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AB-1518 Income taxes: administration: nonresident aliens: identifying numbers: group filing. (2025-2026)

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Assembly Bill No. 1518

CHAPTER 73

An act to amend Sections 17132.1, 18537, and 19136 of, and to amend and repeal Sections 18624 and 19002 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 28, 2025. Filed with Secretary of State July 28, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1518, Committee on Revenue and Taxation. Income taxes: administration: nonresident aliens: identifying numbers: group filing.

The Personal Income Tax Law imposes a tax on the taxable income of an individual taxpayer subject to that law, and provides for specified treatment of the income of nonresidents. Existing law requires every taxpayer subject to tax under the law to file a return with the Franchise Tax Board, and requires specified identifying numbers to be included on state tax returns, statements, and other documents, including a federal social security number (SSN) or individual tax identification number (ITIN), unless otherwise provided.

Existing law, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, prohibits the Franchise Tax Board from requiring a nonresident alien, as defined, to provide an SSN or ITIN when filing a state tax return, statement, or other document if the nonresident alien is not eligible for or has not been issued an SSN or ITIN. Existing law, for taxable years beginning on or after January 1, 2021, and before January 1, 2026, also requires the Franchise Tax Board to provide for the filing of a group return for electing nonresident aliens, as specified, and excludes from gross income any payments made by an agent on behalf of a nonresident in a group filing.

This bill would extend indefinitely the prohibition on the Franchise Tax Board from requiring a nonresident alien to provide an SSN or ITIN, as described above, the requirement that the Franchise Tax Board provide for the filing of a group return for electing nonresident aliens, as specified, and the exclusion from gross income for any payments made by an agent on behalf of a nonresident in a group filing. The bill would make additional conforming changes related to these provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 17132.1 of the Revenue and Taxation Code is amended to read:

17132.1. For taxable years beginning on or after January 1, 2021, a nonresident alien's gross income does not include any payment made by an agent pursuant to subdivision (c) of Section 18537.

SEC. 2. Section 18537 of the Revenue and Taxation Code is amended to read:

18537. (a) For taxable years beginning on or after January 1, 2021, in lieu of nonresident aliens filing a return pursuant to Section 18501, the Franchise Tax Board shall provide for the filing of a group return by a taxpayer, or an entity authorized by the taxpayer to file on its behalf, for one or more electing nonresident aliens who receive taxable income as computed under paragraph (1) of subdivision (i) of Section 17041 from that taxpayer for services that take place in this state.

(b) For a nonresident alien electing to file in a group return pursuant to subdivision (a), the tax rate or rates applicable to each nonresident's taxable income for services performed in this state for that taxpayer shall consist of the highest marginal rate or rates provided for by Part 10 (commencing with Section 17001) plus, in the case of any electing nonresident alien included on the group return who would be subject to Section 17043 when filing individually, an additional tax rate of 1 percent, and no deductions or credits shall be allowed, except credits allowed under Section 19002.

(c) The taxpayer, or an entity authorized by the taxpayer to file on its behalf, as the agent for the electing nonresident aliens, shall make the payments of tax, additions to tax, interest, and penalties otherwise required to be paid by, or imposed on, the electing nonresident aliens.

(d) Pursuant to Section 18624, the Franchise Tax Board shall not require a nonresident alien who is not eligible for or has not been issued a federal social security number (SSN) or a federal individual taxpayer identification number (ITIN) to provide a SSN or ITIN in order to file in a group return under this section. If the nonresident alien subsequently becomes eligible for and is issued a SSN or ITIN, the Franchise Tax Board may require the nonresident alien to provide a letter or other form documenting the nonresident alien's SSN or ITIN.

(e) The Franchise Tax Board may adjust the income of an electing nonresident alien taxpayer included in a group return filed under this section to properly reflect the income under Part 10 (commencing with Section 17001).

(f) (1) The Franchise Tax Board may adopt regulations as necessary or appropriate to carry out the purposes of this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board.

(g) For purposes of this section, "nonresident alien" shall have the same meaning as described in subdivision (f) of Section 18624.

SEC. 3. Section 18624 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 102 of the Statutes of 2020, is amended to read:

18624. (a) Section 6109 of the Internal Revenue Code, relating to identifying numbers, shall apply, except as otherwise provided.

(b) Identifying numbers shall be required on state tax returns, statements, or other documents in the form and manner as the Franchise Tax Board may require.

(c) Section 6109(h) of the Internal Revenue Code, relating to identifying information required with respect to certain seller-provided financing, shall not apply.

(d) The amendments made to Section 6109(a) of the Internal Revenue Code, relating to identifying number of income tax return preparer, by Public Law 105-206 shall apply.

(e) The amendments made by Chapter 931 of the Statutes of 1999 shall be operative on the effective date of that chapter.

(f) (1) For taxable years beginning on or after January 1, 2021, the Franchise Tax Board shall not require a nonresident alien who is not eligible for or has not been issued a federal social security number (SSN) or a federal individual taxpayer identification number (ITIN) to provide a SSN or ITIN in order to file a state tax return, statement, or other document required under this part. If a nonresident alien subsequently becomes eligible for and is issued a SSN or ITIN, the Franchise Tax Board may require the nonresident alien to provide a letter or other form documenting the nonresident alien's SSN or ITIN.

(2) For purposes of this subdivision, "nonresident alien" shall mean a nonresident, as defined in Section 17015, who also meets the requirements of Section 7701(b)(1)(B) of the Internal Revenue Code.

SEC. 4. Section 18624 of the Revenue and Taxation Code, as added by Section 4 of Chapter 102 of the Statutes of 2020, is repealed.

