

ASSEMBLY BILL

No. 34

Introduced by Assembly Member Charles Calderon

September 5, 2008

An act to amend Sections 17020.6, 17024.5, 17041, 17052.12, 17063, 17072, 17085, 17132.5, 17152, 17206, 17250, 17250.5, 17275.5, 17501, 17551, 17952.5, 18165, 18180, 18631, 19116, 19134, 19164, 19166, 19172, 19179, 19443, 21015.5, 23045, 23051.5, 23609, 23772, 24305, 24357, 24357.1, 24357.7, 24949.5, 24990.6, and 24993 of, to add Sections 17020.15, 17132.8, 17144.5, 17225, 17257, 17257.2, 17257.4, 17755, 18037.5, 18155.6, 19172.5, 19185, 19186, 23046.5, 23703.7, 24329, 24462, 24950.5, and 24990.8 to, and to repeal Sections 24981 and 24988 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 34, as introduced, Charles Calderon. Taxation: federal conformity. Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2005, the specified date of those referenced Internal Revenue Code sections is January 1, 2005, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill,

and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2008, for taxable years beginning on or after January 1, 2008, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2005, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, with respect to, among other things, the tax treatment of certain disaster mitigation payments, depreciation of electric transmission property and natural gas gathering lines, nuclear decommissioning cost provisions, a small refiner exception to oil depletion deduction, recapture rules for amortizable Section 197 intangibles, amortization of expenses incurred in creating or acquiring music or music copyrights, treatment of certain self-created musical works and qualified retirement income, funding for self-employed defined benefit pension plans and for multiemployer defined benefit pension plans, withdrawals from retirement plans for individuals called to active duty, waiver of an early withdrawal penalty tax on certain distributions of pension plans for public safety employees, allowance of additional IRA payments in certain bankruptcy cases, inflation indexing of gross income limitations on certain retirement savings incentives, treatment of death benefits from corporate-owned life insurance, exemption of income from leveraged real estate held by church plans, gratuitous transfer for benefits of employees, exclusion from gross income with respect to a specified tragic event, discharge of qualified principal residence indebtedness, penalties for bad checks, penalty for understatement of taxpayer's liability by a tax preparer, frivolous tax submissions, exclusion of gain from sale of principal residence by certain employees of the intelligence community, sale of property by judicial officers, excise tax on UBTI of charitable remainder trusts, certain listed and reportable transactions provisions, the taxation of certain settlement funds, the active business requirement, loans to qualified continuing care facilities, exception from suspension rules, and specified federal acts. This bill would also

increase the age of children whose unearned income is taxed as if a parent’s income, would increase the penalty for willful failure to file specified returns, and would revise, in modified conformity with the federal income tax laws, various provisions applicable to tax-exempt organizations.

This bill would also specify various dates on which specified provisions apply, make findings and declarations that certain provisions are declaratory of existing law, specify the intent and operation in the application of provisions conforming to various federal acts, and repeal obsolete provisions.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 10, 2008, pursuant to the California Constitution.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: 2/3. 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 17020.6 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17020.6. For purposes of this part:
- 4 (a) Section 7702 of the Internal Revenue Code, relating to life
- 5 insurance contracts, shall apply, except as otherwise provided.
- 6 (b) Section 7702A of the Internal Revenue Code, relating to
- 7 modified endowment contracts, shall apply, except as otherwise
- 8 provided.
- 9 (c) (1) Section 7702B of the Internal Revenue Code, relating
- 10 to treatment of qualified long-term care insurance, shall apply,
- 11 except as otherwise provided.
- 12 (2) *The amendments made by Section 844 of the Pension*
- 13 *Protection Act of 2006 (Public Law 109-280) to Section 7702B of*
- 14 *the Internal Revenue Code shall not apply.*
- 15 SEC. 2. Section 17020.15 is added to the Revenue and Taxation
- 16 Code, to read:

1 17020.15. (a) Section 7701(o) of the Internal Revenue Code,
2 relating to convention or association of churches, shall apply,
3 except as otherwise provided.

4 (b) The phrase “this part” shall be substituted for “this title” in
5 Section 7701(o) of the Internal Revenue Code.

6 SEC. 3. Section 17024.5 of the Revenue and Taxation Code
7 is amended to read:

8 17024.5. (a) (1) Unless otherwise specifically provided, the
9 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
10 or “Internal Revenue Code of 1986,” for purposes of this part,
11 mean Title 26 of the United States Code, including all amendments
12 thereto as enacted on the specified date for the applicable taxable
13 year as follows:

Taxable Year	Specified Date of Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
(H) For taxable years beginning on or after	

1 January 1, 1991, and on or before December
2 31, 1991..... January 1, 1991
3 (I) For taxable years beginning on or after
4 January 1, 1992, and on or before December
5 31, 1992..... January 1, 1992
6 (J) For taxable years beginning on or after
7 January 1, 1993, and on or before December
8 31, 1996..... January 1, 1993
9 (K) For taxable years beginning on or after
10 January 1, 1997, and on or before December
11 31, 1997..... January 1, 1997
12 (L) For taxable years beginning on or after
13 January 1, 1998, and on or before December
14 31, 2001..... January 1, 1998
15 (M) For taxable years beginning on or after
16 January 1, 2002, and on or before December
17 31, 2004..... January 1, 2001
18 (N) For taxable years beginning on or after
19 January 1, 2005, *and on or before December*
20 *31, 2007*..... January 1, 2005
21 (O) For taxable years beginning on or after
22 *January 1, 2008*..... *January 1, 2008*
23

24 (2) (A) Unless otherwise specifically provided, for federal laws
25 enacted on or after January 1, 1987, and on or before the specified
26 date for the taxable year, uncodified provisions that relate to
27 provisions of the Internal Revenue Code that are incorporated for
28 purposes of this part shall be applicable to the same taxable years
29 as the incorporated provisions.

30 (B) In the case where Section 901 of the Economic Growth and
31 Tax Relief Act of 2001 (Public Law 107-16) applies to any
32 provision of the Internal Revenue Code that is incorporated for
33 purposes of this part, Section 901 of the Economic Growth and
34 Tax Relief Act of 2001 shall apply for purposes of this part in the
35 same manner and to the same taxable years as it applies for federal
36 income tax purposes.

37 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
38 H (Repeal of Expired or Obsolete Provisions) of the Revenue
39 Reconciliation Act of 1990 (Public Law 101-508) modified
40 numerous provisions of the Internal Revenue Code and provisions

1 of prior federal acts, some of which are incorporated by reference
2 into this part. Unless otherwise provided, the provisions described
3 in the preceding sentence, to the extent that they modify provisions
4 that are incorporated into this part, are declaratory of existing law
5 and shall be applied in the same manner and for the same periods
6 as specified in the Revenue Reconciliation Act of 1990.

7 (b) Unless otherwise specifically provided, when applying any
8 provision of the Internal Revenue Code for purposes of this part,
9 a reference to any of the following is not applicable for purposes
10 of this part:

11 (1) Except as provided in Chapter 4.5 (commencing with Section
12 23800) of Part 11 of Division 2, an electing small business
13 corporation, as defined in Section 1361(b) of the Internal Revenue
14 Code.

15 (2) Domestic international sales corporations (DISC), as defined
16 in Section 992(a) of the Internal Revenue Code.

17 (3) A personal holding company, as defined in Section 542 of
18 the Internal Revenue Code.

19 (4) A foreign personal holding company, as defined in Section
20 552 of the Internal Revenue Code.

21 (5) A foreign investment company, as defined in Section 1246(b)
22 of the Internal Revenue Code.

23 (6) A foreign trust, as defined in Section 679 of the Internal
24 Revenue Code.

25 (7) Foreign income taxes and foreign income tax credits.

26 (8) Section 911 of the Internal Revenue Code, relating to United
27 States citizens living abroad.

28 (9) A foreign corporation, except that Section 367 of the Internal
29 Revenue Code shall be applicable.

30 (10) Federal tax credits and carryovers of federal tax credits.

31 (11) Nonresident aliens.

32 (12) Deduction for personal exemptions, as provided in Section
33 151 of the Internal Revenue Code.

34 (13) The tax on generation-skipping transfers imposed by
35 Section 2601 of the Internal Revenue Code.

36 (14) The tax, relating to estates, imposed by Section 2001 or
37 2101 of the Internal Revenue Code.

38 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
39 and Section 172 of the Tax Reform Act of 1984 (Public Law

1 98-369), relating to treatment of debt instruments, is not applicable
2 for taxable years beginning before January 1, 1987.

3 (2) The provisions contained in Public Law 99-121, relating to
4 the treatment of debt instruments, is not applicable for taxable
5 years beginning before January 1, 1987.

6 (3) For each taxable year beginning on or after January 1, 1987,
7 the provisions referred to by paragraphs (1) and (2) shall be
8 applicable for purposes of this part in the same manner and with
9 respect to the same obligations as the federal provisions, except
10 as otherwise provided in this part.

11 (d) When applying the Internal Revenue Code for purposes of
12 this part, regulations promulgated in final form or issued as
13 temporary regulations by “the secretary” shall be applicable as
14 regulations under this part to the extent that they do not conflict
15 with this part or with regulations issued by the Franchise Tax
16 Board.

17 (e) Whenever this part allows a taxpayer to make an election,
18 the following rules shall apply:

19 (1) A proper election filed with the Internal Revenue Service
20 in accordance with the Internal Revenue Code or regulations issued
21 by “the secretary” shall be deemed to be a proper election for
22 purposes of this part, unless otherwise provided in this part or in
23 regulations issued by the Franchise Tax Board.

24 (2) A copy of that election shall be furnished to the Franchise
25 Tax Board upon request.

26 (3) (A) Except as provided in subparagraph (B), in order to
27 obtain treatment other than that elected for federal purposes, a
28 separate election shall be filed at the time and in the manner
29 required by the Franchise Tax Board.

30 (B) (i) If a taxpayer makes a proper election for federal income
31 tax purposes prior to the time that taxpayer becomes subject to the
32 tax imposed under this part or Part 11 (commencing with Section
33 23001), that taxpayer is deemed to have made the same election
34 for purposes of the tax imposed by this part, Part 10.2 (commencing
35 with Section 18401), and Part 11 (commencing with Section
36 23001), as applicable, and that taxpayer may not make a separate
37 election for California tax purposes unless that separate election
38 is expressly authorized by this part, Part 10.2 (commencing with
39 Section 18401), or Part 11 (commencing with Section 23001), or
40 by regulations issued by the Franchise Tax Board.

1 (ii) If a taxpayer has not made a proper election for federal
2 income tax purposes prior to the time that taxpayer becomes subject
3 to tax under this part or Part 11 (commencing with Section 23001),
4 that taxpayer may not make a separate California election for
5 purposes of this part, Part 10.2 (commencing with Section 18401),
6 or Part 11 (commencing with Section 23001), unless that separate
7 election is expressly authorized by this part, Part 10.2 (commencing
8 with Section 18401), or Part 11 (commencing with Section 23001),
9 or by regulations issued by the Franchise Tax Board.

10 (iii) This subparagraph applies only to the extent that the
11 provisions of the Internal Revenue Code or the regulation issued
12 by “the secretary” authorizing an election for federal income tax
13 purposes apply for purposes of this part, Part 10.2 (commencing
14 with Section 18401) or Part 11 (commencing with Section 23001).

15 (f) Whenever this part allows or requires a taxpayer to file an
16 application or seek consent, the rules set forth in subdivision (e)
17 shall be applicable with respect to that application or consent.

