

AMENDED IN SENATE JANUARY 11, 2010

**SENATE BILL**

**No. 97**

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**Introduced by ~~Senator Calderon~~ *Senators Calderon and Correa***

January 26, 2009

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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 97, as amended, 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, ~~2010~~ 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.

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) and by Section 303 of the Emergency Economic  
7 Stabilization Act of 2008 (Public Law 110-343), shall apply, except  
8 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 additionally modified to provide that the  
12 amount excluded from gross income shall not exceed ~~\$250,000~~  
13 ~~(\$125,000~~ \$500,000 (~~\$250,000~~ in the case of a married individual  
14 filing a separate return).

15 (c) Section 108(h)(2) of the Internal Revenue Code, as added  
16 by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007  
17 (Public Law 110-142), is modified by substituting the phrase  
18 “(within the meaning of section 163(h)(3)(B), applied by  
19 substituting ‘\$800,000 (\$400,000’ for ‘\$1,000,000 (\$500,000’ in  
20 clause (ii) thereof)” for the phrase “(within the meaning of section  
21 163(h)(3)(B), applied by substituting ‘\$2,000,000 (\$1,000,000’  
22 for ‘\$1,000,000 (\$500,000’ in clause (ii) thereof)” contained  
23 therein.

24 (d) This section shall apply to discharges of indebtedness  
25 occurring on or after January 1, 2007, and, notwithstanding any  
26 other law to the contrary, no penalties or interest shall be due with  
27 respect to the discharge of qualified principal residence  
28 indebtedness during the 2007 taxable year regardless of whether  
29 or not the taxpayer reports the discharge on his or her return for  
30 the 2007 taxable year.

31 (e) The changes made to this section by the act adding this  
32 subdivision shall apply to discharges of indebtedness occurring

1 on or after January 1, 2009, and, notwithstanding any other law to  
2 the contrary, no penalties or interest shall be due with respect to  
3 the discharge of qualified principal residence indebtedness during  
4 the 2009 taxable year, regardless of whether or not the taxpayer  
5 reports the discharge on his or her return for the 2009 taxable year.

6 *SEC. 2. The amendments made by the enactment of this act*  
7 *that incorporate by reference the amendments made by Section*  
8 *303 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public*  
9 *Law 110-142), shall apply to discharges and indebtedness*  
10 *occurring on or after January 1, 2009, and before January 1, 2013.*  
11 *The Legislature declares that the amendments made by the*  
12 *enactment of this act and the retroactive application contained in*  
13 *the preceding sentence are necessary for the public purpose of*  
14 *conforming state law to the Internal Revenue Code as amended*  
15 *by the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law*  
16 *110-142) and thereby prevent undue hardship to taxpayers that*  
17 *would otherwise have been subject to taxation and penalties from*  
18 *the discharge of qualified principal residence indebtedness during*  
19 *the 2009 taxable year.*

20 ~~SEC. 2.~~

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