

ASSEMBLY BILL

No. 1122

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 17037, 18417, 19378, 19604, 19607, 19705, 21006, 21027, 23001, 23055, and 24453 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1122, as introduced, Committee on Revenue and Taxation. Income and corporation taxes: electronic: corporations.

Under existing law, the Franchise Tax Board has adopted a policy of using electronic postmarks as the filing date of electronically filed tax returns.

This bill would codify that policy by conforming to provisions of federal income tax law that allow electronic postmarks as proof of the date electronically filed tax returns are deemed to be filed.

The Bank and Corporation Tax Law imposes taxes upon income, as provided.

This bill would change the name of that law to the Corporation Tax Law and make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17037 of the Revenue and Taxation
2 Code is amended to read:
3 17037. Provisions in other codes or general law statutes which
4 are related to this part include all of the following:
5 (a) Chapter 20.6 (commencing with Section 9891) of Division
6 3 of the Business and Professions Code, relating to tax preparers.
7 (b) Part 10.2 (commencing with Section 18401), relating to the
8 administration of franchise and income tax laws.
9 (c) Part 10.5 (commencing with Section 20501), relating to the
10 Property Tax Assistance and Postponement Law.
11 (d) Part 10.7 (commencing with Section 21001), relating to the
12 Taxpayers' Bill of Rights.
13 (e) Part 11 (commencing with Section 23001), relating to the
14 ~~Bank and~~ Corporation Tax Law.
15 (f) Sections 15700 to 15702.1, inclusive, of the Government
16 Code, relating to the Franchise Tax Board.
17 SEC. 2. Section 18417 of the Revenue and Taxation Code is
18 amended to read:
19 18417. Provisions in other codes or general law statutes that
20 are related to this part include all of the following:
21 (a) Chapter 20.6 (commencing with Section 9891) of Division
22 3 of the Business and Professions Code, relating to tax preparers.
23 (b) Sections 1502, 2204 to 2206, inclusive, 6210, 6810, 8210,
24 and 8810 of the Corporations Code, relating to the corporation
25 officer statement penalty.
26 (c) Section 2104 of the Corporations Code, which prevents the
27 application of any provision of this part against any foreign
28 lending institution whose activities in this state are limited to those
29 described in subdivision (d) of Section 191 of the Corporations
30 Code.
31 (d) Sections 15700 to 15702.1, inclusive, of the Government
32 Code, relating to the Franchise Tax Board.
33 (e) Part 10 (commencing with Section 17001) of this division,
34 relating to the Personal Income Tax Law.
35 (f) Part 10.5 (commencing with Section 20501) of this
36 division, relating to the Senior Citizens Property Tax Assistance
37 and Postponement Law.



1 (g) Part 10.7 (commencing with Section 21001) of this
2 division, relating to the Taxpayers' Bill of Rights.

3 (h) Part 11 (commencing with Section 23001) of this division,
4 relating to the ~~Bank and~~ Corporation Tax Law.

5 SEC. 3. Section 19378 of the Revenue and Taxation Code is
6 amended to read:

7 19378. (a) The Franchise Tax Board shall determine the
8 amount of the contracting costs incurred under Section 19377 and
9 notify the Controller of that amount which shall be transferred
10 from the Personal Income Tax Fund or the ~~Bank and~~ Corporation
11 Tax Fund to the Delinquent Tax Collection Fund, which is hereby
12 created.

13 (b) The Controller shall transfer that amount determined
14 pursuant to subdivision (a) from the Delinquent Tax Collection
15 Fund to the Franchise Tax Board for reimbursement of its
16 contracting costs. The moneys remaining in the Delinquent Tax
17 Collection Fund after disbursements shall be transferred to the
18 Personal Income Tax Fund or the ~~Bank and~~ Corporation Tax Fund
19 by the Controller upon notification by the Franchise Tax Board.
20 Notwithstanding Section 13340 of the Government Code, the
21 moneys transferred pursuant to this section are hereby
22 continuously appropriated, without regard to fiscal years.

23 (c) The funds generated through this section shall not be used
24 in place of funds from other sources that are available for
25 appropriation to the Franchise Tax Board.

26 (d) This section shall become operative on July 1, 1993.

27 SEC. 4. Section 19604 of the Revenue and Taxation Code is
28 amended to read:

29 19604. (a) Except for fees received for services under
30 Section 23305e, all moneys and remittances received by the
31 Franchise Tax Board as amounts imposed under Part 11
32 (commencing with Section 23001), and related penalties,
33 additions to tax, fees, and interest imposed under this part, shall be
34 deposited in a special fund in the State Treasury, to be designated
35 the ~~Bank and~~ Corporation Tax Fund. The moneys in the fund shall,
36 upon the order of the Controller, be drawn therefrom for the
37 purpose of making refunds under this part or be transferred into the
38 General Fund. All undelivered refund warrants shall be
39 redeposited into the ~~Bank and~~ Corporation Tax Fund upon receipt
40 by the Controller. Fees received for services under Section 23305e

1 shall be treated as reimbursement of the Franchise Tax Board’s
2 costs and shall be deposited into the General Fund.