18 (g) When applying the Internal Revenue Code for purposes of
19 determining the statute of limitations under this part, any reference
20 to a period of three years shall be modified to read four years for
21 purposes of this part.

22 (h) When applying, for purposes of this part, any section of the
23 Internal Revenue Code or any applicable regulation thereunder,
24 all of the following shall apply:

25 (1) References to “adjusted gross income” shall mean the
26 amount computed in accordance with Section 17072, except as
27 provided in paragraph (2).

28 (2) (A) Except as provided in subparagraph (B), references to
29 “adjusted gross income” for purposes of computing limitations
30 based upon adjusted gross income, shall mean the amount required
31 to be shown as adjusted gross income on the federal tax return for
32 the same taxable year.

33 (B) In the case of registered domestic partners and former
34 registered domestic partners, adjusted gross income, for the
35 purposes of computing limitations based upon adjusted gross
36 income, shall mean the adjusted gross income on a federal tax
37 return computed as if the registered domestic partner or former
38 registered domestic partner was treated as a spouse or former
39 spouse, respectively, for federal income tax purposes, and used

1 the same filing status that was used on the state tax return for the
2 same taxable year.

3 (3) Any reference to “subtitle” or “chapter” shall mean this part.

4 (4) The provisions of Section 7806 of the Internal Revenue
5 Code, relating to construction of title, shall apply.

6 (5) Any provision of the Internal Revenue Code that becomes
7 operative on or after the specified date for that taxable year shall
8 become operative on the same date for purposes of this part.

9 (6) Any provision of the Internal Revenue Code that becomes
10 inoperative on or after the specified date for that taxable year shall
11 become inoperative on the same date for purposes of this part.

12 (7) Due account shall be made for differences in federal and
13 state terminology, effective dates, substitution of “Franchise Tax
14 Board” for “secretary” when appropriate, and other obvious
15 differences.

16 (8) *Except as otherwise provided, any reference to Section 501*
17 *of the Internal Revenue Code shall be interpreted to also refer to*
18 *Section 23701.*

19 (i) Any reference to a specific provision of the Internal Revenue
20 Code shall include modifications of that provision, if any, in this
21 part.

22 SEC. 4. Section 17041 of the Revenue and Taxation Code is
23 amended to read:

24 17041. (a) There shall be imposed for each taxable year upon
25 the entire taxable income of every resident of this state who is not
26 a part-year resident, except the head of a household as defined in
27 Section 17042, taxes in the following amounts and at the following
28 rates upon the amount of taxable income computed for the taxable
29 year as if the resident were a resident of this state for the entire
30 taxable year and for all prior taxable years for any carryover items,
31 deferred income, suspended losses, or suspended deductions:

32 If the taxable income is:	33 The tax is:
34 Not over \$3,650.....	1% of the taxable income
35 Over \$3,650 but not	
36 over \$8,650.....	\$36.50 plus 2% of the excess
37	over \$3,650
38 Over \$8,650 but not	
39 over \$13,650.....	\$136.50 plus 4% of the excess
40	over \$8,650

1	Over \$13,650 but not	
2	over \$18,950.....	\$336.50 plus 6% of the excess
3		over \$13,650
4	Over \$18,950 but not	
5	over \$23,950.....	\$654.50 plus 8% of the excess
6		over \$18,950
7	Over \$23,950.....	\$1,054.50 plus 9.3% of the excess
8		over \$23,950
9		

10 (b) (1) There shall be imposed for each taxable year upon the
 11 taxable income of every nonresident or part-year resident, except
 12 the head of a household as defined in Section 17042, a tax as
 13 calculated in paragraph (2).

14 (2) The tax imposed under paragraph (1) shall be calculated by
 15 multiplying the “taxable income of a nonresident or part-year
 16 resident,” as defined in subdivision (i), by a rate (expressed as a
 17 percentage) equal to the tax computed under subdivision (a) on
 18 the entire taxable income of the nonresident or part-year resident
 19 as if the nonresident or part-year resident were a resident of this
 20 state for the taxable year and as if the nonresident or part-year
 21 resident were a resident of this state for all prior taxable years for
 22 any carryover items, deferred income, suspended losses, or
 23 suspended deductions, divided by the amount of that income.

24 (c) There shall be imposed for each taxable year upon the entire
 25 taxable income of every resident of this state who is not a part-year
 26 resident for that taxable year, when the resident is the head of a
 27 household, as defined in Section 17042, taxes in the following
 28 amounts and at the following rates upon the amount of taxable
 29 income computed for the taxable year as if the resident were a
 30 resident of the state for the entire taxable year and for all prior
 31 taxable years for carryover items, deferred income, suspended
 32 losses, or suspended deductions:

33		
34	If the taxable income is:	The tax is:
35	Not over \$7,300.....	1% of the taxable income
36	Over \$7,300 but not	
37	over \$17,300.....	\$73 plus 2% of the excess
38		over \$7,300
39	Over \$17,300 but not	

1	over \$22,300.....	\$273 plus 4% of the excess
2		over \$17,300
3	Over \$22,300 but not	
4	over \$27,600.....	\$473 plus 6% of the excess
5		over \$22,300
6	Over \$27,600 but not	
7	over \$32,600.....	\$791 plus 8% of the excess
8		over \$27,600
9	Over \$32,600.....	\$1,191 plus 9.3% of the excess
10		over \$32,600

11
12 (d) (1) There shall be imposed for each taxable year upon the
13 taxable income of every nonresident or part-year resident when
14 the nonresident or part-year resident is the head of a household,
15 as defined in Section 17042, a tax as calculated in paragraph (2).

16 (2) The tax imposed under paragraph (1) shall be calculated by
17 multiplying the “taxable income of a nonresident or part-year
18 resident,” as defined in subdivision (i), by a rate (expressed as a
19 percentage) equal to the tax computed under subdivision (c) on
20 the entire taxable income of the nonresident or part-year resident
21 as if the nonresident or part-year resident were a resident of this
22 state for the taxable year and as if the nonresident or part-year
23 resident were a resident of this state for all prior taxable years for
24 any carryover items, deferred income, suspended losses, or
25 suspended deductions, divided by the amount of that income.

26 (e) There shall be imposed for each taxable year upon the taxable
27 income of every estate, trust, or common trust fund taxes equal to
28 the amount computed under subdivision (a) for an individual
29 having the same amount of taxable income.

30 (f) The tax imposed by this part is not a surtax.

31 (g) (1) Section 1(g) of the Internal Revenue Code, relating to
32 certain unearned income of ~~minor~~ children taxed as if the parent’s
33 income, shall apply, except as otherwise provided.

34 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,
35 relating to income included on parent’s return, is modified, for
36 purposes of this part, by substituting “1 percent” for “15 percent.”

37 (h) For each taxable year beginning on or after January 1, 1988,
38 the Franchise Tax Board shall recompute the income tax brackets
39 prescribed in subdivisions (a) and (c). That computation shall be
40 made as follows:

- 1 (1) The California Department of Industrial Relations shall
2 transmit annually to the Franchise Tax Board the percentage change
3 in the California Consumer Price Index for all items from June of
4 the prior calendar year to June of the current calendar year, no
5 later than August 1 of the current calendar year.
- 6 (2) The Franchise Tax Board shall do both of the following:
- 7 (A) Compute an inflation adjustment factor by adding 100
8 percent to the percentage change figure that is furnished pursuant
9 to paragraph (1) and dividing the result by 100.
- 10 (B) Multiply the preceding taxable year income tax brackets by
11 the inflation adjustment factor determined in subparagraph (A)
12 and round off the resulting products to the nearest one dollar (\$1).
- 13 (i) (1) For purposes of this part, the term “taxable income of a
14 nonresident or part-year resident” includes each of the following:
- 15 (A) For any part of the taxable year during which the taxpayer
16 was a resident of this state (as defined by Section 17014), all items
17 of gross income and all deductions, regardless of source.
- 18 (B) For any part of the taxable year during which the taxpayer
19 was not a resident of this state, gross income and deductions
20 derived from sources within this state, determined in accordance
21 with Article 9 of Chapter 3 (commencing with Section 17301) and
22 Chapter 11 (commencing with Section 17951).
- 23 (2) For purposes of computing “taxable income of a nonresident
24 or part-year resident” under paragraph (1), the amount of any net
25 operating loss sustained in any taxable year during any part of
26 which the taxpayer was not a resident of this state shall be limited
27 to the sum of the following:
- 28 (A) The amount of the loss attributable to the part of the taxable
29 year in which the taxpayer was a resident.
- 30 (B) The amount of the loss which, during the part of the taxable
31 year the taxpayer is not a resident, is attributable to California
32 source income and deductions allowable in arriving at taxable
33 income of a nonresident or part-year resident.
- 34 (3) For purposes of computing “taxable income of a nonresident
35 or part-year resident” under paragraph (1), any carryover items,
36 deferred income, suspended losses, or suspended deductions shall
37 only be includable or allowable to the extent that the carryover
38 item, deferred income, suspended loss, or suspended deduction
39 was derived from sources within this state, calculated as if the

1 nonresident or part-year resident, for the portion of the year he or
2 she was a nonresident, had been a nonresident for all prior years.

3 SEC. 5. Section 17052.12 of the Revenue and Taxation Code
4 is amended to read:

5 17052.12. For each taxable year beginning on or after January
6 1, 1987, there shall be allowed as a credit against the “net tax” (as
7 defined by Section 17039) for the taxable year an amount
8 determined in accordance with Section 41 of the Internal Revenue
9 Code, except as follows:

10 (a) For each taxable year beginning before January 1, 1997, the
11 reference to “20 percent” in Section 41(a)(1) of the Internal
12 Revenue Code is modified to read “8 percent.”

13 (b) (1) For each taxable year beginning on or after January 1,
14 1997, and before January 1, 1999, the reference to “20 percent”
15 in Section 41(a)(1) of the Internal Revenue Code is modified to
16 read “11 percent.”

17 (2) For each taxable year beginning on or after January 1, 1999,
18 and before January 1, 2000, the reference to “20 percent” in Section
19 41(a)(1) of the Internal Revenue Code is modified to read “12
20 percent.”

21 (3) For each taxable year beginning on or after January 1, 2000,
22 the reference to “20 percent” in Section 41(a)(1) of the Internal
23 Revenue Code is modified to read “15 percent.”

24 (c) Section 41(a)(2) of the Internal Revenue Code, relating to
25 basic research payments, shall not apply.

26 (d) “Qualified research” shall include only research conducted
27 in California.

28 (e) In the case where the credit allowed under this section
29 exceeds the “net tax,” the excess may be carried over to reduce
30 the “net tax” in the following year, and succeeding years if
31 necessary, until the credit has been exhausted.

32 (f) (1) With respect to any expense paid or incurred after the
33 operative date of Section 6378, Section 41(b)(1) of the Internal
34 Revenue Code is modified to exclude from the definition of
35 “qualified research expense” any amount paid or incurred for
36 tangible personal property that is eligible for the exemption from
37 sales or use tax provided by Section 6378.

38 (2) For each taxable year beginning on or after January 1, 1998,
39 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
40 Internal Revenue Code, relating to contract research expenses, is

1 modified to read “this part or Part 11 (commencing with Section
2 23001).”

3 (g) (1) For each taxable year beginning on or after January 1,
4 2000:

5 (A) The reference to ~~“2.65~~ “3 percent” in Section 41(c)(4)(A)(i)
6 of the Internal Revenue Code is modified to read “one and
7 forty-nine hundredths of one percent.”

