

ASSEMBLY BILL

No. 1115

Introduced by Committee on Revenue and Taxation (Corbett (Chair), Harman (Vice Chair), Alquist, Aroner, Cedillo, Koretz, Matthews, and Wyland)

February 23, 2001

An act to amend Sections 17041, 17055, 17062, 17301, 17302, 17734, 17854, 17951, 17952, 17952.5, 17953, 17954, and 17955 of, to add Sections 17015.5, 17301.3, 17301.4, 17301.5, 17304, 17305, 17306, and 17307 to, and to repeal Sections 17303, 17310, and 17554 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1115, as introduced, Committee on Revenue and Taxation. Taxation: residency requirements: part-year resident.

The Franchise Tax Board collects and administers the income taxes of California residents. Existing law provides formulas for determining the income tax owed by individuals that are part-year or non-California residents. Existing law is silent on the tax treatment of loss carryovers, deferred deductions, and deferred income that vested prior to the time individuals became part-year or non-California residents.

This bill would revise and recast the computation of personal income tax with respect to part-year or non-California residence, and would, for that purpose specify the manner in which loss carryovers, deferred deductions, and deferred income are to be calculated in computing a part-year or non-California resident's California income tax liability. In addition, this bill specifically allows part-year and non-California residents to utilize the alimony deduction.

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 17015.5 is added to the Revenue and
2 Taxation Code, to read:

3 17015.5. For purposes of Part 10.2 (commencing with
4 Section 18401) and this part, the term “part-year resident” means
5 a taxpayer who meets both of the following conditions during the
6 same taxable year.

- 7 (a) Is a resident of this state during a portion of the taxable year.
- 8 (b) Is a nonresident of this state during a portion of the taxable
9 year.

10 SEC. 2. Section 17041 of the Revenue and Taxation Code is
11 amended to read:

12 17041. (a) ~~(1)~~—There shall be imposed for each taxable year
13 upon the entire taxable income of every resident of this state *who*
14 *is not a part-year resident*, except the head of a household as
15 defined in Section 17042, taxes in the following amounts and at the
16 following rates upon the amount of taxable income *computed for*
17 *the taxable year as if the resident were a resident of this state for*
18 *the entire taxable year and for all prior taxable years for any*
19 *carryover items, deferred income, suspended losses, or suspended*
20 *deductions:*

21 If the taxable income is:	22 The tax is:
23 Not over \$3,650	1% of the taxable income
24 Over \$3,650 but not	
25 over \$8,650	\$36.50 plus 2% of the excess over
26	\$3,650
27 Over \$8,650 but not	
28 over \$13,650	\$136.50 plus 4% of the excess over
29	\$8,650
30 Over \$13,650 but not	
31 over \$18,950	\$336.50 plus 6% of the excess over
32	\$13,650



1	Over \$18,950 but not	
2	over \$23,950	\$654.50 plus 8% of the excess over
3		\$18,950
4	Over \$23,950	\$1,054.50 plus 9.3% of the excess
5		over \$23,950

6
7 ~~(2) (A) For any taxable year beginning on or after January 1,~~
8 ~~1991, and before January 1, 1996, the income tax brackets and~~
9 ~~rates set forth in paragraph (1) shall be modified by each of the~~
10 ~~following:~~

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

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

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

21 ~~(b) (1) There shall be imposed for each taxable year upon the~~
22 ~~entire taxable income of every nonresident or part-year resident~~
23 ~~which is derived from sources in this state, except the head of a~~
24 ~~household as defined in Section 17042, a tax which shall be equal~~
25 ~~to the tax computed under subdivision (a) as if the nonresident or~~
26 ~~part-year resident were a resident multiplied by the ratio of~~
27 ~~California adjusted gross income to total adjusted gross income~~
28 ~~from all sources. For purposes of computing the tax under~~
29 ~~subdivision (a) and gross income from all sources, the net~~
30 ~~operating loss deduction provided in Section 172 of the Internal~~
31 ~~Revenue Code, as modified by Section 17276, shall be computed~~
32 ~~as if the taxpayer was a resident for all prior years as calculated in~~
33 ~~paragraph (2).~~

34 ~~(2) The tax imposed under paragraph (1) shall be calculated by~~
35 ~~multiplying the "taxable income of a nonresident or part-year~~
36 ~~resident," as defined in subdivision (i), by a rate (expressed as a~~
37 ~~percentage) equal to the tax computed under subdivision (a) on the~~
38 ~~entire taxable income of the nonresident or part-year resident as~~
39 ~~if the nonresident or part-year resident were a resident of this state~~
40 ~~for the taxable year and as if the nonresident or part-year resident~~



1 were a resident of this state for all prior taxable years for any
2 carryover items, deferred income, suspended losses, or suspended
3 deductions, divided by the amount of that income.

