

AMENDED IN SENATE FEBRUARY 7, 1996
AMENDED IN ASSEMBLY JANUARY 3, 1996
AMENDED IN ASSEMBLY SEPTEMBER 11, 1995
AMENDED IN ASSEMBLY AUGUST 24, 1995
AMENDED IN ASSEMBLY APRIL 27, 1995
AMENDED IN ASSEMBLY APRIL 4, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 850

Introduced by Assembly Member Morrissey

February 22, 1995

An act to add Section 17952.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 850, as amended, Morrissey. Income taxes: exclusions: qualified retirement income.

The existing Personal Income Tax Law imposes a tax on the income of a nonresident that is derived from sources within this state.

This bill would enact the Retirement Income Protection Act to provide under that law that in the case of a ~~qualified~~ nonresident, ~~as specified,~~ income from sources within this state shall not include "qualified retirement income," as defined, ~~up to and including \$50,000 in the aggregate during the taxable year,~~ from certain deferred compensation

arrangements, as specified. ~~The bill would require that the \$50,000 exclusion be adjusted annually based on the percentage change in the California Consumer Price Index, as specified.~~

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. This act shall be known and may be cited
 2 as the Retirement Income Protection Act.
 3 ~~SEC. 2. Section 17952.5 is added to the Revenue and~~
 4 *SEC. 2. Section 17952.5 is added to the Revenue and*
 5 *Taxation Code, to read:*
 6 *17952.5. (a) Gross income of a nonresident, as*
 7 *defined in Section 17015, from sources within this state*
 8 *shall not include “qualified retirement income” received*
 9 *on or after January 1, 1996, for any part of the taxable year*
 10 *during which the taxpayer was not a resident of this state.*
 11 *(b) For purposes of this section, “qualified retirement*
 12 *income” means income from any of the following:*
 13 *(1) A qualified trust under Section 401(a) of the*
 14 *Internal Revenue Code that is exempt under Section*
 15 *501(a) of the Internal Revenue Code from taxation.*
 16 *(2) A simplified employee pension as defined in*
 17 *Section 408(k) of the Internal Revenue Code.*
 18 *(3) An annuity plan described in Section 403(a) of the*
 19 *Internal Revenue Code.*
 20 *(4) An annuity contract described in Section 403(b) of*
 21 *the Internal Revenue Code.*
 22 *(5) An individual retirement plan described in Section*
 23 *7701(a)(37) of the Internal Revenue Code.*
 24 *(6) An eligible deferred compensation plan as defined*
 25 *in Section 457 of the Internal Revenue Code.*
 26 *(7) A governmental plan as defined in Section 414(d)*
 27 *of the Internal Revenue Code.*
 28 *(8) A trust described in Section 501(c)(18) of the*
 29 *Internal Revenue Code.*



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

4 (A) Part of a series of substantially equal periodic
5 payments (not less frequently than annually) made for
6 either of the following:

7 (i) The life or the life expectancy of the recipient (or
8 the joint lives or joint life expectancies of the recipient
9 and the designated beneficiary of the recipient).

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

11 (B) A payment received after termination of
12 employment, under a plan, program, or arrangement to
13 which that employment relates, maintained solely for the
14 purpose of providing retirement benefits for employees
15 in excess of the limitation imposed by Section 401(a)(17),
16 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the
17 Internal Revenue Code, or any combination of those
18 sections, or any other limitation on contributions or
19 benefits in the Internal Revenue Code on plans to which
20 any of those sections apply.

21 (10) Any retired or retainer pay of a member or
22 former member of a uniform service computed under
23 Chapter 71 of Title 10, of the United States Code.

24 (c) References to the Internal Revenue Code are
25 subject to paragraph (1) of subdivision (a) of Section
26 17024.5 which identifies, for each taxable year, the
27 effective date of the referenced provisions of the Internal
28 Revenue Code.

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

32 ~~Taxation Code, to read:~~

33 ~~17952.5. (a) In the case of a qualified nonresident,~~
34 ~~income from sources within this state shall not include~~
35 ~~“qualified retirement income.”~~

36 ~~(b) For purposes of this section:~~

37 ~~(1) “Qualified nonresident” means a nonresident~~
38 ~~individual who is retired from employment and who does~~
39 ~~not perform any services for compensation in this state~~



1 during the taxable year in which the individual receives
2 qualified retirement income.

3 (2) “Qualified retirement income” means income
4 received by a qualified nonresident, up to and including
5 fifty thousand dollars (\$50,000) in the aggregate during
6 the taxable year, from any of the following deferred
7 compensation arrangements:

8 (A) A pension, profit-sharing, or stock bonus plan
9 described in Section 401 of the Internal Revenue Code.

10 (B) An annuity plan described in Section 403 of the
11 Internal Revenue Code.

12 (C) A pension plan established for its employees by
13 the United States, a state, a political subdivision, or any
14 agency or instrumentality of the foregoing.

15 (D) A simplified employee pension described in
16 Section 408 of the Internal Revenue Code.

17 (E) An individual retirement account described in
18 Section 408 of the Internal Revenue Code.

19 (F) A deferred compensation plan described in
20 Section 457 of the Internal Revenue Code.

21 (e) For each taxable year beginning on or after
22 January 1, 1997, the Franchise Tax Board shall recompute
23 the maximum aggregate amount of qualified retirement
24 income prescribed in subdivision (b). That computation
25 shall be made as follows:

26 (1) The California Department of Industrial Relations
27 shall transmit annually to the Franchise Tax Board the
28 percentage change in the California Consumer Price
29 Index for all items from June of the prior calendar year to
30 June of the current calendar year, no later than August 1
31 of the current calendar year.

32 (2) The Franchise Tax Board shall add 100 percent to
33 the percentage change figure which is furnished
34 pursuant to paragraph (1), and divide the result by 100.

35 (3) The Franchise Tax Board shall multiply the
36 amounts for the immediately preceding taxable year for
37 the maximum aggregate amount of qualified retirement
38 income prescribed in subdivision (b) by the inflation
39 adjustment factor provided in paragraph (2), and round
40 off to the nearest one dollar (\$1).



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