

AMENDED IN ASSEMBLY AUGUST 7, 2000

AMENDED IN ASSEMBLY MAY 18, 2000

**SENATE BILL**

**No. 2176**

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**Introduced by Senator Chesbro**

February 25, 2000

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~~An act relating to taxation. An act to amend Sections 24344 and 24410 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 2176, as amended, Chesbro. ~~Taxation~~ *Bank and corporation taxes: deductions: insurance company dividend expense.*

*The Bank and Corporation Tax Law allows various deductions in computing the income that is subject to the taxes imposed by that law, including a deduction for dividends received by a corporation, as specified, from an insurance company that is subject to insurance tax. Existing law provides that no deduction is allowed if the deduction is allocable to one or more classes of income that are not included in the measure of tax under the Bank and Corporation Tax Law.*

*This bill would provide that any expense, including interest expense, that is related to those deductible dividends shall be allowed.*

*This bill would take effect immediately as a tax levy.*

~~Existing law imposes various taxes with respect to, among other things, specified transactions, persons and entities, and property.~~

~~This bill would declare the intent of the Legislature to convene a conference committee on taxation.~~

Vote: majority. 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. It is the intent of the Legislature to~~  
2 ~~convene a conference committee on taxation.~~

3 *SECTION 1. Section 24344 of the Revenue and*  
4 *Taxation Code is amended to read:*

5 24344. (a) Section 163 of the Internal Revenue Code,  
6 relating to interest, shall apply, except as otherwise  
7 provided.

8 (b) If income of the taxpayer which is derived from or  
9 attributable to sources within this state is determined  
10 pursuant to Section 25101 or 25110, the interest  
11 deductible shall be an amount equal to interest income  
12 subject to apportionment by formula, plus the amount, if  
13 any, by which the balance of interest expense exceeds  
14 interest and dividend income (except dividends  
15 deductible under Section 24402 and dividends subject to  
16 the deductions provided for in ~~Section~~ *Sections 24410 and*  
17 *24411 to the extent of those deductions) not subject to*  
18 *apportionment by formula. Interest expense not included*  
19 *in the preceding sentence shall be directly offset against*  
20 *interest and dividend income (except dividends*  
21 *deductible under Section 24402 and dividends subject to*  
22 *the deductions provided for in ~~Section~~ *Sections 24410 and**  
23 *24411 to the extent of those deductions) not subject to*  
24 *apportionment by formula.*

25 (c) (1) Notwithstanding subdivision (b) and subject  
26 to paragraph (2), interest expense allowable under  
27 Section 163 of the Internal Revenue Code that is incurred  
28 for purposes of foreign investments may be offset against  
29 dividends deductible under Section 24411.

30 (2) For income years beginning on or after January 1,  
31 1997, the amount of interest computed pursuant to  
32 paragraph (1) shall be multiplied by the same percentage  
33 used to determine the dividend deduction under Section



1 24411 to determine that amount of interest that may be  
2 offset as provided in paragraph (1).

3 (d) *Notwithstanding Section 24425, a deduction shall*  
4 *be allowed for interest expense paid or incurred in*  
5 *connection with dividends that are deductible under*  
6 *Section 24410.*

7 (e) Section 7210(b) of Public Law 101-239, relating to  
8 the effective date for limitation on deduction for certain  
9 interest paid to a related person, shall apply.

10 ~~(e)~~

11 (f) Section 163(j)(6)(C) of the Internal Revenue  
12 Code, relating to treatment of an affiliated group, is  
13 modified to apply to all members of a combined report  
14 filed under Section 25101.

15 *SEC. 2. Section 24410 of the Revenue and Taxation*  
16 *Code is amended to read:*

17 24410. (a) Dividends received by a corporation  
18 ~~commercially domiciled in California~~ during the income  
19 year from an insurance company subject to tax imposed  
20 by Part 7 (commencing with Section 12001) ~~of this~~  
21 ~~division~~ at the time of the payment of the dividends and  
22 at least 80 percent of each class of its stock then being  
23 owned by the corporation receiving the dividend.

24 (b) The deduction under this section shall be limited  
25 to that portion of the dividends received which are  
26 determined to be paid from income from California  
27 sources determined pursuant to subdivision (c).

28 (c) Dividends paid from California sources shall be  
29 determined by multiplying the amount of the dividends  
30 by an apportionment factor equal to the ratio of gross  
31 income from California sources to all gross income of the  
32 company. Gross income from California sources equals  
33 total gross income less dividends from other insurance  
34 companies multiplied by the average of the following  
35 three factors:

36 (1) A gross receipts factor, the denominator of which  
37 shall include all receipts, other than dividends from  
38 another insurance company, regardless of the nature or  
39 source from which derived. The numerator of which shall  
40 include all gross receipts, other than dividends from



1 another insurance company, derived from or attributable  
2 to this state. With respect to premiums, only receipts  
3 which were subject to tax under Part 7 (commencing  
4 with Section 12001) ~~of this division~~, shall be included in  
5 the numerator, and with respect to income from  
6 intangibles they shall be attributable to the commercial  
7 domicile of the insurance company.

8 (2) A payroll factor determined under the provisions  
9 of the Uniform Division of Income for Tax Purposes Act,  
10 Chapter 17, Article 2 of this part.

11 (3) A property factor, determined under the  
12 provisions of the Uniform Division of Income for Tax  
13 Purposes Act provided for in Article 2 (commencing with  
14 Section 25120) of Chapter 17 ~~of this part~~, provided that for  
15 the purposes of this paragraph the property factor shall  
16 include all intangible investment property, which  
17 intangible property shall be allocated to the commercial  
18 domicile of that insurance company.

19 (4) Plus the portion of the dividends received from  
20 another insurance company determined to be paid from  
21 California source income pursuant to the formula set  
22 forth in paragraphs (1) ~~through (3)~~ to (3), inclusive,  
23 based upon the receipts, payroll and property of that  
24 other insurance company.

25 (d) The insurance company from which the dividends  
26 are received shall furnish that information as the  
27 Franchise Tax Board may require to determine the  
28 allocation formula and the Franchise Tax Board may  
29 adopt those regulations as it deems necessary to  
30 effectuate the purpose of this section.

31 ~~Nothing~~

32 (e) *Section 24425 shall not apply to any expense that*  
33 *is related to dividends that are deductible under*  
34 *subdivision (a).*

35 (f) *Nothing* in this section shall be construed to limit  
36 or affect in any manner any other provisions of this part.

37 *SEC. 3. The Legislature intends that this act not be*  
38 *construed to have any effect on the interpretation or*  
39 *application of Sections 24344, 24410, and 24425 of the*



1 *Revenue and Taxation Code prior to the effective date of*  
2 *this act.*

3 *SEC. 4. This act provides for a tax levy within the*  
4 *meaning of Article IV of the Constitution and shall go into*  
5 *immediate effect.*

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