4 (c) ~~(1)~~ There shall be imposed for each taxable year upon the
5 entire taxable income of every resident of this state *who is not a*
6 *part-year resident for that taxable year*, when the resident is the
7 head of a household, as defined in Section 17042, taxes in the
8 following amounts and at the following rates upon the amount of
9 taxable income *computed for the taxable year as if the resident*
10 *were a resident of the state for the entire taxable year and for all*
11 *prior taxable years for carryover items, deferred income,*
12 *suspended losses, or suspended deductions:*

14 If the taxable income is:	The tax is:
15 Not over \$7,300	1% of the taxable income
16 Over \$7,300 but not	
17 over \$17,300	\$73 plus 2% of the excess
18	over \$7,300
19 Over \$17,300 but not	
20 over \$22,300	\$273 plus 4% of the excess
21	over \$17,300
22 Over \$22,300 but not	
23 over \$27,600	\$473 plus 6% of the excess
24	over \$22,300
25 Over \$27,600 but not	
26 over \$32,600	\$791 plus 8% of the excess
27	over \$27,600
28 Over \$32,600	\$1,191 plus 9.3% of the excess over
29	\$32,600

30
31 ~~(2) (A) For any taxable year beginning on or after January 1,~~
32 ~~1991, and before January 1, 1996, the income tax brackets and~~
33 ~~rates set forth in paragraph (1) shall be modified by each of the~~
34 ~~following:~~

35 ~~(i) For that portion of taxable income that is over one hundred~~
36 ~~thirty-six thousand one hundred fifteen dollars (\$136,115) but not~~
37 ~~over two hundred seventy-two thousand two hundred thirty dollars~~
38 ~~(\$272,230), the tax rate is 10 percent of the excess over one~~
39 ~~hundred thirty-six thousand one hundred fifteen dollars~~
40 ~~(\$136,115):~~



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

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

8 ~~(d) (1) There shall be imposed for each taxable year upon the~~
9 ~~entire taxable income of every nonresident or part-year resident~~
10 ~~which is derived from sources within this state when the~~
11 ~~nonresident or part-year resident is the head of a household, as~~
12 ~~defined in Section 17042, a tax which shall be equal to the tax~~
13 ~~computed under subdivision (e) as if the nonresident or part-year~~
14 ~~resident were a resident multiplied by the ratio of California~~
15 ~~adjusted gross income to total adjusted gross income from all~~
16 ~~sources. For purposes of computing the tax under subdivision (e)~~
17 ~~and gross income from all sources, the net operating loss deduction~~
18 ~~provided in Section 172 of the Internal Revenue Code, as modified~~
19 ~~by Section 17276, shall be computed as if the taxpayer was a~~
20 ~~resident for all prior years as calculated in paragraph (2).~~

21 ~~(2) The tax imposed under paragraph (1) shall be calculated by~~
22 ~~multiplying the “taxable income of a nonresident or part-year~~
23 ~~resident,” as defined in subdivision (i), by a rate (expressed as a~~
24 ~~percentage) equal to the tax computed under subdivision (a) on the~~
25 ~~entire taxable income of the nonresident or part-year resident as~~
26 ~~if the nonresident or part-year resident were a resident of this state~~
27 ~~for the taxable year and as if the nonresident or part-year resident~~
28 ~~were a resident of this state for all prior taxable years for any~~
29 ~~carryover items, deferred income, suspended losses, or suspended~~
30 ~~deductions, divided by the amount of that income.~~

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

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

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

39 ~~(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,~~
40 ~~relating to income included on parent’s return, is modified, for~~



1 purposes of this part, by substituting “1 percent” for “15
2 percent.”

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

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

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

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

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

19 (i) (1) For purposes of this ~~section part~~, the term “~~California~~
20 ~~adjusted gross income~~” *“taxable income of a nonresident or*
21 *part-year resident”* includes each of the following:

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

25 (B) For any part of the taxable year during which the taxpayer
26 was not a resident of this state, ~~only those items of adjusted~~ gross
27 ~~income which were~~ *and deductions* derived from sources within
28 this state, determined in accordance with *Article 9 of Chapter 3*
29 *(commencing with Section 17031 and Chapter 11 (commencing*
30 *with Section 17951).*

31 (2) For purposes of computing ~~“California adjusted gross~~
32 ~~income”~~ *“taxable income of a nonresident or part-year resident”*
33 under paragraph (1), the amount of any net operating loss
34 sustained in any taxable year during any part of which the taxpayer
35 was not a resident of this state shall be limited to the sum of the
36 following:

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

39 (B) The amount of the loss which, during the part of the taxable
40 year the taxpayer is not a resident, is attributable to California



1 source income and deductions allowable in arriving at ~~adjusted~~
2 ~~gross taxable income of a nonresident or part-year resident.~~

3 (3) For purposes of computing “taxable income of a
4 nonresident or part-year resident” under paragraph (1), any
5 carryover items, deferred income, suspended losses, or suspended
6 deductions shall only be includible or allowable to the extent that
7 the carryover item, deferred income, suspended loss, or suspended
8 deduction was derived from sources within this state.