8 (B) The reference to ~~“3.2~~ “4 percent” in Section 41(c)(4)(A)(ii)
9 of the Internal Revenue Code is modified to read “one and
10 ninety-eight hundredths of one percent.”

11 (C) The reference to ~~“3.75~~ “5 percent” in Section
12 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read
13 “two and forty-eight hundredths of one percent.”

14 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
15 election under Section 41(c)(4)(A) of the Internal Revenue Code
16 may be made for any taxable year of the taxpayer beginning on or
17 after January 1, 1998. That election shall apply to the taxable year
18 for which made and all succeeding taxable years unless revoked
19 with the consent of the Franchise Tax Board.

20 (3) Section ~~41(e)(6)~~ 41(c)(7) of the Internal Revenue Code,
21 relating to gross receipts, is modified to take into account only
22 those gross receipts from the sale of property held primarily for
23 sale to customers in the ordinary course of the taxpayer’s trade or
24 business that is delivered or shipped to a purchaser within this
25 state, regardless of f.o.b. point or any other condition of the sale.

26 (4) *Section 41(c)(5) of the Internal Revenue Code, relating to*
27 *the election of the alternative simplified credit, shall not apply.*

28 (h) Section 41(h) of the Internal Revenue Code, relating to
29 termination, shall not apply.

30 (i) Section 41(g) of the Internal Revenue Code, relating to
31 special rule for passthrough of credit, is modified by each of the
32 following:

33 (1) The last sentence shall not apply.

34 (2) If the amount determined under Section 41(a) of the Internal
35 Revenue Code for any taxable year exceeds the limitation of
36 Section 41(g) of the Internal Revenue Code, that amount may be
37 carried over to other taxable years under the rules of subdivision
38 (e); except that the limitation of Section 41(g) of the Internal
39 Revenue Code shall be taken into account in each subsequent
40 taxable year.

1 (j) (1) Section 41(a)(3) of the Internal Revenue Code, relating
2 to payments to an energy research consortium, shall not apply.

3 (2) Section 41(b)(3)(D) of the Internal Revenue Code, relating
4 to amounts paid to eligible small businesses, universities, and
5 federal laboratories, shall not apply.

6 (3) Section 41(f)(6) of the Internal Revenue Code, relating to
7 an energy research consortium, shall not apply.

8 SEC. 6. Section 17063 of the Revenue and Taxation Code is
9 amended to read:

10 17063. (a) There shall be allowed as a credit against the net
11 tax (as defined by Section 17039) for any taxable year an amount
12 equal to the minimum tax credit for that taxable year.

13 (b) For purposes of subdivision (a), the minimum tax credit
14 shall be determined in accordance with Section 53 of the Internal
15 Revenue Code, except as otherwise provided in this part.

16 (c) For purposes of this chapter, the amount determined under
17 Section 53(c)(1) of the Internal Revenue Code shall be the regular
18 tax as defined by paragraph (2) of subdivision (b) of Section 17062,
19 reduced by the sum of the credits allowable under this part, other
20 than:

21 (1) The credits described in paragraph (7) of subdivision (a) of
22 Section 17039.

23 (2) Any credit that reduces the tax below the tentative minimum
24 tax, as defined by Section 17062.

25 (d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code,
26 relating to credit not allowed for exclusion preferences, is modified
27 to include subdivision (e) of Section 17062, as a specified item.

28 (e) Section 53(e) of the Internal Revenue Code, relating to the
29 special rule for individuals with long-term unused credits, shall
30 not apply.

31 SEC. 7. Section 17072 of the Revenue and Taxation Code is
32 amended to read:

33 17072. (a) Section 62 of the Internal Revenue Code, relating
34 to adjusted gross income defined, shall apply, except as otherwise
35 provided.

36 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
37 to certain expenses of elementary and secondary school teachers,
38 shall not apply.

1 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
2 attorneys' fees relating to awards to whistleblowers, shall not
3 apply.

4 SEC. 8. Section 17085 of the Revenue and Taxation Code is
5 amended to read:

6 17085. Section 72 of the Internal Revenue Code, relating to
7 annuities and certain proceeds of life insurance contracts, is
8 modified as follows:

9 (a) The amendments and transitional rules made by Public Law
10 99-514 shall be applicable to this part for the same transactions
11 and the same years as they are applicable for federal purposes,
12 except that the repeal of Section 72(d) of the Internal Revenue
13 Code, relating to repeal of special rule for employees' annuities,
14 shall apply only to the following:

15 (1) Any individual whose annuity starting date is after December
16 31, 1986.

17 (2) At the election of the taxpayer, any individual whose annuity
18 starting date is after July 1, 1986, and before January 1, 1987.

19 (b) The amount of a distribution from an individual retirement
20 account or annuity or employee trust or employee annuity that is
21 includable in gross income for federal purposes shall be reduced
22 for purposes of this part by the lesser of either of the following:

23 (1) An amount equal to the amount includable in federal gross
24 income for the taxable year.

25 (2) An amount equal to the basis in the account or annuity
26 allowed by Section 17507 (relating to individual retirement
27 accounts and simplified employee pensions), the increased basis
28 allowed by Sections 17504 and 17506 (relating to plans of
29 self-employed individuals), the increased basis allowed by Section
30 17501, or the increased basis allowed by Section 17551 that is
31 remaining after adjustment for reductions in gross income under
32 this provision in prior taxable years.

33 (c) (1) Except as provided in paragraph (2), the amount of the
34 penalty imposed under this part shall be computed in accordance
35 with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code
36 using a rate of 2½ percent, in lieu of the rate provided in those
37 sections.

38 (2) In the case where Section 72(t)(6) of the Internal Revenue
39 Code, relating to special rules for simple retirement accounts,

1 applies, the rate in paragraph (1) shall be 6 percent in lieu of the
2 2½ percent rate specified therein.

3 (d) Section 72(f)(2) of the Internal Revenue Code, relating to
4 special rules for computing employees' contributions, shall be
5 applicable without applying the exceptions which immediately
6 follow that paragraph.

7 (e) *The amendments made by Section 844 of the Pension*
8 *Protection Act of 2006 (Public Law 109-208) to Section 72(e) of*
9 *the Internal Revenue Code, shall not apply.*

10 SEC. 9. Section 17132.5 of the Revenue and Taxation Code
11 is amended to read:

12 17132.5. Section 101 of the Internal Revenue Code, relating
13 to certain death benefits, is modified as follows:

14 (a) Section 101(h) of the Internal Revenue Code, relating to
15 survivor benefits attributable to service by a public safety officer
16 who is killed in the line of duty, is modified to apply to amounts
17 received in taxable years beginning after December 31, 1996, with
18 respect to individuals dying after December 31, 1996.

19 (b) (1) Section 101 of the Internal Revenue Code, as modified
20 by subdivision (a) is modified to additionally provide that Section
21 101(h) of the Internal Revenue Code shall not apply to survivor
22 benefits attributable to service by a public safety officer who is
23 killed in the line of duty with respect to deaths occurring before
24 December 31, 1996, that would otherwise be eligible for exclusion
25 pursuant to Section 101(h) of the Internal Revenue Code, as
26 modified by Public Law 107-15.

27 (2) The amendments made to this section by ~~the act adding this~~
28 ~~subdivision~~ *Chapter 61 of the Statutes of 2005* shall apply to
29 amounts paid after December 31, 2001, with respect to deaths
30 occurring on or before December 31, 1996.

31 (c) (1) Section 101 of the Internal Revenue Code, as modified
32 by subdivision (b), is modified to additionally provide that Section
33 101(i) of the Internal Revenue Code shall apply to any astronaut
34 whose death occurs in the line of duty.

35 (2) The amendments made to this section by ~~the act adding this~~
36 ~~subdivision~~ *Chapter 552 of the Statutes of 2004* shall apply to
37 amounts received in taxable years beginning after December 31,
38 2002, with respect to deaths occurring after that date.

39 (d) *Section 101(j) of the Internal Revenue Code, relating to the*
40 *treatment of certain employer-owned life insurance contracts,*

1 shall apply in accordance with the provisions of Section 863(d) of
2 the Pension Protection Act of 2006 (Public Law 109-280), relating
3 to effective dates, except that the phrase “January 1, 2008” shall
4 be substituted for “the date of the enactment of this Act” contained
5 therein.

6 SEC. 10. Section 17132.8 is added to the Revenue and Taxation
7 Code, to read:

8 17132.8. For purposes of this part, Part 10.2 (commencing with
9 Section 18401), and Part 11 (commencing with Section 23001),
10 gross income shall not include any amount received from the
11 Virginia Polytechnic Institute and State University, out of amounts
12 transferred from the Hokie Spirit Memorial Fund established by
13 the Virginia Tech Foundation, an organization organized and
14 operated as described in Section 501 (c)(3) of the Internal Revenue
15 Code of 1986, if that amount is paid on account of the tragic event
16 on April 16, 2007, at that university.

17 SEC. 11. Section 17144.5 is added to the Revenue and Taxation
18 Code, to read:

19 17144.5. Section 108 (a)(1)(E) of the Internal Revenue Code,
20 relating to discharge of qualified principal residence indebtedness,
21 shall not apply.

22 SEC. 12. Section 17152 of the Revenue and Taxation Code is
23 amended to read:

24 17152. Section 121 of the Internal Revenue Code, relating to
25 exclusion of gain from sale of principal residence, is modified as
26 follows:

27 (a) The two-year period in Section 121(a) of the Internal
28 Revenue Code shall be reduced by the period of the taxpayer’s
29 service, not to exceed 18 months, in the Peace Corps during the
30 five-year period ending on the date of the sale or exchange.

31 (b) If the taxpayer is prohibited from filing a joint return
32 pursuant to Section 18521, Section 121(b)(2)(A) of the Internal
33 Revenue Code shall nevertheless be treated as being satisfied if
34 the taxpayer files a joint return for federal income tax purposes
35 for the same taxable year. However, in no instance shall the total
36 amount excludable from gross income under Section 121(a) of the
37 Internal Revenue Code with respect to any sale or exchange exceed
38 the maximum amount allowed by Section 121(b) of the Internal
39 Revenue Code.

1 (c) (1) If a taxpayer has, at any time, made an election for
2 federal purposes under Section 121(f) of the Internal Revenue
3 Code not to have Section 121 of the Internal Revenue Code apply
4 to a sale or exchange, Section 121 of the Internal Revenue Code
5 shall not apply to that sale or exchange for state purposes, a
6 separate election for state purposes shall not be allowed under
7 paragraph (3) of subdivision (e) of Section 17024.5, the federal
8 election shall be binding for purposes of this part, and that election
9 shall be treated as an election to include in gross income for
10 purposes of this part all the gain from the sale or exchange of that
11 property, including that amount which, but for that election, would
12 have been excluded from income under Section 121(a) of the
13 Internal Revenue Code for state purposes.

14 (2) If a taxpayer fails to make an election for federal purposes
15 under Section 121(f) of the Internal Revenue Code to not have
16 Section 121 of the Internal Revenue Code apply to a sale or
17 exchange, no election under Section 121(f) of the Internal Revenue
18 Code shall be allowed for state purposes, Section 121 of the
19 Internal Revenue Code shall apply to that sale or exchange for
20 state purposes, and a separate election for state purposes shall not
21 be allowed under paragraph (3) of subdivision (e) of Section
22 17024.5.

