 1624.4 or makes application for a hearing officer's recommendation to be heard before the county board pursuant to Section 1641.1, the two-year period shall be extended by 90 days.~~

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

~~The current load of assessment appeals has overextended the resources of counties to promptly make final determinations without closely approaching statutory deadlines. An unscrupulous taxpayer or agent could intentionally delay the filing of certain documents to produce a default situation, thereby necessitating undeserved refunds and assessment reductions. This situation places vital local government funding in jeopardy.~~

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, ~~1996,~~ *1999,* the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thousand dollars ($100,000) but not over two hundred thousand dollars ($200,000), the tax rate is 10 percent of the excess over one hundred thousand dollars ($100,000).

(ii) For that portion of taxable income that is over two hundred thousand dollars ($200,000), the tax rate is 11 percent of the excess over two hundred thousand dollars ($200,000).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For any taxable year beginning on or after January 1, 1991, and before January 1, ~~1996,~~ *1999,* the income tax brackets and rates set forth in paragraph (1) shall be modified by each of the following:

(i) For that portion of taxable income that is over one hundred thirty-six thousand one hundred fifteen dollars ($136,115) but not over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 10 percent of the excess over one hundred thirty-six thousand one hundred fifteen dollars ($136,115).

(ii) For that portion of taxable income that is over two hundred seventy-two thousand two hundred thirty dollars ($272,230), the tax rate is 11 percent of the excess over two hundred seventy-two thousand two hundred thirty dollars ($272,230).

(B) The income tax brackets specified in this paragraph shall be recomputed, as otherwise provided in subdivision (h), only for taxable years beginning on and after January 1, 1992.

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (c) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "five dollars ($5)" for "seventy-five dollars ($75)" and "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(2) For purposes of computing ''California adjusted gross income'' under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at adjusted gross income.

SEC. 2. Section 17053.32 is added to the Revenue and Taxation Code, to read:

17053.32. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 1996, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount equal to 9 percent of the amount determined in accordance with Section 32 of the Internal Revenue Code, relating to earned income credit, except as follows:

(1) The credit shall be allowed only if the taxpayer has at least one qualifying child.

(2) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against any other amount due from the taxpayer and the balance, if any, shall be refunded to the taxpayer only if funds are appropriated for that purpose by the Legislature.

(b) This section shall remain in effect only until January 1, 1996, and as of that date is repealed.

SEC. 3. Section 17053.32 is added to the Revenue and Taxation Code, to read:

17053.32. (a) For each taxable year beginning on or after January 1, 1996, and before January 1, 1999, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount equal to 25 percent of the amount determined in *accordance with Section 32 of the Internal Revenue Code, relating to earned income credit, except as follows:*

(1) The credit shall be allowed only if the taxpayer has at least one qualifying child.

(2) In the case of a taxpayer whose credits provided under this section exceed the taxpayer's tax liability computed under this part, the excess shall be credited against any other amount due from the taxpayer and the balance, if any, shall be refunded to the taxpayer only if funds are appropriated for that purpose by the Legislature.

(b) This section shall become operative on January 1, 1996.

SEC. 4. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, ~~1996,~~ *1999,* 8.5 percent.

(ii) For any taxable year beginning on or after January 1, ~~1996,~~ *1999,* 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed as if the nonresident or part-year resident were a resident for the entire year multiplied by the ratio of California adjusted gross income (as modified for purposes of this chapter) to total adjusted gross income from all sources (as modified for purposes of this chapter). For purposes of computing the tax under subparagraph (A) and gross income from all sources, the net operating loss deduction provided in Section 56(d) of the Internal Revenue Code shall be computed as if the taxpayer were a resident for all prior years.

(C) For purposes of this section, the term ‘‘California adjusted gross income’’ includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(c) (1) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(2) The provisions of Section 56(h) of the Internal Revenue Code, relating to adjustment based on energy preferences, shall not apply.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) The last two sentences of Section 57(a)(6)(B) of the Internal Revenue Code, relating to tangible personal property, shall not apply.

(f) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(g) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

SEC. 5. Sections 1 to 4, inclusive, of this act shall become operative at the end of the 1995 portion of the 1995–96 Regular Session and only if Senate Bill 14 is not enacted during the 1995 portion of the 1995–96 Regular Session, or if that bill, as enacted, does not amend Sections 17041 and 17062 of the Revenue and Taxation Code.

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

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