9 SEC. 3. Section 17055 of the Revenue and Taxation Code is
10 amended to read:

11 17055. (a) Any individual who is a nonresident or a part-year
12 resident shall be allowed all credits provided under this part
13 against the “net tax” (as defined by Section 17039), except those
14 described in subdivision (b) and in Section 17053.5 (relating to the
15 renter’s credit), and Section 18002 (relating to taxes paid to
16 another state), in the same proportion as the ratio ~~determined under~~
17 ~~subdivision (b) or (d) of Section 17041~~ that “taxable income of a
18 nonresident or part-year resident” computed under paragraph (1)
19 of subdivision (i) of Section 17041 bears to “total taxable income”
20 (as defined in Section 17301.5).

21 (b) Credits allowed under this part which are conditional upon
22 a transaction occurring wholly within California shall be allowed
23 in their entirety.

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

26 17062. (a) In addition to the other taxes imposed by this part,
27 there is hereby imposed for each taxable year, a tax equal to the
28 excess, if any, of—

- 29 (1) The tentative minimum tax for the taxable year, over
- 30 (2) The regular tax for the taxable year.

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

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

36 (2) The regular tax shall be the amount of tax imposed by
37 Section 17041 or 17048, before reduction for any credits against
38 the tax, less any amount imposed under paragraph (1) of
39 subdivision (d) and paragraph (1) of subdivision (e) of Section
40 17560.



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

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

9 (ii) For any taxable year beginning on or after January 1, 1996,
10 7 percent.

11 (B) In the case of a nonresident or part-year resident, the
12 tentative minimum tax shall be computed as if ~~the nonresident or~~
13 ~~part-year resident were a resident for the entire year multiplied by~~
14 ~~the ratio of California adjusted gross income (as modified for~~
15 ~~purposes of this chapter) to total adjusted gross income from all~~
16 ~~sources (as modified for purposes of this chapter). For purposes of~~
17 ~~computing the tax under subparagraph (A) and gross income from~~
18 ~~all sources, the net operating loss deduction provided in Section~~
19 ~~56(d) of the Internal Revenue Code shall be computed as if the~~
20 ~~taxpayer were a resident for all prior years by multiplying the~~
21 ~~alternative minimum taxable income of the nonresident or~~
22 ~~part-year resident, as defined in subparagraph (C), by a rate~~
23 ~~(expressed as a percentage) equal to the tax computed under~~
24 ~~subdivision (b) on the alternative minimum taxable income of the~~
25 ~~nonresident or part-year resident as if the nonresident or part-year~~
26 ~~resident were a resident of this state for the taxable year and as if~~
27 ~~the nonresident or part-year resident were a resident of this state~~
28 ~~for all prior taxable years for any carryover items, deferred~~
29 ~~income, suspended losses, or suspended deductions, divided by the~~
30 ~~amount of that income.~~

31 (C) For purposes of this section, the term ~~“California adjusted~~
32 ~~gross~~ “alternative minimum taxable income” includes each of the
33 following:

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

38 (ii) For any period during which the taxpayer was not a resident
39 of this state, ~~only those items of adjusted gross alternative~~
40 ~~minimum taxable income~~ (as modified for purposes of this



1 chapter) which were derived from sources within this state,
2 determined in accordance with *Article 9 of Chapter 3*
3 (*commencing with Section 17301*) and Chapter 11 (commencing
4 with Section 17951).

5 (iii) *For purposes of computing “alternative minimum taxable*
6 *income of a nonresident or part-year resident,” any carryover*
7 *items, deferred income, suspended losses, or suspended*
8 *deductions shall only be allowable to the extent that the carryover*
9 *item, suspended loss, or suspended deduction was derived from*
10 *sources within this state.*

11 (4) The provisions of Section 55(b)(2) of the Internal Revenue
12 Code, relating to alternative minimum taxable income, shall be
13 modified to provide that alternative minimum taxable income
14 shall not include the income, adjustments, and items of tax
15 preference attributable to any trade or business of a qualified
16 taxpayer.

