

ASSEMBLY BILL

No. 1116

**Introduced by Committee on Revenue and Taxation (Corbett
(Chair), Harman (Vice Chair), Alquist, Aroner, Cedillo, Koretz,
Matthews, and Wyland)**

February 23, 2001

An act to amend Sections 18665 and 19043 of, and to add Section 19043.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as introduced, Committee on Revenue and Taxation. Income taxes: bank and corporation taxes.

Existing law defines “deficiency” for purposes of the Personal Income Tax Law and the Bank and Corporation Tax Law.

This bill would revise that definition to delete the provision specifying that “deficiency” includes the amount by which a credit subject to carryover is reduced by any action of the Franchise Tax Board.

This bill would specify the applicable administrative procedures if the Franchise Tax Board determines that the amount of a carryover disclosed by the taxpayer on an original or amended return is more than the amount of the carryover disclosed by its own examination.

This bill also would make changes with respect to the operative date of provisions effecting changes in withholding.

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 18665 of the Revenue and Taxation
2 Code is amended to read:

3 18665. Unless otherwise specifically provided, the provisions
4 of any law effecting changes in withholding shall ~~begin with~~ *apply*
5 *to* withholding in the calendar year succeeding the year the
6 provision was chaptered, or *in the calendar year* the provision is
7 operative, whichever is later.

8 SEC. 2. Section 19043 of the Revenue and Taxation Code is
9 amended to read:

10 19043. (a) For purposes of this part, “deficiency” means the
11 amount by which the tax imposed by Part 10 (commencing with
12 Section 17001) or Part 11 (commencing with Section 23001)
13 exceeds the excess of—

14 (1) The sum of—

15 (A) The amount shown as the tax by the taxpayer on an original
16 or amended return, if an original or amended return was filed, plus

17 (B) The amounts previously assessed (or collected without
18 assessment) as a deficiency, over—

19 (2) The amount of rebates, as defined in paragraph (2) of
20 subdivision (b), made.

21 (b) For purposes of this section:

22 (1) The tax imposed by Part 10 (commencing with Section
23 17001) and Part 11 (commencing with Section 23001) and the tax
24 shown on an original or amended return shall both be determined
25 without regard to payments on account of estimated tax, and
26 without regard to the credit under Section 19002.

27 (2) “Rebate” means so much of an abatement, credit, refund,
28 or other repayment, as was made on the ground that the tax
29 imposed by Part 10 (commencing with Section 17001) or Part 11
30 (commencing with Section 23001) was less than the excess of the
31 amount specified in paragraph (1) of subdivision (a) over the
32 rebates previously made.

33 ~~(3) “Deficiency” includes the amount by which a credit~~
34 ~~subject to carryover is reduced by any action of the Franchise Tax~~
35 ~~Board.~~

36 SEC. 3. Section 19043.5 is added to the Revenue and Taxation
37 Code, to read:



1 19043.5. (a) (1) If the Franchise Tax Board determines that
2 the amount of a carryover disclosed by the taxpayer on an original
3 or amended return, including an amended return reporting federal
4 adjustments pursuant to Section 18622, is more than the amount
5 of the carryover disclosed by its own examination, it may mail a
6 notice or notices to the taxpayer of the proposed carryover
7 adjustment and the proposed adjusted carryover amount.

8 (2) For purposes of this section, “carryover” means the
9 amount of a credit, loss, deduction, or other item that is shown on
10 an original or amended return for carry forward to a subsequent
11 taxable year.

12 (b) Except as otherwise provided in this section, the provisions
13 of this article applicable to a proposed deficiency assessment shall
14 be applicable to a proposed adjusted carryover amount, including
15 protest and appeal rights as if that proposed adjusted carryover
16 amount were a proposed deficiency assessment.

17 (c) (1) A proposed adjusted carryover amount shall become a
18 final adjusted carryover amount under this section following a
19 determination of the board regarding that proposed adjusted
20 carryover amount that becomes final pursuant to the provisions of
21 Section 19048.

22 (2) A final adjusted carryover amount shall be binding and
23 conclusive with respect to the amount of that carryover for
24 purposes of Part 10 (commencing with Section 17001), this part,
25 and Part 11 (commencing with Section 23001), except in the
26 following circumstances:

27 (A) In the event of fraud, malfeasance, or misrepresentation of
28 a material fact.

29 (B) Subject to any provision of the Revenue and Taxation Code
30 that expressly provides that effect be given to that provision
31 notwithstanding any other law or rule of law.

32 (C) Subject to any law that is, or becomes, operative with
33 respect to a taxable year affected by the final adjusted carryover
34 amount.

35 (D) Subject to any final federal adjustment that is made with
36 respect to the taxpayer’s federal income tax liability for a taxable
37 year affected by the final adjusted carryover amount.

38 (E) In an action brought pursuant to provisions of Section
39 19382.



1 (d) (1) In any case where there is a final adjusted carryover
2 amount with respect to a carryover, the taxpayer shall report that
3 final adjusted carryover amount on an original or amended return
4 for any subsequent year.

5 (2) If a taxpayer fails to comply with paragraph (1), then any
6 adjustment required to make the amount of the carryover shown
7 on the return for any year consistent with the final adjusted
8 carryover amount shall be treated as arising out of a mathematical
9 error and assessed and collected under Section 19051.

10 (e) Except as provided in subdivision (c), this section shall not
11 affect the determination, issuance, assessment, collection, or
12 validity of a deficiency assessment under this part.

