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SB-907 Personal income taxes: gross income exclusion: mortgage debt forgiveness. (2015-2016)

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ENROLLED SEPTEMBER 07, 2016

PASSED IN SENATE AUGUST 31, 2016

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AMENDED IN ASSEMBLY JUNE 23, 2016

AMENDED IN SENATE MARCH 28, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

NO. 907

Introduced by Senator Galgiani
(Principal coauthor: Senator Cannella)
(Principal coauthor: Assembly Member Bonta)
(Coauthor: Senator Nguyen)
(Coauthors: Assembly Members Bigelow and Gordon)

January 25, 2016

An act to amend Section 17144.5 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 907, Galgiani. Personal income taxes: gross income exclusion: mortgage debt forgiveness.

The Personal Income Tax Law provides for modified conformity to specified provisions of federal income tax law relating to the exclusion of the discharge of qualified principal residence indebtedness, as defined, from an individual's income if that debt is discharged after January 1, 2007, and before January 1, 2014, as provided. The federal Tax Increase Prevention Act of 2014 extended the operation of those provisions to debt that is discharged before January 1, 2015. The federal Protecting Americans from Tax Hikes Act of 2015 extended the operation of those provisions to debt that is discharged before January 1, 2017, and provides that its discharge provisions apply to specified written agreements entered into before January 1, 2017.

This bill would conform to that additional discharge provision relating to specified written agreements and the federal extensions, some of which would be applied retroactively. The bill would discharge indebtedness for related penalties and interest and would make legislative findings and declarations regarding the public purpose served by the bill.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17144.5 of the Revenue and Taxation Code is amended to read:

17144.5. (a) Section 108(a)(1)(E) of the Internal Revenue Code, is modified to provide that the amount excluded from gross income shall not exceed \$500,000 (\$250,000 in the case of a married individual filing a separate return).

(b) Section 108(h)(2) of the Internal Revenue Code, relating to qualified principal residence indebtedness, is modified by substituting the phrase "(within the meaning of section 163(h)(3)(B), applied by substituting '\$800,000' for '\$1,000,000' (\$500,000' in clause (ii) thereof)" for the phrase "(within the meaning of section 163(h)(3)(B), applied by substituting '\$2,000,000' for '\$1,000,000' (\$500,000' in clause (ii) thereof)" contained therein.

(c) This section shall apply to discharges of indebtedness occurring on or after January 1, 2007, and, notwithstanding any other law to the contrary, no penalties or interest shall be due with respect to the discharge of qualified principal residence indebtedness during the 2007, 2009, or 2013 taxable year regardless of whether or not the taxpayer reports the discharge on his or her return for the 2007, 2009, or 2013 taxable year.

(d) (1) The amendments made by Section 102 of the federal Tax Increase Prevention Act of 2014 (Public Law 113-295) to Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall apply.

(2) The changes made to this section by the act adding this paragraph shall apply to discharges of indebtedness that occur on or after January 1, 2014, and before January 1, 2015, and, notwithstanding any other law, no penalties or interest shall be due with respect to the discharge of qualified principal residence indebtedness during the 2014 taxable year, regardless of whether the taxpayer reports the discharge on his or her income tax return for the 2014 taxable year.

(e) (1) The amendments made by Section 151 of the federal Protecting Americans from Tax Hikes Act of 2015 (Division Q of Public Law 114-113) to Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, shall apply.

(2) Notwithstanding any other law, no penalties or interest shall be due with respect to the discharge of qualified principal residence indebtedness during the 2015 taxable year, regardless of whether the taxpayer reports the discharge on his or her income tax return for the 2015 taxable year.

SEC. 2. (a) The amendments made by this act that conform to the amendments made by Section 102 of the federal Tax Increase Prevention Act of 2014 (Public Law 113-295) to Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, apply to qualified principal residence indebtedness that is discharged on and after January 1, 2014, and before January 1, 2015.

(b) The Legislature finds and declares that the amendments made by this act and the retroactive application contained in the preceding sentence are necessary for the public purpose of conforming state law to the amendments to the Internal Revenue Code as made by the federal Tax Increase Prevention Act of 2014 (Public Law 113-295), thereby preventing undue hardship to taxpayers whose qualified principal residence indebtedness was discharged on and after January 1, 2014, and before January 1, 2015, and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 3. (a) The amendments made by this act that conform to the amendments made by Section 151 of the federal Protecting Americans from Tax Hikes Act of 2015 (Division Q of Public Law 114-113) to Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, apply to qualified principal residence indebtedness that is discharged on and after January 1, 2015, and before January 1, 2017, except for any discharge of qualified principal residence indebtedness that is subject to an arrangement that is entered into and evidenced in writing before January 1, 2017, in which case the amendments made by this act that conform to the amendments made by Section 151 of the Protecting Americans from Tax Hikes Act of 2015 (Division Q of Public Law 114-113) apply to qualified principal residence indebtedness that is discharged after January 1, 2017.

(b) The Legislature finds and declares that the amendments made by this act and the retroactive application contained in the preceding sentence regarding debt discharged before January 1, 2016, are necessary for the public purpose of conforming state law to the amendments to the Internal Revenue Code as made by the federal Protecting Americans from Tax Hikes Act of 2015 (Division Q of Public Law 114-113), thereby preventing undue hardship to taxpayers whose qualified principal residence indebtedness was discharged on and after January 1, 2015, and before January 1, 2016, and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide tax relief to distressed homeowners at the earliest possible time, it is necessary that this act take effect immediately.