3 (b) Notwithstanding Section 13340 of the Government Code,
4 all moneys in the ~~Bank and~~ Corporation Tax Fund are hereby
5 continuously appropriated, without regard to fiscal year, to the
6 Franchise Tax Board for purposes of making all payments as
7 provided in this section.

8 SEC. 5. Section 19607 of the Revenue and Taxation Code is
9 amended to read:

10 19607. All moneys and remittances received by the Franchise
11 Tax Board as amounts imposed under Sections 17935, 17941, and
12 17948 and related penalties, additions to tax, interest, and other
13 related amounts imposed under this part, shall be deposited, after
14 clearance of remittances, in the State Treasury and credited to the
15 ~~Bank and~~ Corporation Tax Fund.

16 SEC. 6. Section 19705 of the Revenue and Taxation Code is
17 amended to read:

18 19705. (a) Any person who does any of the following shall
19 be guilty of a felony and, upon conviction, shall be fined not more
20 than fifty thousand dollars (\$50,000) or imprisoned not more than
21 three years, or both, together with the costs of investigation and
22 prosecution:

23 (1) Willfully makes and subscribes any return, statement, or
24 other document, that contains or is verified by a written declaration
25 that it is made under penalty of perjury, and he or she does not
26 believe to be true and correct as to every material matter.

27 (2) Willfully aids or assists in, or procures, counsels, or advises
28 the preparation or presentation under, or in connection with any
29 matter arising under, the Personal Income Tax Law or the ~~Bank~~
30 ~~and~~ Corporation Tax Law, of a return, affidavit, claim, or other
31 document, that is fraudulent or is false as to any material matter,
32 whether or not that falsity or fraud is with the knowledge or
33 consent of the person authorized or required to present that return,
34 affidavit, claim, or document.

35 (3) Simulates or falsely or fraudulently executes or signs any
36 bond, permit, entry, or other document required by the provisions
37 of the Personal Income Tax Law or the ~~Bank and~~ Corporation Tax
38 Law, or by any regulation pursuant to that law, or procures the
39 same to be falsely or fraudulently executed or advises, aids in, or
40 connives at that execution.



1 (4) Removes, deposits, or conceals, or is concerned in
2 removing, depositing, or concealing, any goods or commodities
3 for or in respect whereof any tax is or shall be imposed, or any
4 property upon which levy is authorized by Chapter 5
5 (commencing with Section 19201); or Chapter 8 (commencing
6 with Section 688.010) of Division 1 of, and Chapter 5
7 (commencing with Section 706.010) of Division 2 of, Title 9 of the
8 Code of Civil Procedure, with intent to evade or defeat the
9 assessment or collection of any tax, additions to tax, penalty, or
10 interest imposed by Part 10 (commencing with Section 17001),
11 Part 11 (commencing with Section 23001), or this part.

12 (5) In connection with any settlement under Section 19442, or
13 offer of that settlement, or in connection with any closing
14 agreement under Section 19441 or offer to enter into that
15 agreement, or compromise under Section 19443, or offer of that
16 compromise, willfully does any of the following:

17 (A) Conceals from any officer or employee of this state any
18 property belonging to the estate of a taxpayer or other person liable
19 in respect of the tax.

20 (B) Receives, withholds, destroys, mutilates, or falsifies any
21 book, document, or record, or makes any false statement, relating
22 to the estate or financial condition of the taxpayer or other person
23 liable in respect of the tax.

24 (b) In the case of a corporation, the fifty thousand dollars
25 (\$50,000) limitation specified in subdivision (a) shall be increased
26 to two hundred thousand dollars (\$200,000).

27 (c) The fact that an individual's name is signed to a return,
28 statement, or other document filed, including a return, statement,
29 or other document filed using electronic technology pursuant to
30 Section 18621.5, shall be prima facie evidence for all purposes that
31 the return, statement, or other document was actually signed by
32 him or her.

33 (d) For purposes of this section, "person" means the taxpayer,
34 any member of the taxpayer's family, any corporation, agent,
35 fiduciary, or representative of, or any other individual or entity
36 acting on behalf of, the taxpayer, or any other corporation or entity
37 owned or controlled by the taxpayer, directly or indirectly, or
38 which owns or controls the taxpayer, directly or indirectly.

39 (e) The changes made to this section by the act adding this
40 subdivision apply to offers made on or after January 1, 1999.



