# ASSEMBLY BILL No. 1580

**Introduced by Committee on Revenue and Taxation (Charles Calderon (Chair), Beall, Coto, Ma, Portantino, and Saldana)**

March 26, 2009

An act to amend Sections 17054, 19136, 19136.1, 19136.8, and 25128.5 of the Revenue and Taxation Code, relating to taxation.

## legislative counsel's digest

AB 1580, as introduced, Committee on Revenue and Taxation. Taxation: income tax: estimated payments: dependent exemption credit: corporation tax apportionment.

The Personal Income Tax Law and the Corporation Tax Law impose a penalty for underpayment of an estimated income tax. Existing law provides for a credit based on taxes withheld on wages, in modified conformity with federal income tax laws, against the estimated tax payments, including a provision that "an equal part" of that amount is deemed paid on each due date for a taxable year.

This bill would substitute "the applicable percentage," as defined, for "an equal part" under this provision, as provided.

Existing income tax laws require specified individuals to pay estimated income taxes in installments and impose additional liability for underpayments.

This bill would adjust the amount of those installments under specified circumstances.

This bill would also make technical, nonsubstantive changes to provisions of personal and corporation income tax laws relating to penalties, dependent exemption credit, and apportionment of income.

Vote: 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 17054 of the Revenue and Taxation Code is amended to read:

17054. In the case of individuals, the following credits for personal exemption may be deducted from the tax imposed under Section 17041 or 17048, less any increases imposed under paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e), or both, of Section 17560.

(a) In the case of a single individual, a head of household, or a married individual making a separate return, a credit of fifty-two dollars ($52).

(b) In the case of a surviving spouse (as defined in Section 17046), or a husband and wife making a joint return, a credit of one hundred four dollars ($104). If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any portion of the taxable year, the personal exemption shall be divided equally.

(c) In addition to any other credit provided in this section, in the case of an individual who is 65 years of age or over by the end of the taxable year, a credit of fifty-two dollars ($52).

(d) (1) A credit of two hundred twenty-seven dollars ($227) for each dependent (as defined in Section 17056) for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to additional exemption for dependents. The credit allowed under this subdivision for taxable years beginning on or after January 1, 1999, shall not be adjusted pursuant to subdivision (i) for any taxable year beginning before January 1, 2000.

(2) The credit allowed under paragraph (1) may not be denied on the basis that the identification number of the dependent, as defined in Section 17056, for whom an exemption is allowable under Section 151(c) of the Internal Revenue Code, relating to additional exemption for dependents, is not included on the return claiming the credit.

(3) (A) For taxable years beginning on or after January 1, 2009, the credit allowed under paragraph (1) for each dependent shall

be equal to the credit allowed under subdivision (a). This subparagraph shall cease to be operative *for taxable years beginning* on *or after* January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative *for taxable years beginning* on *or after* January 1, 2013.

(B) ~~Commencing on the date~~ *For taxable years* that subparagraph (A) ceases to be operative, the credit allowed under paragraph (1) for each dependent shall be equal to the amount that would be allowed if subparagraph (A) had never been operative.

(e) A credit for personal exemption of fifty-two dollars ($52) for the taxpayer if he or she is blind at the end of his or her taxable year.

(f) A credit for personal exemption of fifty-two dollars ($52) for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(g) For the purposes of this section, an individual is blind only if either (1) his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or (2) his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(h) In the case of an individual with respect to whom a credit under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the credit amount applicable to that individual for that individual's taxable year is zero.

(i) For each taxable year beginning on or after January 1, 1989, the Franchise Tax Board shall compute the credits prescribed in this section. 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 add 100 percent to the percentage change figure which is furnished to them pursuant to paragraph (1), and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding taxable year credits by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the credits pursuant to this subdivision, the credit provided in subdivision (b) shall be twice the credit provided in subdivision (a).

SEC. 2. Section 19136 of the Revenue and Taxation Code is amended to read:

19136. (a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, shall apply, except as otherwise provided.

(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.

(c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, does not apply.

(2) No addition to the tax shall be imposed under this section if the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than five hundred dollars ($500), except in the case of a separate return filed by a married person the amount shall be less than two hundred fifty dollars ($250).

(d) Section 6654(f) of the Internal Revenue Code does not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e) *(1)* The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, shall be the credit allowed under subdivision (a) of Section 19002.

*(2) (A) Section 6654(g)(1) of the Internal Revenue Code is modified by substituting the phrase “the applicable percentage” for the phrase “an equal part.”*

*(B) For purposes of this paragraph, “applicable percentage” means the percentage amount prescribed under Section 6654(d)(1)(A) of the Internal Revenue Code, as modified by paragraph (1) of subdivision (a) of Section 19136.1.*

(f) This section shall apply to a nonresident individual.

(g) (1) No addition to tax shall be imposed under this section to the extent that the underpayment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment.

(2) Notwithstanding Section 18415, this section applies to penalties imposed under this section on and after January 1, 2005.

(h) The amendments made to this section by ~~the act adding this subdivision~~ *Section 5 of Chapter 305 of the Statutes of 2008* shall apply to taxable years beginning on or after January 1, 2009.

*(i) The amendments made to this section by the act adding this subdivision shall apply to amounts withheld on wages beginning or after January 1, 2009.*

SEC. 3. Section 19136.1 of the Revenue and Taxation Code is amended to read:

19136.1. (a) *(1)* Section 6654(d)(1)(A) of the Internal Revenue Code is modified to provide that in lieu of the required installments specified in that section, the amount of required installments shall instead be as follows:

~~(1)~~

*(A)* For the 1st and 2nd required installments, 30 percent of the required annual payment.

~~(2)~~

*(B)* For the 3rd and 4th required installments, 20 percent of the required annual payment.

*(2) Section 6654(d)(2)(C)(ii) of the Internal Revenue Code, relating to applicable percentage, is modified by substituting “27” for “22.5,” “54” for “45,” and “72” for “67.5.”*

(b) This section, *including paragraph (2) of subdivision (a),* shall apply to installments due for each taxable year beginning on or after January 1, 2009.

SEC. 4. Section 19136.8 of the Revenue and Taxation Code, as added by Section 5 of Chapter 10 of the 3rd Extraordinary Session of the Statutes of 2009, is amended to read:

19136.8. (a) No addition to tax shall be made under Section 19136 with respect to any underpayment of an installment to the extent that the underpayment was created or increased by the disallowance of a credit under subdivision ~~(f)~~ *(g)* of Section 17053.80.

(b) No addition to tax shall be made under Section 19142 with respect to any underpayment of an installment to the extent that the underpayment was created or increased by the disallowance of a credit under subdivision ~~(f)~~ *(g)* of Section 23623.

(c) The Franchise Tax Board shall adopt procedures, forms, and instructions necessary to implement this section in a reasonable manner.

SEC. 5. Section 25128.5 of the Revenue and Taxation Code, as added by Section 11 of Chapter 10 of the 3rd Extraordinary Session of the Statutes of 2009, is amended to read:

25128.5. (a) Notwithstanding Section 38006, *for taxable years beginning on or after January 1, 2011,* any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.

(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, all business income *of an apportioning trade or business making an election described in subdivision (a)* shall be apportioned to this state by multiplying the business income by the sales factor.

(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.

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