23 (d) (1) If a taxpayer has, at any time, made an election for
24 federal purposes under Section 312(d)(2) of the Taxpayer Relief
25 Act of 1997 (Public Law 105-34), relating to sales before date of
26 enactment, or Section 312(d)(4) of that act, relating to binding
27 contracts, to not have the amendments made by Section 312 of the
28 Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale
29 or exchange, the amendments made by the act adding this
30 subdivision shall not apply to that sale or exchange, Sections 1, 4,
31 and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that
32 sale or exchange, a separate election for state purposes shall not
33 be allowed under paragraph (3) of subdivision (e) of Section
34 17024.5, and the federal election shall be binding for purposes of
35 this part.

36 (2) If a taxpayer fails to make an election for federal purposes
37 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public
38 Law 105-34), relating to sales before date of enactment, or Section
39 312(d)(4) of that act, relating to binding contracts, to not have the
40 amendments made by Section 312 of the Taxpayer Relief Act of

1 1997 (Public Law 105-34) apply to a sale or exchange, an election
 2 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public
 3 Law 105-34), relating to sales before date of enactment, or Section
 4 312(d)(4) of that act, relating to binding contracts, shall not be
 5 allowed for state purposes, the amendments made by the act adding
 6 this subdivision shall apply to that sale or exchange, Sections 1,
 7 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that
 8 sale or exchange, and a separate election for state purposes shall
 9 not be allowed under paragraph (3) of subdivision (e) of Section
 10 17024.5.

11 (e) (1) If a taxpayer has, at any time, made or revoked an
 12 election for federal purposes under Section 121(d)(9) of the Internal
 13 Revenue Code to suspend the running of the five-year period
 14 described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the
 15 Internal Revenue Code, that election or revocation of election to
 16 suspend the five-year period under Section 121(d)(9) of the Internal
 17 Revenue Code shall be applicable for state purposes, a separate
 18 election or revocation of election for purposes of Section 121(d)(9)
 19 of the Internal Revenue Code may not be allowed under paragraph
 20 (3) of subdivision (e) of Section 17024.5, and the federal election
 21 or revocation of election shall be binding for purposes of this part.

22 (2) If a taxpayer fails to make an election for federal purposes
 23 under Section 121(d)(9) of the Internal Revenue Code to suspend
 24 the running of the five-year period described in Sections 121(a),
 25 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that
 26 five-year period may not be suspended under Section 121(d)(9)
 27 of the Internal Revenue Code for state purposes, and a separate
 28 election for state purposes shall not be allowed under paragraph
 29 (3) of subdivision (e) of Section 17024.5.

30 (f) ~~Section 121(d)(10)~~ 121(d)(11) of the Internal Revenue Code,
 31 relating to property acquired from a decedent, shall not apply.

32 (g) (1) *The amendments made by Section 417 of the Tax Reform*
 33 *and Health Care Act of 2006 (Public Law 109-432) to Section*
 34 *121(d)(9) of the Internal Revenue Code, relating to uniformed*
 35 *services, foreign service, and intelligence community, shall apply*
 36 *to sales or exchanges that occurred on or after January 1, 2008.*

37 (2) *The amendments made by Section 7(a) of the Mortgage*
 38 *Forgiveness Debt Relief Act of 2007 (Public Law 110-142), to*
 39 *Section 121 of the Internal Revenue Code, relating to exclusion*

1 *of gain from sale of principal residence, shall apply to sales or*
2 *exchanges that occurred on or after January 1, 2008.*

3 SEC. 13. Section 17206 of the Revenue and Taxation Code is
4 amended to read:

5 17206. (a) For purposes of Section 17201, Section 170 of the
6 Internal Revenue Code, ~~as amended by Public Law 109-1, relating~~
7 *to charitable, etc., contributions and gifts*, shall be applied to allow
8 a taxpayer to elect to treat any contribution described in subdivision
9 (b) made in January 2005, as if that contribution was made on
10 December 31, 2004, and not in January 2005.

11 (b) A contribution is described in this subdivision if that
12 contribution is a cash contribution made for the relief of victims
13 in areas affected by the December 26, 2004, Indian Ocean tsunami
14 for which a charitable contribution deduction is allowable under
15 Section 17201.

16 SEC. 14. Section 17225 is added to the Revenue and Taxation
17 Code, to read:

18 17225. Section 163(h)(3)(E) of the Internal Revenue Code,
19 relating to mortgage insurance premiums treated as interest, shall
20 not apply.

21 SEC. 15. Section 17250 of the Revenue and Taxation Code is
22 amended to read:

23 17250. (a) Section 168 of the Internal Revenue Code is
24 modified as follows:

25 (1) Any reference to “tax imposed by this chapter” in Section
26 168 of the Internal Revenue Code means “net tax,” as defined in
27 Section 17039.

28 (2) (A) Section 168(e)(3) is modified to provide that any
29 grapevine, replaced in a vineyard in California in any taxable year
30 beginning on or after January 1, 1992, as a direct result of a
31 phylloxera infestation in that vineyard, or replaced in a vineyard
32 in California in any taxable year beginning on or after January 1,
33 1997, as a direct result of Pierce’s disease in that vineyard, shall
34 be “five-year property,” rather than “10-year property.”

35 (B) Section 168(g)(3) of the Internal Revenue Code is modified
36 to provide that any grapevine, replaced in a vineyard in California
37 in any taxable year beginning on or after January 1, 1992, as a
38 direct result of a phylloxera infestation in that vineyard, or replaced
39 in a vineyard in California in any taxable year beginning on or

1 after January 1, 1997, as a direct result of Pierce’s disease in that
2 vineyard, shall have a class life of 10 years.

3 (C) Every taxpayer claiming a depreciation deduction with
4 respect to grapevines as described in this paragraph shall obtain a
5 written certification from an independent state-certified integrated
6 pest management adviser, or a state agricultural commissioner or
7 adviser, that specifies that the replanting was necessary to restore
8 a vineyard infested with phylloxera or Pierce’s disease. The
9 taxpayer shall retain the certification for future audit purposes.

10 (3) Section 168(j) of the Internal Revenue Code, relating to
11 property on Indian reservations, shall not apply.

12 (4) Section 168(k) of the Internal Revenue Code, relating to
13 special allowance for certain property acquired after September
14 10, 2001, and before January 1, 2005, shall not apply.

15 (5) Sections 168(b)(3)(G) and 168(b)(3)(H) of the Internal
16 Revenue Code, relating to property to which the straight line
17 method applies, shall not apply.

18 (6) Sections 168(e)(3)(E)(iv) and 168(e)(3)(E)(v) of the Internal
19 Revenue Code, relating to 15-year property, shall not apply.

20 (7) Sections 168(e)(6) and 168(e)(7) of the Internal Revenue
21 Code, relating to qualified leasehold improvement property and
22 to qualified restaurant property, respectively, shall not apply.

23 (8) *Section 168(l) of the Internal Revenue Code, relating to the*
24 *special allowance for cellulosic biomass ethanol plant property,*
25 *shall not apply.*

26 (b) Section 169 of the Internal Revenue Code, relating to
27 amortization of pollution control facilities, is modified as follows:

28 (1) The deduction allowed by Section 169 of the Internal
29 Revenue Code shall be allowed only with respect to facilities
30 located in this state.

31 (2) The “state certifying authority,” as defined in Section
32 169(d)(2) of the Internal Revenue Code, means the State Air
33 Resources Board, in the case of air pollution, and the State Water
34 Resources Control Board, in the case of water pollution.

35 SEC. 16. Section 17250.5 of the Revenue and Taxation Code
36 is amended to read:

37 17250.5. (a) Section 167(g) of the Internal Revenue Code,
38 relating to depreciation under income forecast method, shall be
39 modified as follows:

40 (a)

1 (1) Section 167(g)(2)(C) of the Internal Revenue Code is
2 modified by substituting “Section 19521” in lieu of “Section
3 460(b)(7)” of the Internal Revenue Code.

4 ~~(b)~~

5 (2) Section 167(g)(5)(D) of the Internal Revenue Code is
6 modified by substituting “Part 10.2 (commencing with Section
7 18401) (other than Section 19136)” in lieu of “Subtitle F (other
8 than Sections 6654 and 6655).”

9 ~~(e)~~

10 (3) Section 167(g)(5)(E) of the Internal Revenue Code, relating
11 to treatment of distribution costs, shall not apply.

12 ~~(f)~~

13 (4) Section 167(g)(7) of the Internal Revenue Code, relating to
14 treatment of participations and residuals, shall not apply.

15 (b) *Section 167(h) of the Internal Revenue Code, relating to*
16 *amortization of geological and geophysical expenditures, shall*
17 *not apply.*

18 SEC. 17. Section 17257 is added to the Revenue and Taxation
19 Code, to read:

20 17257. Section 179C of the Internal Revenue Code, relating
21 to the election to expense certain refineries, shall not apply.

22 SEC. 18. Section 17257.2 is added to the Revenue and Taxation
23 Code, to read:

24 17257.2. Section 179D of the Internal Revenue Code, relating
25 to the energy efficient commercial buildings deduction, shall not
26 apply.

27 SEC. 19. Section 17257.4 is added to the Revenue and Taxation
28 Code, to read:

29 17257.4. Section 179E of the Internal Revenue Code, relating
30 to the election to expense advanced mine safety equipment, shall
31 not apply.

32 SEC. 20. Section 17275.5 of the Revenue and Taxation Code
33 is amended to read:

34 17275.5. (a) No deduction shall be denied under Section
35 170(f)(8) of the Internal Revenue Code, relating to *the*
36 *substantiation requirement for certain contributions, upon a*
37 *showing that the requirements in Section 170(f)(8) of the Internal*
38 *Revenue Code have been met with respect to that contribution for*
39 *federal purposes.*

1 (b) Section 170(f)(10)(F) of the Internal Revenue Code, relating
2 to the excise tax on premiums paid, shall not apply.

3 (c) *Section 170(f)(13) of the Internal Revenue Code, relating*
4 *to the fee for contributions of certain interests in buildings located*
5 *in registered historic districts, shall not apply.*

6 (d) *Section 170(f)(18) of the Internal Revenue Code, relating*
7 *to contributions to donor-advised funds, shall not apply.*

8 (e) *The provisions of Section 170(e)(11)(E) of the Internal*
9 *Revenue Code, as amended by Section 1219(c)(1) of the Pension*
10 *Protection Act of 2006 (Public Law 109-280) shall apply to*
11 *appraisals prepared with respect to returns or submissions filed*
12 *on or after January 1, 2008.*

13 SEC. 21. Section 17501 of the Revenue and Taxation Code is
14 amended to read:

15 17501. (a) Subchapter D of Chapter 1 of Subtitle A of the
16 Internal Revenue Code, relating to deferred compensation, shall
17 apply, except as otherwise provided.