1 SEC. 7. Section 21006 of the Revenue and Taxation Code is
 2 amended to read:

3 21006. (a) The board shall perform annually a systematic
 4 identification of areas of recurrent taxpayer noncompliance and
 5 shall report its findings to the Legislature on October 1 of each
 6 year.

7 (b) As part of the identification process described in
 8 subdivision (a), the board shall do both of the following:

9 (1) Compile and analyze sample data from its audit process,
 10 including, but not limited to, all of the following:

11 (A) The statute or regulation violated by the taxpayer.

12 (B) The amount of tax involved.

13 (C) The industry or business engaged in by the taxpayer.

14 (D) The number of years covered in the audit period.

15 (E) Whether professional tax preparation assistance was
 16 utilized by the taxpayer.

17 (F) Whether income tax or bank and corporation tax returns
 18 were filed by the taxpayer.

19 (2) Conduct an annual hearing before the board itself where
 20 industry representatives and individual taxpayers are allowed to
 21 present their proposals on changes to the Personal Income Tax Law
 22 or the ~~Bank and~~ Corporation Tax Law which may further facilitate
 23 achievement of the legislative findings.

24 (c) The board shall include in its report recommendations for
 25 improving taxpayer compliance and uniform administration,
 26 including, but not limited to, all of the following:

27 (1) Changes in statute or board regulations.

28 (2) Improvement of training of board personnel.

29 (3) Improvement of taxpayer communication and education.

30 (4) Increased enforcement capabilities.

31 SEC. 8. Section 21027 of the Revenue and Taxation Code is
 32 amended to read:

33 21027. (a) (1) For purposes of Part 10 (commencing with
 34 Section 17001), Part 11 (commencing with Section 23001), or this
 35 part or any other law that is applicable to the mailing of any returns,
 36 payments, or any other items required to be filed under Part 10
 37 (commencing with Section 17001), Part 11 (commencing with
 38 Section 23001), or this part, any reference in Section 11003 of the
 39 Government Code to the United States mail shall be treated as
 40 including a reference to any designated delivery service, and any



1 reference in that section to a post office cancellation mark shall be
2 treated as including a reference to any date recorded electronically
3 by a designated delivery service, kept in the regular course of the
4 designated delivery service's business, or marks on the cover in
5 which any item is to be delivered to the board that indicate the date
6 on which the item was given to the designated delivery service for
7 delivery.

8 ~~(b)~~

9 (2) For purposes of this section, "designated delivery service"
10 means any delivery service provided by a trade or business if that
11 service is designated by the Secretary of the Treasury under the
12 authority of Section 7502(f) of the Internal Revenue Code, as
13 amended by Public Law 104-168.

14 ~~(c) This section is operative for items given to designated~~
15 ~~delivery services on or after January 1, 1998.~~

16 (b) *Regulations of the Secretary of the Treasury under the*
17 *authority of Section 7502 (c) (2) of the Internal Revenue Code*
18 *(relating to prima facie evidence of delivery and postmark date for*
19 *electronic filing) shall be applicable for prima facie evidence of*
20 *delivery and the postmark date for purposes of Part 10*
21 *(commencing with Section 17001), Part 10.2 (commencing with*
22 *Section 18401), Part 11 (commencing with Section 23001), this*
23 *part, or Section 11003 of the Government Code.*

24 SEC. 9. Section 23001 of the Revenue and Taxation Code is
25 amended to read:

26 23001. This part is known and may be cited as the ~~Bank and~~
27 ~~Corporation Tax Law.~~

28 SEC. 10. Section 23055 of the Revenue and Taxation Code is
29 amended to read:

30 23055. Any provision of this part which refers to the
31 application of any portion of this part to a prior period (or which
32 depends upon the application to a prior period of any portion of this
33 part) shall, when appropriate and consistent with the purpose of
34 ~~such~~ that provision, be deemed to refer to (or depend upon the
35 application of) the corresponding provision of Part 11 of Division
36 2 of the Revenue and Taxation Code or of ~~such any other Bank and~~
37 ~~Corporation Tax Laws~~ *corporation tax laws* as were applicable to
38 the prior period.

39 SEC. 11. Section 24453 of the Revenue and Taxation Code is
40 amended to read:



1 24453. Section 302(c)(2) of the Internal Revenue Code,
2 relating to determining termination of interest, is modified to refer
3 to the periods of limitation provided in “Chapter 4 (commencing
4 with Section 19001) and Chapter 5 (commencing with Section
5 19201) of Part 10.2,” in lieu of “Sections 6501 and 6502” of the
6 Internal Revenue Code and to refer to “taxes imposed under the
7 Personal Income Tax Law” and the ~~“Bank and Corporation~~
8 “*Corporation* Tax Law,” in lieu of “Federal income tax.”

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