

**Introduced by Senators Solis, Escutia, Hayden, and
Vasconcellos**

(Coauthors: Assembly Members Aroner, Kuehl, and
Villaraigosa)

February 2, 2000

An act to amend Sections 17039, 19340, and 19341 of, and to add and repeal Section 17052 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1421, as introduced, Solis. Income taxes: credit: earned income.

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

This bill would, for each taxable year beginning on or after January 1, 2000, and before January 1, 2005, provide a refundable credit in an amount equal to 15% of the earned income credit allowed by federal law. Refunds payable in connection with the credit would be available only if the Legislature appropriates funds for that purpose.

This bill would also make various conforming changes in provisions relating to interest payable on refunds and overpayments of tax based on refunds owed.

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. Section 17039 of the Revenue and
2 Taxation Code is amended to read:

3 17039. (a) Notwithstanding any provision in this part
4 to the contrary, for the purposes of computing tax credits,
5 the term “net tax” means the tax imposed under either
6 Section 17041 or 17048 plus the tax imposed under Section
7 17504 (relating to lump-sum distributions) less the credits
8 allowed by Section 17054 (relating to personal exemption
9 credits) and any amount imposed under paragraph (1) of
10 subdivision (d) and paragraph (1) of subdivision (e) of
11 Section 17560. Notwithstanding the preceding sentence,
12 the “net tax” shall not be less than the tax imposed under
13 Section 17504 (relating to the separate tax on lump-sum
14 distributions), if any. Credits shall be allowed against “net
15 tax” in the following order:

16 (1) Credits that do not contain carryover or
17 refundable provisions, except those described in
18 paragraphs (4) and (5).

19 (2) Credits that contain carryover provisions but do
20 not contain refundable provisions.

21 (3) Credits that contain both carryover and
22 refundable provisions.

23 (4) The minimum tax credit allowed by Section 17063
24 (relating to the alternative minimum tax).

25 (5) Credits for taxes paid to other states allowed by
26 Chapter 12 (commencing with Section 18001).

27 (6) Credits that contain refundable provisions but do
28 not contain carryover provisions.

29 The order within each paragraph shall be determined
30 by the Franchise Tax Board.

31 (b) Notwithstanding the provisions of Sections 17052
32 (*relating to the earned income credit*), 17061 (relating to
33 refunds pursuant to the Unemployment Insurance
34 Code), and 19002 (relating to tax withholding), the
35 credits provided in those sections shall be allowed in the
36 order provided in paragraph (6) of subdivision (a).

37 (c) (1) Notwithstanding any other provision of this
38 part, no tax credit shall reduce the tax imposed under



1 Section 17041 or 17048 plus the tax imposed under Section
2 17504 (relating to the separate tax on lump-sum
3 distributions) below the tentative minimum tax, as
4 defined by Section 17062, except the following credits,
5 but only after allowance of the credit allowed by Section
6 17063:

7 (A) *The credit allowed by Section 17052 (relating to*
8 *earned income credit).*

9 (B) The credit allowed by former Section 17052.4
10 (relating to solar energy).

11 ~~(B)~~

12 (C) The credit allowed by former Section 17052.5
13 (relating to solar energy).

14 ~~(C)~~

15 (D) The credit allowed by Section 17052.5 (relating to
16 solar energy).

17 ~~(D)~~

18 (E) The credit allowed by Section 17052.12 (relating to
19 research expenses).

20 ~~(E)~~

21 (F) The credit allowed by former Section 17052.13
22 (relating to sales and use tax credit).

23 ~~(F)~~

24 (G) The credit allowed by Section 17052.15 (relating
25 to Los Angeles Revitalization Zone sales tax credit).

26 ~~(G)~~

27 (H) The credit allowed by Section 17053.5 (relating to
28 the renter's credit).

29 ~~(H)~~

30 (I) The credit allowed by former Section 17053.8
31 (relating to enterprise zone hiring credit).

32 ~~(I)~~

33 (J) The credit allowed by Section 17053.10 (relating to
34 Los Angeles Revitalization Zone hiring credit).

35 ~~(J)~~

36 (K) The credit allowed by former Section 17053.11
37 (relating to program area hiring credit).