18 (b) Notwithstanding the specified date contained in paragraph
19 (1) of subdivision (a) of Section 17024.5, Part I of Subchapter D
20 of Chapter 1 of Subtitle A of the Internal Revenue Code, relating
21 to pension, profitsharing, stock bonus plans, etc., *and Part III of*
22 *Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue*
23 *Code, relating to rules relating to minimum funding standards and*
24 *benefit limitations, shall apply, except as otherwise provided,*
25 *without regard to taxable year to the same extent as applicable for*
26 *federal income tax purposes.*

27 (c) The maximum amount of elective deferrals (as defined in
28 *2008 in* Section 402(g)(3)) for the taxable year that may be
29 excluded from gross income under Section 402(g) of the Internal
30 Revenue Code, as applicable for state purposes, shall not exceed
31 the amount of elective deferrals that may be excluded from gross
32 income under Section 402(g) of the Internal Revenue Code, as
33 ~~amended by Title VI of the Economic Growth and Tax Relief~~
34 ~~Reconciliation Act of 2001 (Public Law 107-16) and Section 411~~
35 ~~of the Job Creation and Worker Assistance Act of 2002 (Public~~
36 ~~Law 107-147) in effect January 1, 2008, including additional~~
37 ~~elective deferrals under Section 414(v) of the Internal Revenue~~
38 ~~Code, as added by Title VI of the Economic Growth and Tax Relief~~
39 ~~Reconciliation Act of 2001 (Public Law 107-16) and as amended~~

1 ~~by Section 411 of the Job Creation and Worker Assistance Act of~~
2 ~~2002 (Public Law 107-147) in effect January 1, 2008.~~

3 (d) (1) For taxable years beginning on or after January 1, 2002,
4 the basis of any person in the plan, account, or annuity shall be
5 increased by the amount of elective deferrals not excluded as a
6 result of the application of subdivision (c).

7 (2) Any basis described in paragraph (1) shall be recovered in
8 the manner specified in Section 17085.

9 (e) Notwithstanding the limitations provided in subdivision (c),
10 any income attributable to elective deferrals in taxable years
11 beginning on or after January 1, 2002, in conformance with Part
12 I of Subchapter D of Chapter 1 of Subtitle A of the Internal
13 Revenue Code, as applicable for federal and state purposes, shall
14 not be includable in the gross income of the individual for whose
15 benefit the plan or account was established until distributed
16 pursuant to the plan or by operation of law.

17 SEC. 22. Section 17551 of the Revenue and Taxation Code is
18 amended to read:

19 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the
20 Internal Revenue Code, relating to accounting periods and methods
21 of accounting, shall apply, except as otherwise provided.

22 (b) Section 444(c)(1) of the Internal Revenue Code, relating to
23 effect of election, shall not apply.

24 (c) (1) Notwithstanding the specified date contained in
25 paragraph (1) of subdivision (a) of Section 17024.5, Section 457
26 of the Internal Revenue Code, relating to deferred compensation
27 plans of state and local governments and tax-exempt organizations,
28 shall apply, except as otherwise provided, without regard to taxable
29 year to the same extent as applicable for federal income tax
30 purposes.

31 (2) The maximum deferred compensation for the taxable year
32 that may be excluded from gross income under Section 457 of the
33 Internal Revenue Code, as applicable for state purposes, shall not
34 exceed the amount of deferred compensation that may be excluded
35 from gross income under Section 457 of the Internal Revenue
36 Code, ~~as amended by Title VI of the Economic Growth and Tax~~
37 ~~Relief Reconciliation Act of 2001 (Public Law 107-16) and as~~
38 ~~amended by Section 411 of the Job Creation and Worker Assistance~~
39 ~~Act of 2002 (Public Law 107-147) in effect January 1, 2008,~~
40 including additional elective deferrals under Section 414(v) of the

1 Internal Revenue Code, as added by Title VI of the Economic
 2 Growth and Tax Relief Reconciliation Act of 2001 (Public Law
 3 107-16) and Section 411 of the Job Creation and Worker Assistance
 4 Act of 2002 (Public Law 107-147) in effect January 1, 2008.

5 (d) (1) For taxable years beginning on or after January 1, 2002,
 6 the basis of any person in the plan shall be increased by the amount
 7 of compensation not allowed to be excluded under subdivision (a).

8 (2) Any basis described in paragraph (1) shall be recovered in
 9 the manner specified in Section 17085.

10 (e) Notwithstanding the limitations provided in subdivision (a),
 11 any income attributable to compensation deferred in a plan in
 12 taxable years beginning on or after January 1, 2002, in conformance
 13 with Section 457 of the Internal Revenue Code, as applicable for
 14 federal and state purposes, shall not be includable in the gross
 15 income of the individual for whose benefit the plan was established
 16 until distributed pursuant to the provisions of the plan or by
 17 operation of law.

18 (f) Section 451(i) of the Internal Revenue Code, relating to
 19 special rule for sales or dispositions to implement Federal Energy
 20 Regulatory Commission or state electric restructuring policy, shall
 21 not apply.

22 SEC. 23. Section 17755 is added to the Revenue and Taxation
 23 Code, to read:

24 17755. Section 664(c) of the Internal Revenue Code, relating
 25 to the taxation of trusts, shall not apply and, in lieu thereof, a
 26 charitable remainder annuity trust and a charitable remainder
 27 unitrust shall, for any taxable year, not be subject to any tax
 28 imposed under this part, unless that trust, for the taxable year, has
 29 unrelated business taxable income, within the meaning of Section
 30 23732, determined as if Chapter 4 (commencing with Section
 31 23701) of Part 11, applied to that trust.

32 SEC. 24. Section 17952.5 of the Revenue and Taxation Code
 33 is amended to read:

34 17952.5. (a) For purposes of computing “taxable income of a
 35 nonresident or part-year resident” under paragraph (1) of
 36 subdivision (i) of Section 17041, gross income of a nonresident,
 37 as defined in Section 17015, from sources within this state shall
 38 not include “qualified retirement income” received on or after
 39 January 1, 1996, for any part of the taxable year during which the
 40 taxpayer was not a resident of this state.

1 (b) For purposes of this section, “qualified retirement income”
2 means income from any of the following:

3 (1) A qualified trust under Section 401(a) of the Internal
4 Revenue Code that is exempt under Section 501(a) of the Internal
5 Revenue Code from taxation.

6 (2) A simplified employee pension as defined in Section 408(k)
7 of the Internal Revenue Code.

8 (3) An annuity plan described in Section 403(a) of the Internal
9 Revenue Code.

10 (4) An annuity contract described in Section 403(b) of the
11 Internal Revenue Code.

12 (5) An individual retirement plan described in Section
13 7701(a)(37) of the Internal Revenue Code.

14 (6) An eligible deferred compensation plan as defined in Section
15 457 of the Internal Revenue Code.

16 (7) A governmental plan as defined in Section 414(d) of the
17 Internal Revenue Code.

18 (8) A trust described in Section 501(c)(18) of the Internal
19 Revenue Code.

20 (9) Any plan, program, or arrangement described in Section
21 3121(v)(2)(C) of the Internal Revenue Code, *or any plan, program,*
22 *or arrangement that is in writing, that provides for retirement*
23 *payments in recognition of prior service to be made to a retired*
24 *partner, and that is in effect immediately before retirement begins,*
25 *if that income is either of the following:*

26 (A) Part of a series of substantially equal periodic payments
27 (not less frequently than ~~annually~~ *annually*), *which may include*
28 *income described in paragraphs (1) to (8), inclusive, made for*
29 *either of the following:*

30 (i) The life or the life expectancy of the recipient (or the joint
31 lives or joint life expectancies of the recipient and the designated
32 beneficiary of the recipient).

33 (ii) A period of not less than 10 years.

34 (B) A payment received after termination of employment, under
35 a plan, program, or arrangement to which that employment relates,
36 maintained solely for the purpose of providing retirement benefits
37 for employees in excess of the limitation imposed by Section
38 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the
39 Internal Revenue Code, or any combination of those sections, or

1 any other limitation on contributions or benefits in the Internal
 2 Revenue Code on plans to which any of those sections apply.

3 *(C) The fact that payments may be adjusted, from time to time,*
 4 *pursuant to the plan, program, or arrangement to limit total*
 5 *disbursements under a predetermined formula, or to provide cost*
 6 *of living or similar adjustments, will not cause the periodic*
 7 *payments provided under that plan, program, or arrangement to*
 8 *fail the “substantially equal periodic payments” test.*

9 (10) Any retired or retainer pay of a member or former member
 10 of a uniform service computed under Section 1401 and following
 11 of Title 10 of the United States Code.

12 *(c) For purposes of this section, the term “retired partner” is*
 13 *an individual who is described as a partner in Section 7701(a)(2)*
 14 *of the Internal Revenue Code and who is retired under that*
 15 *individual’s partnership agreement.*

16 (e)

17 *(d) This section shall apply only to any taxable year, or portion*
 18 *thereof, that the provisions of Section 114 of Title 4 of the United*
 19 *States Code, relating to limitation on state income taxation of*
 20 *certain pension income, are effective.*

21 ~~(d) References to the Internal Revenue Code are subject to~~
 22 ~~paragraph (1) of subdivision (a) of Section 17024.5, which~~
 23 ~~identifies, for each taxable year, the effective date of the referenced~~
 24 ~~provisions of the Internal Revenue Code.~~

25 *(e) Except as otherwise provided, references to the Internal*
 26 *Revenue Code are subject to paragraph (1) of subdivision (a) of*
 27 *Section 17024.5.*

28 SEC. 25. Section 18037.5 is added to the Revenue and Taxation
 29 Code, to read:

30 18037.5. The amendments made by Section 844 of the Pension
 31 Protection Act of 2006 (Public Law 109-280) to Section 1035 of
 32 the Internal Revenue Code, shall not apply.

33 SEC. 26. Section 18155.6 is added to the Revenue and Taxation
 34 Code, to read:

35 18155.6. For taxable years beginning on or after January 1,
 36 2008, specific reference to Sections 1223(4) through (16) of the
 37 Internal Revenue Code in this part shall instead be treated as a
 38 reference to Sections 1223(3) through (15) of the Internal Revenue
 39 Code, respectively.

1 SEC. 27. Section 18165 of the Revenue and Taxation Code is
2 amended to read:

3 18165. (a) Section 1245(a)(2)(C) of the Internal Revenue
4 Code, relating to certain deductions treated as amortization, is
5 modified to also refer to Sections 17252.5, 17265, and 17266.

6 (b) *Section 1245(b)(8) of the Internal Revenue Code, relating*
7 *to the disposition of amortizable Section 197 intangibles, shall*
8 *apply to dispositions of property on or after January 1, 2008.*

9 SEC. 28. Section 18180 of the Revenue and Taxation Code is
10 amended to read:

11 18180. (a) Section 7872 of the Internal Revenue Code, relating
12 to the treatment of loans with below market interest rates, shall
13 apply, except as otherwise provided.

14 (b) *Section 7872(h) of the Internal Revenue Code, relating to*
15 *the exception for loans to qualified continuing care facilities, shall*
16 *apply to calendar years beginning on or after January 1, 2008,*
17 *with respect to loans made before, on, or after that date*

18 SEC. 29. Section 18631 of the Revenue and Taxation Code is
19 amended to read:

20 18631. (a) This article does not apply to any payment of
21 interest obligations not taxable under Part 10 (commencing with
22 Section 17001) or Part 11 (commencing with Section 23001).

23 (b) Except as otherwise provided, every person required to file
24 an information return with the Secretary of the Treasury under any
25 of the federal sections listed in subdivision (c) may be required to
26 file a copy of the federal information return with the Franchise
27 Tax Board at the time and in the manner as it may, by forms and
28 instructions, require.

29 (c) Subdivision (b) shall apply to each of the following:

30 (1) Section 6034A of the Internal Revenue Code, relating to
31 information to beneficiaries of estates and trusts.

32 (2) Section 6039 of the Internal Revenue Code, relating to
33 information required in connection with certain options.

34 (3) Section 6039C of the Internal Revenue Code, relating to
35 returns with respect to foreign persons holding direct investments
36 in United States real property interests, if that person holds a direct
37 investment in a California real property as defined in Section
38 18662.

39 (4) Section 6041 of the Internal Revenue Code, relating to
40 information at source.