17 (A) For purposes of this paragraph, “qualified taxpayer”
18 means a taxpayer who meets both of the following:

19 (i) Is the owner of, or has an ownership interest in, a trade or
20 business.

21 (ii) Has aggregate gross receipts, less returns and allowances,
22 of less than one million dollars (\$1,000,000) during the taxable
23 year from all trades or businesses of which the taxpayer is the
24 owner or has an ownership interest, in the amount of that
25 taxpayer’s proportionate interest in each trade or business.

26 (B) For purposes of this paragraph, “aggregate gross receipts,
27 less returns and allowances” means the sum of the gross receipts
28 of the trades or businesses which the taxpayer owns and the
29 proportionate interest of the gross receipts of the trades or
30 businesses which the taxpayer owns and of passthrough entities in
31 which the taxpayer holds an interest.

32 (C) For purposes of this paragraph, “gross receipts, less returns
33 and allowances” means the sum of the gross receipts from the
34 production of business income, as defined in subdivision (a) of
35 Section 25120, and the gross receipts from the production of
36 nonbusiness income, as defined in subdivision (d) of Section
37 25120.

38 (D) For purposes of this paragraph, “proportionate interest”
39 means:



- 1 (i) In the case of a passthrough entity which reports a profit for
2 the taxable or income year, the taxpayer's profit interest in the
3 entity at the end of the taxpayer's taxable year.
- 4 (ii) In the case of a passthrough entity which reports a loss for
5 the taxable or income year, the taxpayer's loss interest in the entity
6 at the end of the taxpayer's taxable year.
- 7 (iii) In the case of a passthrough entity which is sold or
8 liquidates during the taxable or income year, the taxpayer's capital
9 account interest in the entity at the time of the sale or liquidation.
- 10 (E) (i) For purposes of this paragraph, "proportionate
11 interest" includes an interest in a passthrough entity.
- 12 (ii) For purposes of this paragraph, "passthrough entity"
13 means any of the following:
- 14 (I) A partnership, as defined by Section 17008.
- 15 (II) An S corporation, as provided in Chapter 4.5 (commencing
16 with Section 23800) of Part 11.
- 17 (III) A regulated investment company, as provided in Section
18 24871.
- 19 (IV) A real estate investment trust, as provided in Section
20 24872.
- 21 (V) A real estate mortgage investment conduit, as provided in
22 Section 24874.
- 23 (5) For taxable years beginning on or after January 1, 1998,
24 Section 55(d)(1) of the Internal Revenue Code, relating to
25 exemption amount for taxpayers other than corporations is
26 modified, for purposes of this part, to provide the following
27 exemption amounts in lieu of those contained therein:
- 28 (A) Fifty-seven thousand two hundred sixty dollars (\$57,260)
29 in the case of either of the following:
- 30 (i) A joint return.
- 31 (ii) A surviving spouse.
- 32 (B) Forty-two thousand nine hundred forty-five dollars
33 (\$42,945) in the case of an individual who is both of the following:
- 34 (i) Not a married individual.
- 35 (ii) Not a surviving spouse.
- 36 (C) Twenty-eight thousand six hundred thirty dollars
37 (\$28,630) in the case of either of the following:
- 38 (i) A married individual who files a separate return.
- 39 (ii) An estate or trust.



1 (6) For taxable years beginning on or after January 1, 1998,
2 Section 55(d)(3) of the Internal Revenue Code, relating to the
3 phaseout of exemption amount for taxpayers other than
4 corporations is modified, for purposes of this part, to provide the
5 following phaseout of exemption amounts in lieu of those
6 contained therein:

7 (A) Two hundred fourteen thousand seven hundred
8 twenty-five dollars (\$214,725) in the case of a taxpayer described
9 in subparagraph (A) of paragraph (5).

10 (B) One hundred sixty-one thousand forty-four dollars
11 (\$161,044) in the case of a taxpayer described in subparagraph (B)
12 of paragraph (5).

13 (C) One hundred seven thousand three hundred sixty-two
14 dollars (\$107,362) in the case of a taxpayer described in
15 subparagraph (C) of paragraph (5).

16 (7) For each taxable year beginning on or after January 1, 1999,
17 the Franchise Tax Board shall recompute the exemption amounts
18 prescribed in paragraph (5) and the phaseout of exemption
19 amounts prescribed in paragraph (6). Those computations shall be
20 made as follows:

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

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

27 (i) Compute an inflation adjustment factor by adding 100
28 percent to the percentage change figure that is furnished pursuant
29 to subparagraph (A) and dividing the result by 100.