38 ~~(K)~~

39 (L) For each taxable year beginning on or after
40 January 1, 1994, the credit allowed by Section 17053.17



- 1 (relating to Los Angeles Revitalization Zone hiring
- 2 credit).
- 3 ~~(L)~~
- 4 ~~(M) The credit allowed by Section 17053.30 (relating~~
- 5 ~~to land and water conservation).~~
- 6 ~~(M)~~ The credit allowed by Section 17053.33 (relating
- 7 to targeted tax area sales or use tax credit).
- 8 (N) The credit allowed by Section 17053.34 (relating
- 9 to targeted tax area hiring credit).
- 10 (O) The credit allowed by Section 17053.49 (relating
- 11 to qualified property).
- 12 (P) The credit allowed by Section 17053.70 (relating to
- 13 enterprise zone sales or use tax credit).
- 14 (Q) The credit allowed by Section 17053.74 (relating
- 15 to enterprise zone hiring credit).
- 16 (R) The credit allowed by Section 17054 (relating to
- 17 credits for personal exemption).
- 18 (S) The credit allowed by Section 17057 (relating to
- 19 clinical testing expenses).
- 20 (T) The credit allowed by Section 17058 (relating to
- 21 low-income housing).
- 22 (U) The credit allowed by Section 17061 (relating to
- 23 refunds pursuant to the Unemployment Insurance
- 24 Code).
- 25 (V) Credits for taxes paid to other states allowed by
- 26 Chapter 12 (commencing with Section 18001).
- 27 (W) The credit allowed by Section 19002 (relating to
- 28 tax withholding).
- 29 (2) Any credit that is partially or totally denied under
- 30 paragraph (1) shall be allowed to be carried over and
- 31 applied to the net tax in succeeding taxable years, if the
- 32 provisions relating to that credit include a provision to
- 33 allow a carryover when that credit exceeds the net tax.
- 34 (d) Unless otherwise provided, any remaining
- 35 carryover of a credit allowed by a section that has been
- 36 repealed or made inoperative shall continue to be
- 37 allowed to be carried over under the provisions of that
- 38 section as it read immediately prior to being repealed or
- 39 becoming inoperative.



1 (e) (1) Unless otherwise provided, if two or more
2 taxpayers (other than husband and wife) share in costs
3 that would be eligible for a tax credit allowed under this
4 part, each taxpayer shall be eligible to receive the tax
5 credit in proportion to his or her respective share of the
6 costs paid or incurred.

7 (2) In the case of a partnership, the credit shall be
8 allocated among the partners pursuant to a written
9 partnership agreement in accordance with Section 704 of
10 the Internal Revenue Code, relating to partner's
11 distributive share.

12 (3) In the case of a husband and wife who file separate
13 returns, the credit may be taken by either or equally
14 divided between them.

15 (f) Unless otherwise provided, in the case of a
16 partnership, any credit allowed by this part shall be
17 computed at the partnership level, and any limitation on
18 the expenses qualifying for the credit or limitation upon
19 the amount of the credit shall be applied to the
20 partnership and to each partner.

21 (g) (1) With respect to any taxpayer that directly or
22 indirectly owns an interest in a business entity that is
23 disregarded for tax purposes pursuant to Section 23038
24 and any regulations thereunder, the amount of any credit
25 or credit carryforward allowable for any taxable year
26 attributable to the disregarded business entity shall be
27 limited in accordance with paragraphs (2) and (3).

28 (2) The amount of any credit otherwise allowed under
29 this part, including any credit carryover from prior years,
30 that may be applied to reduce the taxpayer's "net tax," as
31 defined in subdivision (a), for the taxable year shall be
32 limited to an amount equal to the excess of the taxpayer's
33 regular tax (as defined in Section 17062), determined by
34 including income attributable to the disregarded business
35 entity that generated the credit or credit carryover, over
36 the taxpayer's regular tax (as defined in Section 17062),
37 determined by excluding the income attributable to that
38 disregarded business entity. No credit shall be allowed if
39 the taxpayer's regular tax (as defined in Section 17062),
40 determined by including the income attributable to the



1 disregarded business entity, is less than the taxpayer's
2 regular tax (as defined in Section 17062), determined by
3 excluding the income attributable to the disregarded
4 business entity.

5 (3) If the amount of a credit allowed pursuant to the
6 section establishing the credit exceeds the amount
7 allowable under this subdivision in any taxable year, the
8 excess amount may be carried over to subsequent taxable
9 years pursuant to subdivisions (c) and (d).

10 SEC. 2. Section 17052 is added to the Revenue and
11 Taxation Code, to read:

12 17052. (a) For each taxable year beginning on or
13 after January 1, 2000, and before January 1, 2005, there
14 shall be allowed as a credit against the "net tax" (as
15 defined by Section 17039) an amount determined under
16 subdivision (b).