1 (5) Section 6041A of the Internal Revenue Code, relating to
2 returns regarding payments of remuneration for services and direct
3 sales, except that no return or statement shall be required with
4 respect to direct sales pursuant to Section 6041A(b) of the Internal
5 Revenue Code.

6 (6) Section 6042 of the Internal Revenue Code, relating to
7 returns regarding payments of dividends and corporate earnings
8 and profits.

9 (7) Section 6045 of the Internal Revenue Code, relating to
10 returns of brokers.

11 (8) Section 6049 of the Internal Revenue Code, relating to
12 returns regarding payments of interest.

13 (9) Section 6050H of the Internal Revenue Code, relating to
14 returns of mortgage interest received in trade or business from
15 individuals.

16 (10) (A) Section 6050I of the Internal Revenue Code, relating
17 to cash received in trade or business, etc., except that Section
18 6050I(g) of the Internal Revenue Code, relating to cash received
19 by criminal court, shall not apply.

20 (B) (i) The Attorney General shall, upon court order following
21 a showing ex parte to a magistrate of an articulable suspicion that
22 an individual or entity has committed a felony offense to which a
23 federal information return is related, be provided a copy of a federal
24 information return filed with the Franchise Tax Board under this
25 paragraph. The Attorney General may make a return or information
26 therefrom available to a district attorney subject to regulations
27 promulgated by the Attorney General. The regulations shall require
28 the district attorney seeking the return or information to specify
29 in writing the specific reasons for believing that a felony offense
30 has been committed to which the return or information is related.

31 (ii) Any information or return obtained by the Attorney General
32 or a district attorney pursuant to this subparagraph shall be
33 confidential and used only for investigative or prosecutorial
34 purposes.

35 (11) Section 6050J of the Internal Revenue Code, relating to
36 returns of foreclosures and abandonments of security.

37 (12) (A) Section 6050K of the Internal Revenue Code, relating
38 to returns of exchanges of certain partnership interests.

39 (B) In addition to the general requirement under subparagraph
40 (A), a transferor of a partnership interest shall be required to notify

1 the partnership of that exchange in accordance with Section
2 6050K(c) of the Internal Revenue Code.

3 (13) Section 6050L of the Internal Revenue Code, relating to
4 returns of certain dispositions of donated property.

5 (14) Section 6050N of the Internal Revenue Code, relating to
6 returns regarding payments of royalties.

7 (15) Section 6050P of the Internal Revenue Code, relating to
8 returns of cancellation of indebtedness by certain entities.

9 (16) Section 6050Q of the Internal Revenue Code, relating to
10 certain long-term care benefits.

11 (17) Section 6050R of the Internal Revenue Code, relating to
12 returns of certain purchases of fish.

13 (18) Section 6050S of the Internal Revenue Code, relating to
14 higher education tuition and related expenses.

15 (19) Section 6052 of the Internal Revenue Code, relating to
16 returns regarding payment of wages in the form of group-term life
17 insurance.

18 (20) *Section 6034(a) of the Internal Revenue Code, relating to*
19 *returns of split-interest trusts.*

20 (21) *Section 6039I of the Internal Revenue Code, relating to*
21 *returns and records with respect to employer-owned life insurance*
22 *contracts.*

23 (22) *Section 6050V of the Internal Revenue Code, relating to*
24 *returns relating to applicable insurance contracts in which certain*
25 *exempt organizations hold interests.*

26 (d) Every person required to make a return under subdivision
27 (b) shall also furnish a statement to each person whose name is
28 required to be set forth in the return, as required to do so by the
29 Internal Revenue Code.

30 SEC. 30. Section 19116 of the Revenue and Taxation Code is
31 amended to read:

32 19116. (a) In the case of an individual who files a return of
33 tax imposed under Part 10 (commencing with Section 17001) for
34 a taxable year on or before the due date for the return, including
35 extensions, if the Franchise Tax Board does not provide a notice
36 to the taxpayer specifically stating the taxpayer's liability and the
37 basis of the liability before the close of the notification period, the
38 Franchise Tax Board shall suspend the imposition of any interest,
39 penalty, addition to tax, or additional amount with respect to any
40 failure relating to the return which is computed by reference to the

1 period of time the failure continues to exist and which is properly
2 allocable to the suspension period.

3 (b) For purposes of this section:

4 (1) Except as provided in subdivision (e), “notification period”
5 means the ~~18-month~~ 36-month period beginning on the later of
6 either of the following:

7 (A) The date on which the return is filed.

8 (B) The due date of the return without regard to extensions.

9 (2) “Suspension period” means the period beginning on the day
10 after the close of the notification period and ending on the date
11 which is 15 days after the date on which notice described in
12 subdivision (a) is provided by the Franchise Tax Board.

13 (3) *If, after the return for a taxable year is filed, the taxpayer*
14 *provides to the Franchise Tax Board one or more signed written*
15 *documents showing that the taxpayer owes an additional amount*
16 *of tax for the taxable year, subparagraph (A) of paragraph (1)*
17 *shall be applied by substituting the date the last of the documents*
18 *was provided for the date on which the return is filed.*

19 (c) This section shall be applied separately with respect to each
20 item or adjustment.

21 (d) This section shall not apply to any of the following:

22 (1) Any penalty imposed by Section 19131.

23 (2) Any penalty imposed by Section 19132.

24 (3) Any interest, penalty, addition to tax, or additional amount
25 involving fraud.

26 (4) Any interest, penalty, addition to tax, or additional amount
27 with respect to any tax liability shown on the return.

28 (5) Any criminal penalty.

29 (6) Any interest, penalty, addition to tax, or additional amount
30 with respect to any gross misstatement.

31 (7) Any interest, penalty, addition to tax, or additional amount
32 relating to any reportable transaction with respect to which the
33 requirements of Section 6664(d)(2)(A) of the Internal Revenue
34 Code are not met, and any listed transaction, as defined in Section
35 6707A(c) of the Internal Revenue Code.

36 (e) For taxpayers required by subdivision (a) of Section 18622
37 to report a change or correction by the Commissioner of Internal
38 Revenue or other officer of the United States or other competent
39 authority the following rules shall apply:

1 (1) The notification period under subdivision (a) shall be either
2 of the following:

3 (A) One year from the date the notice required by Section 18622
4 is filed with the Franchise Tax Board by the taxpayer or the Internal
5 Revenue Service, if the taxpayer or the Internal Revenue Service
6 reports that change or correction within six months after the final
7 federal determination.

8 (B) Two years from the date when the notice required by Section
9 18622 is filed with the Franchise Tax Board by the taxpayer or the
10 Internal Revenue Service, if after the six-month period required
11 in Section 18622, a taxpayer or the Internal Revenue Service
12 reports a change or correction.

13 (2) The suspension period under subdivision (a) shall mean the
14 period beginning on the day after the close of the notification
15 period under paragraph (1) and ending on the date which is 15
16 days after the date on which notice described in subdivision (a) is
17 provided by the Franchise Tax Board.

18 (f) For notices sent after January 1, 2004, this section does not
19 apply to taxpayers with taxable income greater than two hundred
20 thousand dollars (\$200,000) that have been contacted by the
21 Franchise Tax Board regarding the use of a potentially abusive tax
22 shelter (within the meaning of Section 19777).

23 (g) This section shall apply to taxable years ending after October
24 10, 1999.

25 ~~(h) The amendments made to this section by the act adding this~~
26 ~~subdivision shall apply to notices sent after January 1, 2005.~~

27 *(h) The amendments made to this section by Chapter 691 of the*
28 *Statutes of 2005 shall apply to notices sent after January 1, 2005.*

29 *(i) (1) The amendments made to paragraph (1) of subdivision*
30 *(b) by the act adding this subdivision shall apply to notices*
31 *provided after January 1, 2009.*

32 *(2) Paragraph (3) of subdivision (b), as added by the act adding*
33 *this subdivision, shall apply to documents provided on or after*
34 *January 1, 2009.*

35 SEC. 31. Section 19134 of the Revenue and Taxation Code is
36 amended to read:

37 19134. (a) The provisions of Section 6657 of the Internal
38 Revenue Code, relating to bad checks, shall apply except as
39 otherwise provided.

1 (b) Section 6657 of the Internal Revenue Code, relating to bad
 2 checks, is modified to apply to payments made by credit card
 3 remittance or electronic funds transfer (as provided by Section
 4 19011) in addition to payments made by check or money order.

5 (c) For payments received prior to January 1, 1993, this section
 6 shall be applied only to payments pertaining to taxable years
 7 beginning on or after January 1, 1990.

8 (d) For payments received on or after January 1, 1993, this
 9 section shall be applied to all payments, without regard to taxable
 10 year.

11 (e) *The amendments made to Section 6657 of the Internal*
 12 *Revenue Code by Public Law 110-28 that are incorporated by*
 13 *reference under this section shall apply to all payments received*
 14 *after the effective date of the act adding this subdivision, without*
 15 *regard to taxable year.*

16 SEC. 32. Section 19164 of the Revenue and Taxation Code is
 17 amended to read:

18 19164. (a) (1) (A) An accuracy-related penalty shall be
 19 imposed under this part and shall be determined in accordance
 20 with Section 6662 of the Internal Revenue Code, relating to
 21 imposition of accuracy-related penalty on underpayments, except
 22 as otherwise provided.

23 (B) (i) Except for understatements relating to reportable
 24 transactions to which Section 19164.5 applies, in the case of any
 25 proposed deficiency assessment issued after the last date of the
 26 amnesty period specified in Chapter 9.1 (commencing with Section
 27 19730) for any taxable year beginning prior to January 1, 2003,
 28 the penalty specified in Section 6662(a) of the Internal Revenue
 29 Code shall be computed by substituting “40 percent” for “20
 30 percent.”

31 (ii) Clause (i) shall not apply to any taxable year of a taxpayer
 32 beginning prior to January 1, 2003, if, as of the start date of the
 33 amnesty program period specified in Section 19731, the taxpayer
 34 is then under audit by the Franchise Tax Board, or the taxpayer
 35 has filed a protest under Section 19041, or the taxpayer has filed
 36 an appeal under Section 19045, or the taxpayer is engaged in
 37 settlement negotiations under Section 19442, or the taxpayer has
 38 a pending judicial proceeding in any court of this state or in any
 39 federal court relating to the tax liability of the taxpayer for that
 40 taxable year.

1 (2) With respect to corporations, this subdivision shall apply to
2 all of the following:

3 (A) All taxable years beginning on or after January 1, 1990.

4 (B) Any other taxable year for which an assessment is made
5 after July 16, 1991.

6 (C) For purposes of this section, references in Section 6662(e)
7 of the Internal Revenue Code and the regulations thereunder,
8 relating to treatment of an affiliated group that files a consolidated
9 federal return, are modified to apply to those entities required to
10 be included in a combined report under Section 25101 or 25110.
11 For these purposes, entities included in a combined report pursuant
12 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall
13 be considered only to the extent required to be included in the
14 combined report.

15 (3) Section 6662(d)(1)(B) of the Internal Revenue Code is
16 modified to provide that in the case of a corporation, other than
17 an “S” corporation, there is a substantial understatement of tax for
18 any taxable year if the amount of the understatement for the taxable
19 year exceeds the lesser of:

20 (A) Ten percent of the tax required to be shown on the return
21 for the taxable year (or, if greater, two thousand five hundred
22 dollars (\$2,500)).

23 (B) Five million dollars (\$5,000,000).