30 (ii) Multiply the preceding taxable year exemption amounts
31 and the phaseout of exemption amounts by the inflation
32 adjustment factor determined in clause (i) and round off the
33 resulting products to the nearest one dollar (\$1).

34 (c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as
35 in effect on January 1, 1997, relating to installment sales of certain
36 property, shall not apply to payments received in taxable years
37 beginning on or after January 1, 1997, with respect to dispositions
38 occurring in taxable years beginning after December 31, 1987.

39 (B) This paragraph shall not apply to taxable years beginning
40 on or after January 1, 1998.



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

5 (3) Section 56(b)(3) of the Internal Revenue Code, relating to
6 treatment of incentive stock options, shall be modified to
7 additionally provide the following:

8 (A) Section 421 of the Internal Revenue Code shall not apply
9 to the transfer of stock acquired pursuant to the exercise of a
10 California qualified stock option under Section 17502.

11 (B) Section 422(c)(2) of the Internal Revenue Code shall apply
12 in any case where the disposition and inclusion of a California
13 qualified stock option for purposes of this chapter are within the
14 same taxable year and that section shall not apply in any other case.

15 (C) The adjusted basis of any stock acquired by the exercise of
16 a California qualified stock option shall be determined on the basis
17 of the treatment prescribed by this paragraph.

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

20 (e) (1) Section 57(a) of the Internal Revenue Code, relating to
21 items of tax preference, is modified to include as an item of tax
22 preference the amount by which the deduction allowable under
23 Section 170 of the Internal Revenue Code, relating to charitable
24 contributions or gifts, or Section 642(c) of the Internal Revenue
25 Code, relating to deduction for amounts paid or permanently set
26 aside for a charitable purpose, would be reduced if all capital gain
27 property were taken into account at its adjusted basis.

28 (2) For purposes of paragraph (1), the term “capital gain
29 property” has the meaning given to that term by Section
30 170(b)(1)(C)(iv) of the Internal Revenue Code. That term shall not
31 include any property to which an election under Section
32 170(b)(1)(C)(iii) of the Internal Revenue Code applies.

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

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



1 SEC. 5. Section 17301 of the Revenue and Taxation Code is
2 amended to read:

3 17301. ~~The~~ *For purposes of this part, and in the case of a*
4 *nonresident or part-year resident, the proper apportionment and*
5 *allocation of the deductions in computing “taxable income of a*
6 *nonresident or part-year resident” computed under paragraph (1)*
7 *of subdivision (i) of Section 17041 with respect to sources of*
8 *income within and without the State shall be determined*
9 *under rules and regulations prescribed by the Franchise Tax Board.*

10 SEC. 6. Section 17301.3 is added to the Revenue and Taxation
11 Code, to read:

12 17301.3. For purposes of this part, in the case of a nonresident
13 or part-year resident, the term “California adjusted gross income”
14 means adjusted gross income for the entire year derived from
15 sources within this state, determined in accordance with Section
16 17554, Chapter 11 (commencing with Section 17951), and this
17 article.

18 SEC. 7. Section 17301.4 is added to the Revenue and Taxation
19 Code, to read:

20 17301.4. For purposes of this part, in the case of a nonresident
21 or part-year resident, the term “total adjusted gross income”
22 means adjusted gross income for the entire year determined under
23 Section 17072 regardless of source, taking into account paragraph
24 (2) of subdivision (h) of Section 17024.5 and Section 17203.

25 SEC. 8. Section 17301.5 is added to the Revenue and Taxation
26 Code, to read:

27 17301.5. For purposes of this part, in the case of a nonresident
28 or part-year resident, the term “total taxable income” means
29 taxable income for the entire year determined under Section 17073
30 regardless of source.

31 SEC. 9. Section 17302 of the Revenue and Taxation Code is
32 amended to read:

33 ~~17302. The deduction provided by Section 215 of the Internal~~
34 ~~Revenue Code, relating to alimony payments, shall not be~~
35 ~~subtracted from California gross income by a nonresident or by a~~
36 ~~part-year resident for any portion of the year during which he or~~
37 ~~she was not a resident of this state. In the case of a nonresident or~~
38 ~~part-year resident, the deduction provided by Section 215 of the~~
39 ~~Internal Revenue Code, relating to alimony payments, shall be~~
40 *allowed in computing “taxable income of a nonresident or*



1 *part-year resident” in the ratio (not to exceed 1.00) that California*
2 *adjusted gross income (as defined in Section 17301.3), computed*
3 *without regard to the alimony deduction, bears to total adjusted*
4 *gross income (as defined in Section 17301.4), computed without*
5 *regard to the alimony deduction.*

