

AMENDED IN SENATE JUNE 25, 1996
AMENDED IN ASSEMBLY MAY 15, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3194

Introduced by Assembly Member Vasconcellos
*(Coauthors: Assembly Members Alpert, Cunneen, Davis,
and Machado)*
(Coauthors: Senators Alquist and Sher)

February 23, 1996

An act to *amend Section 17062 of, and to add Section 17502* to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 3194, as amended, Vasconcellos. Income taxes: stock options.

The Personal Income Tax Law, in conformity to federal income tax laws, provides for the postponement of gain from the exercise of specified types of stock options until the sale of the stock.

This bill would *establish a California qualified stock option that would* also allow the specified postponement of taxes upon the exercise of any other type of stock option, limited to a specified number of shares and value, by individuals who are employees with earned income below a specified amount *and meet specified conditions*. This bill would apply only to stock

options issued and exercised on or after January 1, 1997. *This bill would make related technical and conforming changes to provisions of the alternative minimum tax.*

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 17062 of the Revenue and*
2 *Taxation Code is amended to read:*

3 17062. (a) In addition to the other taxes imposed by
4 this part, there is hereby imposed for each taxable year,
5 a tax equal to the excess, if any, of—

6 (1) The tentative minimum tax for the taxable year,
7 over

8 (2) The regular tax for the taxable year.

9 (b) For purposes of this chapter, each of the following
10 shall apply:

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

15 (2) The regular tax shall be the amount of tax imposed
16 by Section 17041 or 17048, before reduction for any credits
17 against the tax, less any amount imposed under
18 paragraph (1) of subdivision (d) and paragraph (1) of
19 subdivision (e) of Section 17560.

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

27 (i) For any taxable year beginning on or after January
28 1, 1991, and before January 1, 1996, 8.5 percent.

29 (ii) For any taxable year beginning on or after January
30 1, 1996, 7 percent.



1 (B) In the case of a nonresident or part-year resident,
2 the tentative minimum tax shall be computed as if the
3 nonresident or part-year resident were a resident for the
4 entire year multiplied by the ratio of California adjusted
5 gross income (as modified for purposes of this chapter) to
6 total adjusted gross income from all sources (as modified
7 for purposes of this chapter). For purposes of computing
8 the tax under subparagraph (A) and gross income from
9 all sources, the net operating loss deduction provided in
10 Section 56(d) of the Internal Revenue Code shall be
11 computed as if the taxpayer were a resident for all prior
12 years.

13 (C) For purposes of this section, the term “California
14 adjusted gross income” includes each of the following:

15 (i) For any period during which the taxpayer was a
16 resident of this state (as defined by Section 17014), all
17 items of adjusted gross income (as modified for purposes
18 of this chapter), regardless of source.

19 (ii) For any period during which the taxpayer was not
20 a resident of this state, only those items of adjusted gross
21 income (as modified for purposes of this chapter) which
22 were derived from sources within this state, determined
23 in accordance with Chapter 11 (commencing with
24 Section 17951).

25 (c) (1) Section 56(b)(1)(E) of the Internal Revenue
26 Code, relating to standard deduction and deduction for
27 personal exemptions not allowed, is modified, for
28 purposes of this part, to deny the standard deduction
29 allowed by Section 17073.5.

30 (2) *Section 56(b)(3) of the Internal Revenue Code,*
31 *relating to treatment of incentive stock options, shall be*
32 *modified to additionally provide the following:*

33 (A) *Section 421 of the Internal Revenue Code shall not*
34 *apply to the transfer of stock acquired pursuant to the*
35 *exercise of a California qualified stock option under*
36 *Section 17502.*

37 (B) *Section 422(c)(2) shall apply in any case where*
38 *the disposition and inclusion of a California qualified*
39 *stock option for purposes of this chapter are within the*



1 *same taxable year and that section shall not apply in any*
2 *other case.*

3 *(C) The adjusted basis of any stock acquired by the*
4 *exercise of a California qualified stock option shall be*
5 *determined on the basis of the treatment prescribed by*
6 *this paragraph.*

7 (3) The provisions of Section 56(h) of the Internal
8 Revenue Code, relating to adjustment based on energy
9 preferences, shall not apply.

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

13 (e) The last two sentences of Section 57(a)(6)(B) of
14 the Internal Revenue Code, relating to tangible personal
15 property, shall not apply.

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

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

24 *SEC. 2.* Section 17502 is added to the Revenue and
25 Taxation Code, to read:

26 17502. (a) In addition to the application of Part II
27 (commencing with Section 421) of Subchapter D of
28 Chapter 1 of Subtitle A of the Internal Revenue Code,
29 relating to certain stock options, paragraphs (1), (2), and
30 (3) of Section 421(a) of the Internal Revenue Code shall
31 also apply to any other stock option that is exercised by an
32 individual whose earned income for the taxable year does
33 not exceed forty thousand dollars (\$40,000).

34 (b) *For purposes of this section, "California qualified*
35 *stock option" means a stock option issued and exercised*
36 *pursuant to this section.*

37 (c) (1) This section shall apply only to those stock
38 options that are issued on or after January 1, 1997, by a
39 corporation to its employee and are exercised by the
40 employee, *while employed by the corporation that issued*



1 *those stock options, or employed within three months*
2 *thereof, or within one year thereof if permanently and*
3 *totally disabled as defined in Section 22(e)(3) of the*
4 *Internal Revenue Code), during the taxable year with*
5 *respect to any class of shares, or combination thereof,*
6 *issued by the corporation, where to the extent that the*
7 *number of shares transferred transferable by the exercise*
8 *of the options does not exceed a total of 1,000 and have a*
9 *combined fair market value of less than one hundred*
10 *thousand dollars (\$100,000). The combined fair market*
11 *value of any stock shall be determined as of the time the*
12 *option with respect to that stock is granted.*

13 *(2) Paragraph (1) shall be applied by taking options*
14 *into account in the order in which they were granted.*

15 ~~(e) In the case of any stock option to which this section~~
16 ~~applies~~

17 *(d) In the case of a California qualified stock option, no*
18 *amount shall be included in the gross income of the*
19 *employee until such time as the disposition of the option*
20 *(or the stock acquired upon exercise of the option) has*
21 *been disposed.*

22 *No deduction shall be allowed under Section 162 of the*
23 *Internal Revenue Code to the employer on the grant of*
24 *a California qualified stock option.*

25 ~~(d)~~

26 *(e) Subdivision (e) (d) shall not apply to any stock*
27 *option for which an election has been made under Section*
28 *83(b) of the Internal Revenue Code, relating to election*
29 *to include in gross income in year of transfer.*

30 ~~(e) Any stock option issued and exercised pursuant to~~
31 ~~this section shall be known as and referred to as a~~
32 ~~California Qualified Stock Option.~~

33 ~~SEC. 2.~~

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

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