24 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is
25 modified to additionally provide that the excess determined under
26 Section 6662(d)(2)(A) of the Internal Revenue Code shall be
27 determined without regard to items to which Section 19164.5
28 applies and without regard to items with respect to which a penalty
29 is imposed by Section 19774.

30 (5) *The provisions of Sections 6662(e)(1) and 6662(h)(2) of the*
31 *Internal Revenue Code, as amended by Sections 1219(a)(1) and*
32 *1219(a)(2) of the Pension Protection Act of 2006 (Public Law*
33 *109-280), shall apply to returns filed on or after January 1, 2008.*

34 (b) For purposes of Section 6662(d) of the Internal Revenue
35 Code, Section 6664 of the Internal Revenue Code, Section
36 6694(a)(1) of the Internal Revenue Code, and this part, the
37 Franchise Tax Board may prescribe a list of positions for which
38 the Franchise Tax Board believes there is not substantial authority
39 or there is no reasonable belief that the tax treatment is more likely
40 than not the proper tax treatment. That list (and any revisions

1 thereof) shall be published through the use of Franchise Tax Board
 2 Notices or other published positions. In addition, the “listed
 3 transactions” identified and published pursuant to the preceding
 4 sentence shall be published on the Web site of the Franchise Tax
 5 Board.

6 (c) A fraud penalty shall be imposed under this part and shall
 7 be determined in accordance with Section 6663 of the Internal
 8 Revenue Code, relating to imposition of fraud penalty, except as
 9 otherwise provided.

10 (d) (1) Section 6664 of the Internal Revenue Code, relating to
 11 definitions and special rules, shall apply, except as otherwise
 12 provided.

13 (2) *Section 6664(c)(2) of the Internal Revenue Code, as amended*
 14 *by Section 1219(a)(3) of the Pension Protection Act of 2006 (Public*
 15 *Law 109-280), shall apply to returns filed on or after January 1,*
 16 *2008.*

17 (3) *Section 6664(c)(3) of the Internal Revenue Code, as amended*
 18 *by Section 1219(c)(2) of the Pension Protection Act of 2006 (Public*
 19 *Law 109-280), shall apply to appraisals prepared with respect to*
 20 *returns or submissions filed on or after January 1, 2008.*

21 (e) *Section 6665 of the Internal Revenue Code, relating to*
 22 *applicable rules, shall apply, except as otherwise provided.*

23 SEC. 33. Section 19166 of the Revenue and Taxation Code is
 24 amended to read:

25 19166. (a) A penalty shall be imposed for understatement of
 26 any taxpayer’s liability by a tax return preparer and shall be
 27 determined in accordance with Section 6694 of the Internal
 28 Revenue Code, *relating to understatement of taxpayer’s liability*
 29 *by tax return preparer, except as otherwise provided.*

30 ~~(b) (1) For taxpayers that have a reportable transaction, as~~
 31 ~~defined in Section 6707A(c)(1) of the Internal Revenue Code, with~~
 32 ~~respect to which the requirements of Section 6664(d)(2)(A) of the~~
 33 ~~Internal Revenue Code are not met, any listed transaction, as~~
 34 ~~defined in Section 6707A(c)(2) of the Internal Revenue Code, or~~
 35 ~~a gross misstatement within the meaning of Section 6404(g)(2)(D)~~
 36 ~~of the Internal Revenue Code, Section 6694(a) of the Internal~~
 37 ~~Revenue Code is modified to substitute “one thousand dollars~~
 38 ~~(\$1,000)” for “two hundred fifty dollars (\$250).”~~

39 (2) ~~Section 6694(a)(1) of the Internal Revenue Code is modified~~
 40 ~~to substitute the phrase “reasonable belief that the tax treatment~~

1 in that position was more likely than not the proper treatment”
2 instead of the phrase “realistic possibility of being sustained on
3 its merits” contained therein.

4 ~~(3) Section 6694(a)(3) of the Internal Revenue Code is modified~~
5 ~~to substitute the phrase “or there was no reasonable basis for the~~
6 ~~tax treatment of that position” instead of the phrase “or was~~
7 ~~frivolous” contained therein.~~

8 ~~(e) Section 6694(b) of the Internal Revenue Code is modified~~
9 ~~to substitute “\$5,000” for “\$1,000.”~~

10 ~~(d)~~

11 (b) Section 6694(c) of the Internal Revenue Code shall not apply
12 and, in lieu thereof, the following shall apply:

13 (1) If, within 30 days after the day on which notice and demand
14 of any penalty under Section 6694(a) or 6694(b) of the Internal
15 Revenue Code is made against any person who is ~~an income~~ a tax
16 return preparer, that person pays an amount which is not less than
17 15 percent of the amount of that penalty and files a claim for refund
18 of the amount so paid, no levy or proceeding in court for the
19 collection of the remainder of that penalty shall be made, begun,
20 or prosecuted until the final resolution of a proceeding begun as
21 provided in paragraph (2). Notwithstanding Section 19381, the
22 beginning of that proceeding or levy during the time that
23 prohibition is in force may be enjoined in a proceeding in the
24 superior court.

25 (2) If, within 30 days after the day on which a claim for refund
26 of any partial payment of any penalty under Section 6694(a) or
27 6694(b) of the Internal Revenue Code is denied (or, if earlier,
28 within 30 days after the expiration of six months after the day on
29 which the claim for refund has been filed), the ~~income~~ tax return
30 preparer fails to begin a proceeding in the superior court for the
31 determination of his or her liability for that penalty, paragraph (1)
32 shall cease to apply with respect to that penalty, effective on the
33 day following the close of the applicable 30-day period referred
34 to in this subdivision.

35 (3) The running of the period of limitations provided in Section
36 19371 on the collection by levy or by a proceeding in court in
37 respect of any penalty described in paragraph (1) shall be
38 suspended for the period during which the Franchise Tax Board
39 is prohibited from collecting by levy or a proceeding in court.

1 (c) *The amendments made to this section by the act adding this*
 2 *subdivision shall apply to returns prepared after the effective date*
 3 *of this act.*

4 SEC. 34. Section 19172 of the Revenue and Taxation Code is
 5 amended to read:

6 19172. (a) In addition to the penalty imposed by Section 19706
 7 (relating to willful failure to file return, supply information, or pay
 8 tax), if any partnership required to file a return under Section 18633
 9 or 18633.5 for any taxable year does either of the following:

10 (1) Fails to file the return at the time prescribed therefor
 11 (determined with regard to any extension of time for filing).

12 (2) Files a return which fails to show the information required
 13 under Section 18633 or 18633.5, that partnership shall be liable
 14 for a penalty determined under subdivision (b) for each month (or
 15 fraction thereof) during which that failure continues (but not to
 16 exceed five months), unless it is shown that the failure is due to
 17 reasonable cause.

18 (b) For purposes of subdivision (a), the amount determined
 19 under this subdivision for any month is the product of the
 20 following:

21 (1) ~~Ten~~ *Seventeen* dollars ~~(\$10)~~ *(\$17)*, multiplied by

22 (2) The number of persons who were partners in the partnership
 23 during any part of the taxable year.

24 (c) The penalty imposed by subdivision (a) shall be assessed
 25 against the partnership.

26 (d) Article 3 (commencing with Section 19031) ~~of this chapter~~
 27 (relating to deficiency assessments) shall not apply with respect
 28 to the assessment or collection of any penalty imposed by
 29 subdivision (a).

30 (e) *The amendments made to this section by the act adding this*
 31 *subdivision shall apply to returns required to be filed after the*
 32 *effective date of the act adding this subdivision.*

33 SEC. 35. Section 19172.5 is added to the Revenue and Taxation
 34 Code, to read:

35 19172.5. (a) In addition to the penalty imposed by Section
 36 19706 (relating to willful failure to file return, supply information,
 37 or pay tax), if any “S” corporation required to file a return under
 38 Section 18601 for any taxable year fails to file the return at the
 39 time prescribed therefor (determined with regard to any extension
 40 of time for filing), or files a return that fails to show the information

1 required under Section 18601, then that “S” corporation shall be
2 liable for a penalty determined under subdivision (b) for each
3 month (or fraction thereof) during which that failure continues
4 (but not to exceed 12 months), unless that failure is due to
5 reasonable cause.

6 (b) For purposes of subdivision (a), the amount determined
7 under this subdivision for any month is the product of the
8 following:

9 (1) Seventeen dollars (\$17), multiplied by

10 (2) The number of persons who were shareholders in the “S”
11 corporation during any part of the taxable year.

12 (c) The penalty imposed by subdivision (a) shall be assessed
13 against the “S” corporation.

14 (d) Article 3 (commencing with Section 19031) (relating to
15 deficiency assessments) shall not apply with respect to the
16 assessment or collection of any penalty imposed by subdivision
17 (a).

18 (e) This section shall apply to returns required to be filed after
19 the effective date of the act adding this section.

20 SEC. 36. Section 19179 of the Revenue and Taxation Code is
21 amended to read:

22 19179. (a) A penalty shall be imposed for filing a frivolous
23 return and shall be determined in accordance with Section 6702
24 of the Internal Revenue Code, except as otherwise provided.

25 (a)

26 (b) Section 6702 of the Internal Revenue Code shall be applied
27 to returns required to be filed under this part.

28 ~~(b) For taxpayers that have a reportable transaction, as defined~~
29 ~~in Section 6707A(c)(1) of the Internal Revenue Code with respect~~
30 ~~to which the requirements of Section 6664(d)(2)(A) of the Internal~~
31 ~~Revenue Code are not met, any listed transaction, as defined in~~
32 ~~Section 6707A(c)(2) of the Internal Revenue Code, or a gross~~
33 ~~misstatement within the meaning of Section 6404(g)(2)(D) of the~~
34 ~~Internal Revenue Code, Section 6702(a) of the Internal Revenue~~
35 ~~Code is modified as follows:~~

36 ~~(1) By substituting “\$5,000” instead of “\$500.”~~

37 ~~(2) By substituting the term “person” instead of the term~~
38 ~~“individual” in each place that it appears.~~

39 (c) *Section 6702 of the Internal Revenue Code is modified as*
40 *follows:*

1 ~~(3)~~
 2 ~~(1) (A) By substituting the phrase “tax imposed under Part 10~~
 3 ~~(commencing with Section 17001), Part 11 (commencing with~~
 4 ~~Section 23001), or this part” instead of for the phrase “tax imposed~~
 5 ~~by subtitle A” this title” contained therein.~~

6 ~~(5)~~
 7 ~~(4) By substituting the phrase “is based on” instead of the phrase~~
 8 ~~“is due to” contained therein.~~

9 ~~(B) By substituting the phrase “frivolous or is based on a~~
 10 ~~position that the Franchise Tax Board has identified as frivolous~~
 11 ~~under subdivision (e) of Section 19179” (d)” instead of the term~~
 12 ~~“frivolous” contained therein.~~

13 ~~(6)~~
 14 ~~(C) By substituting the phrase “reflects a desire to delay or~~
 15 ~~impede the administration of federal income tax laws as determined~~
 16 ~~by the Secretary of the Treasury or the administration of the tax~~
 17 ~~imposed under Part 10 (commencing with Section 17001), Part 11~~
 18 ~~(commencing with Section 23001), or this part as determined by~~
 19 ~~the Franchise Tax Board” instead of the phrase “a “reflects a desire~~
 20 ~~(which appears on the purported return) to delay or impede the~~
 21 ~~administration of Federal income tax laws” contained therein.~~