6 SEC. 10. Section 17303 of the Revenue and Taxation Code is
7 repealed.

8 ~~17303. In the case of a part-year resident, income from~~
9 ~~sources within this state includes income from whatever source~~
10 ~~derived during the period of residence in this state.~~

11 SEC. 11. Section 17304 is added to the Revenue and Taxation
12 Code, to read:

13 17304. In the case of a nonresident or part-year resident,
14 itemized deductions allowed as a deduction for the taxable year
15 under Section 63 of the Internal Revenue Code, as modified by
16 Section 17073 shall be allowed in computing “taxable income of
17 a nonresident or part-year resident” in the ratio (not to exceed
18 1.00) that California adjusted gross income (as defined in Section
19 17301.3) bears to total adjusted gross income (as defined in
20 Section 17301.4).

21 SEC. 12. Section 17305 is added to the Revenue and Taxation
22 Code, to read:

23 17305. In the case of a nonresident or part-year resident, the
24 standard deduction (as provided in Section 17073.5) allowable to
25 a nonresident or part-year resident in computing “taxable income
26 of a nonresident or part-year resident” under paragraph (1) of
27 subdivision (i) of Section 17041 shall be reduced on a pro rata basis
28 based upon the number of days during the taxable year the
29 taxpayer was not a resident of this state.

30 SEC. 13. Section 17306 is added to the Revenue and Taxation
31 Code, to read:

32 17306. In the case of a nonresident or part-year resident, in
33 computing “taxable income of a nonresident or part-year
34 resident” under paragraph (1) of subdivision (i) of Section 17041,
35 references to “adjusted gross income” for purposes of computing
36 limitations based upon adjusted gross income, shall mean
37 “California adjusted gross income” (as defined in Section
38 17301.3) for the same taxable year without regard to the limitation
39 used pursuant to paragraph (2) of subdivision (h) of Section



1 17024.5 in computing “total adjusted gross income” (as defined
2 in Section 17301.4) for that taxable year.

3 SEC. 14. Section 17307 is added to the Revenue and Taxation
4 Code, to read:

5 17307. In the case of a nonresident or part-year resident, in
6 computing “taxable income of a nonresident or part-year
7 resident” under paragraph (1) of subdivision (i) of Section 17041,
8 for purposes of computing limitations on the deductions described
9 in this section, any reference to “compensation” or “earned
10 income” shall be a reference to the amount of “compensation” or
11 “earned income” required to be included in computing
12 “California adjusted gross income” (as defined in Section
13 17301.3) for the same taxable year without regard to the limitation
14 used pursuant to Section 17203 in computing “total adjusted gross
15 income” (as defined in Section 17301.4) for that taxable year.

16 (a) The deduction allowed by Section 219 of the Internal
17 Revenue Code.

18 (b) The deductions allowed by Sections 162(1) and 404 of the
19 Internal Revenue Code in the case of an individual who is an
20 employee within the meaning of Section 401(c)(1) of the Internal
21 Revenue Code.

22 SEC. 15. Section 17310 of the Revenue and Taxation Code is
23 repealed.

24 ~~17310. —A net operating loss sustained in a taxable year during
25 any part of which the taxpayer was not a resident of this state shall
26 be allowed, in accordance with the provisions of Section 17276,
27 in computing the net operating loss deduction under Section
28 172(a) of the Internal Revenue Code to be subtracted from
29 California gross income.~~

30 SEC. 16. Section 17554 of the Revenue and Taxation Code is
31 repealed.

32 ~~17554. —When the status of a taxpayer changes from resident
33 to nonresident, or from nonresident to resident, there shall be
34 included in determining income from sources within or without
35 this state, as the case may be, income and deductions accrued prior
36 to the change of status even though not otherwise includable in
37 respect of the period prior to that change, but the taxation or
38 deduction of items accrued prior to the change of status shall not
39 be affected by the change.~~



1 SEC. 17. Section 17734 of the Revenue and Taxation Code is
2 amended to read:

3 17734. ~~In~~ *For purposes of computing “taxable income of a*
4 *nonresident or part-year resident” under paragraph (1) of*
5 *subdivision (i) of Section 17041, in the case of a nonresident*
6 *beneficiary, income and deduction derived through an estate or*
7 *trust is taxable shall be included in that computation only to the*
8 *extent it is derived by the estate or trust from sources within this*
9 *state.*

10 SEC. 18. Section 17854 of the Revenue and Taxation Code is
11 amended to read:

12 17854. ~~In~~ *For purposes of computing “taxable income of a*
13 *nonresident or part-year resident” under paragraph (1) of*
14 *subdivision (i) of Section 17041, in the case of a nonresident*
15 *partner, guaranteed payments, as defined by Section 707(c) of the*
16 *Internal Revenue Code, shall be included in that computation as*
17 *gross income from sources within this state in the same manner as*
18 *if those payments were a distributive share of that partnership.*

