

SENATE BILL

No. 25

Introduced by Senators Calderon and Correa

February 4, 2010

An act to amend Section 17144.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, as introduced, Calderon. Taxation: cancellation of indebtedness: mortgage debt forgiveness.

The Personal Income Tax Law, in modified conformity to federal income tax laws, requires a borrower to include in his or her income, with certain exceptions, the amount of debt canceled or discharged, as specified.

The Personal Income Tax Law conforms to specified provisions of the federal Mortgage Forgiveness Debt Relief Act of 2007, relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from a taxpayer's income if that debt is discharged after January 1, 2007, and before January 1, 2009, as provided.

This bill would, in additional conformity to federal income tax laws, extend the operation of those provisions to debt that is discharged after January 1, 2007, and before January 1, 2013, and would modify the amount excluded from gross income.

This bill would also provide conformity to specified provisions of the federal Emergency Economic Stabilization Act of 2008 relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from a taxpayer's income if that debt is discharged on or after January 1, 2009, and before January 1, 2013.

This bill would make legislative findings and declarations regarding the public purpose served by the bill.

This bill would take effect immediately as a tax levy.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

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 17144.5 of the Revenue and Taxation
2 Code is amended to read:
3 17144.5. (a) Section 108 of the Internal Revenue Code, relating
4 to income from discharge of indebtedness, as amended by Section
5 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public
6 Law ~~110-142~~; 110-142) and by Section 303 of the Emergency
7 Economic Stabilization Act of 2008 (Public Law 110-343), shall
8 apply, except as otherwise provided.
9 ~~(b) Section 108(a)(1)(E) of the Internal Revenue Code, as added~~
10 ~~by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007~~
11 ~~(Public Law 110-142), is modified by substituting the phrase~~
12 ~~“January 1, 2009” for “January 1, 2010” contained therein.~~
13 ~~(e)~~
14 (b) Section 108(a)(1)(E) of the Internal Revenue Code, as added
15 by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007
16 (Public Law 110-142), is additionally modified to provide that the
17 amount excluded from gross income shall not exceed ~~\$250,000~~
18 ~~(\$125,000 \$500,000~~ (\$250,000 in the case of a married individual
19 filing a separate return).
20 ~~(d)~~
21 (c) Section 108(h)(2) of the Internal Revenue Code, as added
22 by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007
23 (Public Law 110-142), is modified by substituting the phrase
24 “(within the meaning of section 163(h)(3)(B), applied by

1 substituting '\$800,000 (\$400,000' for '\$1,000,000 (\$500,000' in
2 clause (ii) thereof)" for the phrase "(within the meaning of section
3 163(h)(3)(B), applied by substituting '\$2,000,000 (\$1,000,000'
4 for '\$1,000,000 (\$500,000' in clause (ii) thereof)" contained
5 therein.

6 (e)

7 (d) This section shall apply to discharges of indebtedness
8 occurring on or after January 1, 2007, and, notwithstanding any
9 other law to the contrary, no penalties or interest shall be due with
10 respect to the discharge of qualified principal residence
11 indebtedness during the 2007 taxable year regardless of whether
12 or not the taxpayer reports the discharge on his or her return for
13 the 2007 taxable year.

14 (e) *The changes made to this section by the act adding this*
15 *subdivision shall apply to discharges of indebtedness occurring*
16 *on or after January 1, 2009, and, notwithstanding any other law*
17 *to the contrary, no penalties or interest shall be due with respect*
18 *to the discharge of qualified principal residence indebtedness*
19 *during the 2009 taxable year, regardless of whether or not the*
20 *taxpayer reports the discharge on his or her return for the 2009*
21 *taxable year.*

22 SEC. 2. The amendments made by the enactment of this act
23 that incorporate by reference the amendments made by Section
24 303 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public
25 Law 110-142), shall apply to discharges and indebtedness occurring
26 on or after January 1, 2009, and before January 1, 2013. The
27 Legislature declares that the amendments made by the enactment
28 of this act and the retroactive application contained in the preceding
29 sentence are necessary for the public purpose of conforming state
30 law to the Internal Revenue Code as amended by the Mortgage
31 Forgiveness Debt Relief Act of 2007 (Public Law 110-142) and
32 thereby prevent undue hardship to taxpayers that would otherwise
33 have been subject to taxation and penalties from the discharge of
34 qualified principal residence indebtedness during the 2009 taxable
35 year.

36 SEC. 3. This act provides for a tax levy within the meaning of
37 Article IV of the Constitution and shall go into immediate effect.

38 SEC. 4. This act addresses the fiscal emergency declared by
39 the Governor by proclamation on January 8, 2010, pursuant to

- 1 subdivision (f) of Section 10 of Article IV of the California
- 2 Constitution.

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