

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1276

Introduced by Assembly Member Feuer

February 18, 2011

An act to amend Section 24343.2 of add Sections 17226 and 24343.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1276, as amended, Feuer. ~~Net income deduction: nondiscrimination.~~ *Income taxes: deductions: punitive damages.*

The Personal Income Tax Law and the Corporation Tax Law allow various deductions in computing the income that is subject to the taxes imposed by those laws. Both laws allow a deduction for ordinary and necessary business expenses, including a deduction for amounts paid or incurred for specified types of punitive damages.

This bill, for taxable years beginning on or after January 1, 2012, would, under both laws, disallow the deduction for amounts paid or incurred for punitive damages, as provided.

This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~The Corporation Tax Law prohibits deductions for a club, as defined, that restricts membership or the use of its services or facilities on the basis of ancestry or other characteristics, as specified.~~

The bill would make a technical, nonsubstantive change to this provision.

Vote: majority ²/₃. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17226 is added to the Revenue and
2 Taxation Code, to read:

3 17226. For taxable years beginning on or after January 1,
4 2012, a deduction shall not be allowed for any amount paid or
5 incurred for punitive damages in connection with any judgment
6 in, or settlement of, any action.

7 SEC. 2. Section 24343.4 is added to the Revenue and Taxation
8 Code, to read:

9 24343.4. For taxable years beginning on or after January 1,
10 2012, a deduction shall not be allowed for any amount paid or
11 incurred for punitive damages in connection with any judgment
12 in, or settlement of, any action.

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

15 SECTION 1. Section 24343.2 of the Revenue and Taxation
16 Code is amended to read:

17 24343.2. Whereas, the people of the State of California desire
18 to promote and achieve tax equity and fairness among all the state's
19 residents and further desire to conform to the public policy of
20 nondiscrimination, the Legislature hereby enacts the following for
21 these reasons and for no other purpose:

22 (a) No deduction shall be allowed under Section 24343 for
23 expenses incurred by a taxpayer with respect to expenditures made
24 at, or payments made to, a club which restricts membership or the
25 use of its services or facilities on the basis of ancestry or any
26 characteristic listed or defined in Section 11135 of the Government
27 Code.

28 (b) A club described in subdivision (a) holding an alcoholic
29 beverage license pursuant to Division 9 (commencing with Section
30 23000) of the Business and Professions Code, except a club holding
31 an alcoholic beverage license pursuant to Section 23425 thereof,
32 shall provide on each receipt furnished to a taxpayer a printed
33 statement as follows:

1 ~~“The expenditures covered by this receipt are nondeductible for~~
2 ~~state income tax purposes or franchise tax purposes.”~~

3 ~~(e) For purposes of this section:~~

4 ~~(1) “Expenses” means those expenses otherwise deductible~~
5 ~~under Section 24343, except for subdivision (a), and includes, but~~
6 ~~is not limited to, club membership dues and assessments, food and~~
7 ~~beverage expenses, expenses for services furnished by the club,~~
8 ~~and reimbursements or salary adjustments to officers or employees~~
9 ~~for any of the preceding expenses.~~

10 ~~(2) “Club” means a club as defined in Division 9 (commencing~~
11 ~~with Section 23000) of the Business and Professions Code, except~~
12 ~~a club as defined in Section 23425 thereof.~~