19 SEC. 19. Section 17951 of the Revenue and Taxation Code is
20 amended to read:

21 17951. ~~In~~ *For purposes of computing “taxable income of a*
22 *nonresident or part-year resident” under paragraph (1) of*
23 *subdivision (i) of Section 17041, in the case of nonresident*
24 *taxpayers the gross income includes only the gross income from*
25 *sources within this State state.*

26 SEC. 20. Section 17952 of the Revenue and Taxation Code is
27 amended to read:

28 17952. ~~Income~~ *For purposes of computing “taxable income*
29 *of a nonresident or part-year resident” under paragraph (1) of*
30 *subdivision (i) of Section 17041, income of nonresidents from*
31 *stocks, bonds, notes, or other intangible personal property is not*
32 *income from sources within this State state unless the property has*
33 *acquired a business situs in this State state, except that if a*
34 *nonresident buys or sells such property in this State state or places*
35 *orders with brokers in this State state to buy or sell such property*
36 *so regularly, systematically, and continuously as to constitute*
37 *doing business in this State state, the profit or gain derived from*
38 *such activity is income from sources within this State state*
39 *irrespective of the situs of the property.*



1 SEC. 21. Section 17952.5 of the Revenue and Taxation Code
2 is amended to read:

3 17952.5. (a) ~~Gross~~ *For purposes of computing “taxable*
4 *income of a nonresident or part-year resident” under paragraph*
5 *(1) of subdivision (i) of Section 17041, gross income of a*
6 *nonresident, as defined in Section 17015, from sources within this*
7 *state shall not include “qualified retirement income” received on*
8 *or after January 1, 1996, for any part of the taxable year during*
9 *which the taxpayer was not a resident of this state.*

10 (b) For purposes of this section, “qualified retirement income”
11 means income from any of the following:

12 (1) A qualified trust under Section 401(a) of the Internal
13 Revenue Code that is exempt under Section 501(a) of the Internal
14 Revenue Code from taxation.

15 (2) A simplified employee pension as defined in Section 408(k)
16 of the Internal Revenue Code.

17 (3) An annuity plan described in Section 403(a) of the Internal
18 Revenue Code.

19 (4) An annuity contract described in Section 403(b) of the
20 Internal Revenue Code.

21 (5) An individual retirement plan described in Section
22 7701(a)(37) of the Internal Revenue Code.

23 (6) An eligible deferred compensation plan as defined in
24 Section 457 of the Internal Revenue Code.

25 (7) A governmental plan as defined in Section 414(d) of the
26 Internal Revenue Code.

27 (8) A trust described in Section 501(c)(18) of the Internal
28 Revenue Code.

29 (9) Any plan, program, or arrangement described in Section
30 3121(v)(2)(C) of the Internal Revenue Code, if that income is
31 either of the following:

32 (A) Part of a series of substantially equal periodic payments
33 (not less frequently than annually) made for either of the
34 following:

35 (i) The life or the life expectancy of the recipient (or the joint
36 lives or joint life expectancies of the recipient and the designated
37 beneficiary of the recipient).

38 (ii) A period of not less than 10 years.

39 (B) A payment received after termination of employment,
40 under a plan, program, or arrangement to which that employment



1 relates, maintained solely for the purpose of providing retirement
2 benefits for employees in excess of the limitation imposed by
3 Section 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or
4 415 of the Internal Revenue Code, or any combination of those
5 sections, or any other limitation on contributions or benefits in the
6 Internal Revenue Code on plans to which any of those sections
7 apply.

8 (10) Any retired or retainer pay of a member or former member
9 of a uniform service computed under Chapter 71 (commencing
10 with Sec. 1401) of Title 10 of the United States Code.

11 (c) This section shall apply only to any taxable year, or portion
12 thereof, that the provisions of Section 114 of Title 4 of the United
13 States Code, relating to limitation on state income taxation of
14 certain pension income, are effective.

15 (d) References to the Internal Revenue Code are subject to
16 paragraph (1) of subdivision (a) of Section 17024.5 which
17 identifies, for each taxable year, the effective date of the referenced
18 provisions of the Internal Revenue Code.

