

AMENDED IN SENATE MAY 1, 1996
AMENDED IN ASSEMBLY MAY 3, 1995
CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1626

Introduced by Assembly Member ~~McDonald~~ Alpert

February 24, 1995

An act to ~~amend Section 19221 of~~ *add Section 17142.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, as amended, ~~McDonald~~ Alpert. Personal income and bank and corporation taxes: tax liens: bankruptcy military income: exclusion.

The Personal Income Tax Law specifically excludes certain items from gross income.

This bill would provide, except as otherwise specified, that certain amendments to federal income tax law, with respect to an increase in the exclusion from gross income of the combat pay of military officers, shall apply for purposes of California law on and after November 21, 1995.

This bill would also provide, for purposes of applying certain federal tax provisions to state taxes, that a qualified hazardous duty area, as defined, shall be treated in the same manner as a combat zone.

This bill would take effect immediately as a tax levy.

~~Existing law provides, as specified, that any due and unpaid personal income tax or bank and corporation tax liability is a perfected and enforceable state tax lien.~~

~~This bill would, commencing October 24, 1994, prohibit a due and unpaid amount from becoming a state tax lien under these provisions during any period in which an automatic stay of certain actions operates in bankruptcy proceedings, unless the unpaid tax constitutes a nondischargeable debt of the debtor in the bankruptcy proceedings and the property, or its proceeds, are transferred out of the bankruptcy estate to, or otherwise revested in, the debtor.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 ~~SECTION 1. Section 19221 of the Revenue and~~
- 2 ~~SECTION 1. Section 17142.5 is added to the Revenue~~
- 3 ~~and Taxation Code, to read:~~
- 4 ~~17142.5. (a) Except as provided in subdivision (b),~~
- 5 ~~the amendments to Section 112 of the Internal Revenue~~
- 6 ~~Code made by Section 1 of Public Law 104-117, relating~~
- 7 ~~to an increase in the combat pay exclusion for officers to~~
- 8 ~~the highest amount applicable to enlisted personnel, shall~~
- 9 ~~apply on and after November 21, 1995.~~
- 10 ~~(b) For purposes of applying Sections 13006 and 13009~~
- 11 ~~of the Unemployment Insurance Code, relating to wage~~
- 12 ~~withholding, the amendment to Section 112 of the~~
- 13 ~~Internal Revenue Code, as described in subdivision (a),~~
- 14 ~~shall apply to remuneration paid after March 20, 1996.~~
- 15 ~~(c) (1) For purposes of the following provisions of the~~
- 16 ~~Internal Revenue Code, a qualified hazardous duty area~~
- 17 ~~shall be treated in the same manner as if it were a combat~~
- 18 ~~zone (as determined under Section 112 of the Internal~~
- 19 ~~Revenue Code):~~
- 20 ~~(A) Section 2 (a)(3) (relating to a special rule where~~
- 21 ~~a deceased spouse was in missing status).~~
- 22 ~~(B) Section 112 (relating to certain combat pay of~~
- 23 ~~members of the Armed Forces).~~



1 (C) Section 692 (relating to income taxes of members
2 of Armed Forces upon death).

3 (D) Section 7508 (relating to time for performing
4 certain acts postponed by reason of service in combat
5 zone).

6 (2) “Qualified hazardous duty area” means Bosnia and
7 Herzegovina, Croatia, or Macedonia, if, as of March 20,
8 1996, any member of the Armed Forces of the United
9 States is entitled to special pay under Section 310 of Title
10 37 of the United States Code (relating to special pay; duty
11 subject to hostile fire or imminent danger) for services
12 performed in that country. “Qualified hazardous duty
13 area” includes any country only during the period that
14 entitlement is in effect. Solely for purposes of applying
15 Section 7508 of the Internal Revenue Code, in the case of
16 an individual who is performing services as part of
17 Operation Joint Endeavor outside the United States while
18 deployed away from the individual’s permanent duty
19 station, the term “qualified hazardous duty area”
20 includes, during the period for which that entitlement is
21 in effect, any area in which those services are performed.

22 SEC. 2. This act provides for a tax levy within the
23 meaning of Article IV of the Constitution and shall go into
24 immediate effect.

25 Taxation Code is amended to read:

26 ~~19221. (a) If any taxpayer or person fails to pay any~~
27 ~~liability imposed under Part 10 (commencing with~~
28 ~~Section 17001) or Part 11 (commencing with Section~~
29 ~~23001) at the time that it becomes due and payable, the~~
30 ~~amount thereof, (including any interest, additional~~
31 ~~amount, addition to tax, or penalty, together with any~~
32 ~~costs that may accrue in addition thereto) shall~~
33 ~~thereupon be a perfected and enforceable state tax lien.~~
34 ~~This lien is subject to Chapter 14 (commencing with~~
35 ~~Section 7150) of Division 7 of Title 1 of the Government~~
36 ~~Code.~~

37 (b) For the purpose of this section, amounts are “due
38 and payable” on the following dates:

39 (1) For amounts of any liability disclosed on a return
40 filed on or before the date payment is due (with regard



1 ~~to any extension of time to pay), the date the amount is~~
2 ~~established on the records of the Franchise Tax Board,~~
3 ~~except that in no case will it be prior to the day after the~~
4 ~~payment due date.~~

5 ~~(2) For amounts of any liability disclosed on a return~~
6 ~~filed after the date payment is due (with regard to any~~
7 ~~extension of time to pay), the date the amount is~~
8 ~~established on the records of the Franchise Tax Board.~~

9 ~~(3) For amounts of any liability determined under~~
10 ~~Section 19081 or 19082 (pertaining to jeopardy~~
11 ~~assessments), the date the notice of the Franchise Tax~~
12 ~~Board's finding is mailed or issued.~~

13 ~~(4) For all other amounts of liability, the date the~~
14 ~~assessment is final.~~

15 ~~(e) Notwithstanding subdivision (a), during any~~
16 ~~period that Section 362 of Title 11 of the United States~~
17 ~~Code applies, any tax lien that would otherwise attach to~~
18 ~~property by reason of subdivision (a) shall not take effect,~~
19 ~~unless the tax is a debt of the debtor that will not be~~
20 ~~discharged in the bankruptcy proceeding and the~~
21 ~~property or its proceeds are transferred out of the~~
22 ~~bankruptcy estate to, or otherwise revested in, the~~
23 ~~debtor. This subdivision shall be applicable on and after~~
24 ~~October 24, 1994.~~