17 (b) Except as otherwise provided in this section, the
18 amount of the credit allowed under subdivision (a) shall
19 be computed by multiplying the "federal credit amount"
20 (as defined in subdivision (c)) by 15 percent and
21 therefrom the amount of tax imposed by Section 17062
22 (relating to alternative minimum tax), if any, for the
23 same taxable year.

24 (c) The term "federal credit amount" means the
25 amount determined for purposes of federal income tax
26 under Section 32 of the Internal Revenue Code prior to
27 the application of Section 32(h), relating to reduction of
28 credit to taxpayers subject to alternative minimum tax.

29 (d) No credit shall be allowed under this section to any
30 of the following:

31 (1) Any person who is treated as a nonresident for any
32 portion of the taxable year.

33 (2) Any person who is married (within the meaning of
34 Section 17021.5) and files a separate return for the taxable
35 year.

36 (3) Any person who does not have a "qualifying child"
37 (as defined by Section 32(c)(3) of the Internal Revenue
38 Code) for the taxable year.



1 (e) Section 3507 of the Internal Revenue Code,
2 relating to advance payment of earned income credit,
3 shall not apply.

4 (f) For purposes of this section, any reference to
5 Section 32 of the Internal Revenue Code means the
6 Internal Revenue Code as amended by Public Law
7 105-206.

8 (g) If the amount allowable as a credit under this
9 section exceeds the tax liability computed under this part,
10 the excess shall be credited against other amounts due, if
11 any, and the balance, if any, refunded to the taxpayer only
12 if funds are appropriated for that purpose by the
13 Legislature.

14 (h) The Franchise Tax Board shall provide training
15 and information to employers in order that employees
16 claiming the credit allowed by this section are allowed to
17 adjust their withholding allowances to reflect the credit.

18 (i) This section shall remain in effect only until
19 December 1, 2005, and as of that date, is repealed.

20 SEC. 3. Section 19340 of the Revenue and Taxation
21 Code is amended to read:

22 19340. Interest shall be allowed and paid on any
23 overpayment in respect of any tax, at the adjusted annual
24 rate established pursuant to Section 19521 as follows:

25 (a) In the case of a credit, from the date of the
26 overpayment to the due date of the amount for which the
27 credit is allowed. Any interest allowed on any credit shall
28 first be credited on any amounts due from the taxpayer
29 under Part 10 (commencing with Section 17001), this
30 part, or Part 11 (commencing with Section 23001).

31 (b) In the case of a refund, including a refund in excess
32 of tax liability as prescribed in *subdivision (g) of Section*
33 *17052 or* subdivision (j) of Section 17053.5, from the date
34 of the overpayment to a date preceding the date of the
35 refund warrant by not more than 30 days, the date to be
36 determined by the Franchise Tax Board.

37 SEC. 4. Section 19341 of the Revenue and Taxation
38 Code is amended to read:

39 19341. (a) Except as provided in subdivisions (b),
40 (c), and (d), if any overpayment of tax is refunded or



1 credited within 90 days after the return is filed, or within
2 90 days after the last day prescribed for filing the return
3 of tax (determined without regard to any extension of
4 time for filing the return), whichever is later, no interest
5 shall be allowed under Section 19340 on the overpayment.

6 For the purposes of this section, “overpayment of tax”
7 includes a refund in excess of tax liability as prescribed in
8 *subdivision (g) of Section 17052 or* subdivision (j) of
9 Section 17053.5.

10 (b) In the case of returns which set forth no
11 determination or amount of tax liability, or credits other
12 than that allowed under Section 17053.5, and which are
13 filed solely for the purpose of claiming the renter credit,
14 no interest shall be allowed on refunds made within 90
15 days from the date on which the return is filed, or within
16 90 days after the last day prescribed for filing the return,
17 whichever is later. This subdivision applies only when
18 communication with the claimant or other verification is
19 necessary to determine entitlement to the claimed credit.

20 (c) In the case of an individual or fiduciary taxable
21 under Part 10 (commencing with Section 17001), for the
22 1982 taxable year and each taxable year thereafter, the
23 90-day time periods specified in subdivision (a) shall be
24 45 days.

25 (d) In the case of a return of tax which is filed after the
26 last date prescribed for filing the return (determined
27 with regard to extensions), no interest shall be allowed or
28 paid for any day before the date on which the return is
29 filed.

30 SEC. 5. This act provides for a tax levy within the
31 meaning of Article IV of the Constitution and shall go into
32 immediate effect.