19 SEC. 22. Section 17953 of the Revenue and Taxation Code is
20 amended to read:

21 17953. ~~Income~~ *For purposes of computing “taxable income*
22 *of a nonresident or part-year resident” under paragraph (1) of*
23 *subdivision (i) of Section 17041, income of estates and trusts*
24 *distributed or distributable to nonresident beneficiaries is income*
25 *from sources within this State state only if distributed or*
26 *distributable out of income of the estate or trust derived from*
27 *sources within this State state. For the purposes of this section, the*
28 *nonresident beneficiary shall be deemed to be the owner of*
29 *intangible personal property from which the income of the estate*
30 *or trust is derived.*

31 SEC. 23. Section 17954 of the Revenue and Taxation Code is
32 amended to read:

33 17954. ~~Except~~ *For purposes of computing “taxable income of*
34 *a nonresident or part-year resident” under paragraph (1) of*
35 *subdivision (i) of Section 17041, except as provided in Section*
36 *25141, gross income from sources within and without this State*
37 *state shall be allocated and apportioned under rules and*
38 *regulations prescribed by the Franchise Tax Board.*

39 SEC. 24. Section 17955 of the Revenue and Taxation Code is
40 amended to read:



1 17955. (a) ~~Notwithstanding~~ *For purposes of computing*
2 *“taxable income of a nonresident or part-year resident” under*
3 *paragraph (1) of subdivision (i) of Section 17041, notwithstanding*
4 Sections 17951, 17952, and 17953, gross income of a nonresident
5 (as defined in Section 17015) from sources within this state shall
6 not include dividends, interest, or gains and losses from qualifying
7 investment securities if any of the following apply:

8 (1) In the case of an individual, with respect to the qualifying
9 investment securities, the taxpayer’s only contact with this state is
10 through a broker, dealer, or investment adviser located in this state.

11 (2) In the case of a partner’s distributive share of income from
12 qualifying investment securities, the partnership qualifies as an
13 investment partnership, whether or not the partnership has a usual
14 place of business located in this state.

15 (3) In the case of a beneficiary of a qualifying estate or trust, the
16 taxpayer’s only contact with this state is through an investment
17 account managed by a corporate fiduciary located in this state.

18 (4) In the case of a unit holder in a regulated investment
19 company (as defined in Section 851 of the Internal Revenue
20 Code), to the extent of the dividends distributed by the regulated
21 investment company, whether or not the regulated investment
22 company has a principal place of business in this state.

23 (b) This section shall not apply to income derived from
24 investment activity that is interrelated with any trade or business
25 activity of the nonresident or an entity in which the nonresident
26 owns an interest in this state, whose primary activities are separate
27 and distinct from the acts of acquiring, managing, or disposing of
28 qualified investment securities, or if those securities were acquired
29 with working capital of a trade or business activity conducted in
30 this state in which the nonresident owns an interest.

31 (c) For purposes of this section:

32 (1) “Investment partnership” means a partnership that meets
33 both of the following requirements:

34 (A) No less than 90 percent of the partnership’s cost of its total
35 assets consist of qualifying investment securities, deposits at banks
36 or other financial institutions, and office space and equipment
37 reasonably necessary to carry on its activities as an investment
38 partnership.



1 (B) No less than 90 percent of its gross income consists of
2 interest, dividends, and gains from the sale or exchange of
3 qualifying investment securities.

4 (2) “Qualifying estate or trust” means an estate or trust that
5 meets both of the following requirements:

6 (A) No less than 90 percent of the estate’s or trust’s cost of its
7 total assets consist of qualifying investment securities, deposits at
8 banks or other financial institutions, and office space and
9 equipment reasonably necessary to carry on its investment
10 activities.

11 (B) No less than 90 percent of its gross income consists of
12 interest, dividends, and gains from the sale or exchange of
13 qualifying investment securities.

14 (3) (A) “Qualifying investment securities” include all of the
15 following:

16 (i) Common stock, including preferred or debt securities
17 convertible into common stock, and preferred stock.

18 (ii) Bonds, debentures, and other debt securities.

19 (iii) Foreign and domestic currency deposits or equivalents and
20 securities convertible into foreign securities.

21 (iv) Mortgage- or asset-backed securities secured by federal,
22 state, or local governmental agencies.

23 (v) Repurchase agreements and loan participations.

24 (vi) Foreign currency exchange contracts and forward and
25 futures contracts on foreign currencies.

26 (vii) Stock and bond index securities and futures contracts, and
27 other similar financial securities and futures contracts on those
28 securities.

29 (viii) Options for the purchase or sale of any of the securities,
30 currencies, contracts, or financial instruments described in clauses
31 (i) to (vii), inclusive.

32 (ix) Regulated futures contracts.

33 (B) “Qualifying investment securities” does not include an
34 interest in a partnership unless that partnership is itself an
35 investment partnership.

36 SEC. 25. This act provides for a tax levy within the meaning
37 of Article IV of the Constitution and shall go into immediate
38 effect.