SEC. 5. Section 19002 of the Revenue and Taxation Code, as amended by Section 5 of Chapter 102 of the Statutes of 2020, is amended to read:

19002. (a) The amount withheld under Article 5 (commencing with Section 18661) of Chapter 2 or Section 13020 of the Unemployment Insurance Code during any calendar year shall be allowed to the recipient of the income as a credit against the tax for the taxable year with respect to which the amount was withheld.

(b) In the case of a partnership, limited liability company classified as a partnership for California income tax purposes, or S corporation filing a group return as agent for electing nonresident partners or shareholders in accordance with Section 18535, for purposes of this part, the amount withheld under Article 5 (commencing with Section 18661) of Chapter 2 during any taxable year shall be allowed as a credit attributable to the partnership, limited liability company, or S corporation on the group return for the taxable year with respect to which that amount was withheld.

(c) (1) For purposes of Section 19306, any tax actually deducted and withheld during any calendar year under Article 5 (commencing with Section 18661) of Chapter 2 or Section 13020 of the Unemployment Insurance Code shall, in respect of the recipient of the income, be deemed to have been paid on the last day prescribed for filing the return under Article 1 (commencing with Section 18501) or Article 2 (commencing with Section 18601) of Chapter 2 (without regard to any extension of time for filing the return), with respect to which the tax is allowable as a credit under subdivision (a) or (b).

(2) For purposes of Sections 19306 and 19340, any amount paid as estimated tax under Section 19025 or 19136 of this code or Section 13043 of the Unemployment Insurance Code for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return under Article 1 (commencing with Section 18501) or Article 2 (commencing with Section 18601) of Chapter 2 (without regard to any extension of time for filing the return).

(d) Notwithstanding subdivision (b) or (c), for purposes of Section 19306 with respect to any tax deducted and withheld under Article 5 (commencing with Section 18661) of Chapter 2 or Section 13020 of the Unemployment Insurance Code both of the following shall apply:

(1) If a return is filed before the due date for that return, the return shall be considered filed on the due date.

(2) If a tax with respect to an amount paid is paid before the due date for that return, the tax shall be considered paid on the due date.

(e) If any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, that amount shall be considered as a payment of estimated tax in accordance with Section 19007, for the succeeding taxable year, and no claim for credit or refund of the overpayment shall be allowed for the taxable year in which the overpayment arises.

(f) In the case of a nonresident alien electing to file in a group return pursuant to Section 18537, the amount withheld under Article 5 (commencing with Section 18661) of Chapter 2 or Section 13020 of the Unemployment Insurance Code during any calendar year shall be allowed to the recipient of the income as a credit against the tax for the taxable year with respect to which the amount was withheld.

SEC. 6. Section 19002 of the Revenue and Taxation Code, as added by Section 6 of Chapter 102 of the Statutes of 2020, is repealed.

SEC. 7. Section 19136 of the Revenue and Taxation Code is amended to read:

19136. (a) Section 6654 of the Internal Revenue Code, relating to failure by an individual to pay estimated income tax, applies, except as otherwise provided.

(b) Section 6654(a)(1) of the Internal Revenue Code is modified to refer to the rate determined under Section 19521 in lieu of Section 6621 of the Internal Revenue Code.

(c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating to exceptions where the tax is a small amount, does not apply.

(2) An addition to tax shall not be imposed under this section if the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 for the preceding taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, or the tax computed under Section 17041 or 17048 upon the estimated income for the taxable year, minus the sum of any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, is less than five hundred dollars (\$500), except in the case of a separate return filed by a married person the amount shall be less than two hundred fifty dollars (\$250).

(d) Section 6654(f) of the Internal Revenue Code does not apply and for purposes of this section the term "tax" means the tax imposed under Section 17041 or 17048 and the tax imposed under Section 17062 less any credits against the tax provided by Part 10 (commencing with Section 17001) or this part, other than the credit provided by subdivision (a) of Section 19002.

(e) (1) The credit for tax withheld on wages, as specified in Section 6654(g) of the Internal Revenue Code, is the credit allowed under subdivision (a) of Section 19002.

(2) (A) Section 6654(g)(1) of the Internal Revenue Code is modified by substituting the phrase “the applicable percentage” for the phrase “an equal part.”

(B) For purposes of this paragraph, “applicable percentage” means the percentage amount prescribed under Section 6654(d)(1)(A) of the Internal Revenue Code, as modified by subdivision (a) of Section 19136.1.

(f) This section applies to a nonresident individual.

(g) (1) An addition to tax shall not be imposed under this section to the extent that the underpayment was created or increased by either of the following:

(A) Any law that is chaptered during and operative for the taxable year of the underpayment.

(B) If, for a taxable year prior to its repeal, the adjustment factor for the credit authorized by Section 17052 for the taxable year was less than the adjustment factor for that credit for the preceding taxable year.

(2) (A) Notwithstanding Section 18415, subparagraph (A) of paragraph (1) applies to penalties imposed under this section on or after January 1, 2005.

(B) Notwithstanding Section 18415, subparagraph (B) of paragraph (1) applies to penalties imposed under this section on or after January 1, 2016.

(h) The amendments made to this section by Section 5 of Chapter 305 of the Statutes of 2008 apply to taxable years beginning on or after January 1, 2009.

(i) The amendments made to this section by Section 3 of Chapter 15 of the Fourth Extraordinary Session of the Statutes of 2009 apply to amounts withheld on wages beginning on or after January 1, 2009.

(j) Notwithstanding subdivision (f), this section shall not apply to a nonresident individual electing to file in a group return pursuant to Section 18537, for taxable years beginning on or after January 1, 2026.