22 ~~(e) (1) The Franchise Tax Board shall prescribe (and~~
 23 ~~periodically revise) a list of positions which the Secretary of the~~
 24 ~~Treasury for federal income tax purposes or the Franchise Tax~~
 25 ~~Board has identified as being frivolous for purposes of this section.~~

26 ~~(D) By substituting the phrase “is based on a position which~~
 27 ~~the Secretary of the Treasury has identified as frivolous under~~
 28 ~~subsection (c) of Section 6702 of the Internal Revenue Code or~~
 29 ~~the Franchise Tax Board has identified as frivolous under~~
 30 ~~subdivision (d)” for the phrase “is based on a position which the~~
 31 ~~Secretary has identified as frivolous under subsection (c).”~~

32 ~~(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
 33 ~~Division 3 of Title 2 of the Government Code does not apply to~~
 34 ~~any standard, criterion, procedure, determination, rule, notice, or~~
 35 ~~guideline established or prescribed by the Franchise Tax Board~~
 36 ~~pursuant to paragraph (1).~~

37 ~~(d) (1) Except as provided in paragraph (3), any person who~~
 38 ~~submits a specified frivolous submission shall pay a penalty of~~
 39 ~~five thousand dollars (\$5,000).~~

40 ~~(2) For purposes of this section, all of the following shall apply:~~

1 ~~(A) The phrase “specified frivolous submission” means a~~
2 ~~specified submission if any portion of that submission meets any~~
3 ~~of the following conditions:~~

4 ~~(i) Is based on a position which the Franchise Tax Board has~~
5 ~~identified as frivolous under subdivision (c):~~

6 ~~(ii) Reflects a desire to delay or impede the administration of~~
7 ~~federal income tax laws as determined by the Secretary of the~~
8 ~~Treasury or the administration of the tax imposed under Part 10~~
9 ~~(commencing with Section 17001), Part 11 (commencing with~~
10 ~~Section 23001), or this part as determined by the Franchise Tax~~
11 ~~Board.~~

12 *(E) By substituting the phrase “If the Franchise Tax Board*
13 *provides a person with notice that a submission is a specified*
14 *frivolous submission and the person withdraws that submission*
15 *within 30 days after the notice, the penalty imposed under Section*
16 *6702(b)(1) of the Internal Revenue Code does not apply with*
17 *respect to that submission” for the phrase “If the Secretary*
18 *provides a person with notice that a submission is a specified*
19 *frivolous submission and such person withdraws such submission*
20 *within 30 days after such notice, the penalty imposed under*
21 *paragraph (1) shall not apply with respect to such submission.”*

22 ~~(B)~~

23 ~~(2) The Section 6702(b)(2)(B) of the Internal Revenue Code~~
24 ~~shall not apply and, in lieu thereof, the phrase “specified~~
25 ~~submission” means any of the following:~~

26 ~~(i)~~

27 ~~(A) A protest under Section 19041.~~

28 ~~(ii)~~

29 ~~(B) A request for a hearing under Section 19044.~~

30 ~~(iii)~~

31 ~~(C) An application under any of the following sections:~~

32 ~~(I)~~

33 ~~(i) Section 19008 (relating 19008, relating to agreements for~~
34 ~~payment of tax liability in installments) installments.~~

35 ~~(II)~~

36 ~~(ii) Section 19443 (relating to compromises) 19443, relating to~~
37 ~~compromises.~~

38 ~~(III)~~

39 ~~(iii) Section 21004 (relating 21004, relating to actions of the~~
40 ~~Taxpayers’ Rights Advocate) Advocate.~~

1 (iv) Section 21015.5, relating to a request for review prior to
2 levy.

3 (d) (1) The Franchise Tax Board shall prescribe (and
4 periodically revise) a list of positions which the Secretary of the
5 Treasury for federal income tax purposes or the Franchise Tax
6 Board has identified as being frivolous for purposes of this section.

7 ~~(3) If the Franchise Tax Board provides a person with notice
8 that a submission is a specified frivolous submission and the person
9 withdraws that submission within 30 days after the notice, the
10 penalty imposed under paragraph (1) does not apply with respect
11 to that submission.~~

12 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
13 Division 3 of Title 2 of the Government Code does not apply to
14 any standard, criterion, procedure, determination, rule, notice, or
15 guideline established or prescribed by the Franchise Tax Board
16 pursuant to paragraph (1).

17 (e) (1) The Chief Counsel of the Franchise Tax Board may
18 rescind all or any portion of any penalty imposed by this section
19 if both of the following apply:

20 (A) Imposing the penalty would be against equity and good
21 conscience.

22 (B) Rescinding the penalty would promote compliance with the
23 requirements of this part and Part 10 (commencing with Section
24 17001) or Part 11 (commencing with Section 23001) and effective
25 tax administration.

26 (2) The exercise of authority under paragraph (1) shall be at the
27 sole discretion of the Chief Counsel of the Franchise Tax Board
28 and may not be delegated.

29 (3) Notwithstanding any other law or rule of law, any
30 determination under this subdivision may not be reviewed in any
31 administrative or judicial proceeding.

32 (f) The penalties imposed by this section shall be in addition to
33 any other penalty provided by law.

34 SEC. 37. Section 19185 is added to the Revenue and Taxation
35 Code, to read:

36 19185. (a) Section 6695A of the Internal Revenue Code,
37 relating to substantial and gross valuation misstatements
38 attributable to incorrect appraisals, shall apply, except as otherwise
39 provided.

1 (b) This section shall apply to appraisals prepared with respect
2 to returns or submissions filed on or after January 1, 2008.

3 SEC. 38. Section 19186 is added to the Revenue and Taxation
4 Code, to read:

5 19186. (a) Section 6702B of the Internal Revenue Code,
6 relating to the fraudulent identification of exempt use property,
7 shall apply, except as otherwise provided.

8 (b) This section shall apply to identifications made after January
9 1, 2008.

10 SEC. 39. Section 19443 of the Revenue and Taxation Code is
11 amended to read:

12 19443. (a) (1) The Executive Officer and Chief Counsel of
13 the Franchise Tax Board, jointly, or their delegates, may
14 compromise any final tax liability in which the reduction of tax is
15 seven thousand five hundred dollars (\$7,500) or less.

16 (2) Except as provided in paragraph (3), the Franchise Tax
17 Board, upon recommendation by its executive officer and chief
18 counsel, jointly, may compromise a final tax liability involving a
19 reduction in tax in excess of seven thousand five hundred dollars
20 (\$7,500). Any recommendation for approval of an offer in
21 compromise that is not either approved or disapproved by the
22 Franchise Tax Board, itself, within 45 days of the submission of
23 the recommendation shall be deemed approved.

24 (3) The Franchise Tax Board, itself, may by resolution delegate
25 to the executive officer and the chief counsel, jointly, the authority
26 to compromise a final tax liability in which the reduction of tax is
27 in excess of seven thousand five hundred dollars (\$7,500) but less
28 than ten thousand dollars (\$10,000).

29 (b) For purposes of this section, “a final tax liability” means
30 any final tax liability arising under Part 10 (commencing with
31 Section 17001) or Part 11 (commencing with Section 23001) or
32 related interest, additions to tax, penalties, or other amounts
33 assessed under this part.

34 (c) For an amount to be compromised under this section, the
35 following conditions shall exist:

36 (1) The taxpayer shall establish that the:

37 (A) Amount offered in payment is the most that can be expected
38 to be paid or collected from the taxpayer’s present assets or income,
39 and

1 (B) Taxpayer does not have reasonable prospects of acquiring
2 increased income or assets that would enable the taxpayer to satisfy
3 a greater amount of the liability than the amount offered, within a
4 reasonable period of time.

5 (2) The Franchise Tax Board shall have determined that
6 acceptance of the compromise is in the best interest of the state.

7 (d) A determination by the Franchise Tax Board that it would
8 not be in the best interest of the state to accept an offer in
9 compromise in satisfaction of a final tax liability shall not be
10 subject to administrative appeal or judicial review.

11 (e) When an offer in compromise is either accepted or rejected,
12 or the terms and conditions of a compromise agreement are
13 fulfilled, the Franchise Tax Board shall notify the taxpayer in
14 writing.

15 (f) In the case of a joint and several liability, the acceptance of
16 an offer in compromise from one liable spouse shall not relieve
17 the other spouse from paying the entire liability. However, the
18 amount of the liability shall be reduced by the amount of the
19 accepted offer.

20 (g) Whenever a compromise of tax or penalties or total tax and
21 penalties in excess of five hundred dollars (\$500) is approved,
22 there shall be placed on file for at least one year in the office of
23 the Executive Officer of the Franchise Tax Board a public record
24 with respect to that compromise. The public record shall include
25 all of the following information:

- 26 (1) The name of the taxpayer.
- 27 (2) The amount of unpaid tax, and related penalties, additions
28 to tax, interest, or other amounts involved.
- 29 (3) The amount offered.
- 30 (4) A summary of the reason why the compromise is in the best
31 interest of the state.

32 The public record shall not include any information that relates
33 to any trade secret, patent, process, style of work, apparatus,
34 business secret, or organizational structure, that if disclosed, would
35 adversely affect the taxpayer or the national defense. No list shall
36 be prepared and no releases distributed by the Franchise Tax Board
37 in connection with these statements.

38 (h) Any compromise made under this section may be rescinded,
39 all compromised liabilities may be reestablished (without regard
40 to any statute of limitations that otherwise may be applicable), and

1 no portion of the amount offered in compromise refunded, if either
2 of the following occurs:

3 (1) The Franchise Tax Board determines that any person did
4 any of the following acts regarding the making of the offer:

5 (A) Concealed from the Franchise Tax Board any property
6 belonging to the estate of any taxpayer or other person liable for
7 the tax.

8 (B) Received, withheld, destroyed, mutilated, or falsified any
9 book, document, or record or made any false statement, relating
10 to the estate or financial condition of the taxpayer or other person
11 liable for the tax.

12 (2) The taxpayer fails to either:

13 (A) Comply with any of the terms and conditions relative to the
14 offer.

15 (B) File subsequent required returns and pay subsequent final
16 tax liabilities within 20 days after the Franchise Tax Board issues
17 notice and demand to the person stating that the continued failure
18 to file or pay the tax may result in rescission of the compromise.

19 *(i) Notwithstanding any other provision of this section, if the*
20 *Franchise Tax Board determines that any portion of an application*
21 *for an offer-in-compromise or installment agreement submitted*
22 *under this section or Section 19008 meets the requirement of clause*
23 *(i) or (ii) of Section 6702(b)(2)(A) of the Internal Revenue Code,*
24 *as modified by Section 19179, then the Franchise Tax Board may*
25 *treat that portion as if it were never submitted and that portion*
26 *shall not be subject to any further administrative or judicial review.*

27 (i)

28 (j) This section shall become operative on the effective date of
29 ~~the act adding this section~~ *Chapter 931 of the Statutes of 1999*
30 without regard to the taxable year at issue.

31 SEC. 40. Section 21015.5 of the Revenue and Taxation Code
32 is amended to read:

33 21015.5. (a) (1) No levy may be made on any property or
34 property right of any person unless the board has notified the
35 person in writing of his or her rights as described in subparagraph
36 (C) of paragraph (3) before the levy is made. Except as provided
37 in subdivision (f), the notice shall be required only once for the
38 taxable period to which the unpaid tax specified in subparagraph
39 (A) of paragraph (3) relates. The notice shall not be required if the
40 unpaid tax for which notice would otherwise be required under

1 this paragraph is consolidated for collection purposes with a
2 preexisting unpaid tax for which notice has been given under this
3 paragraph.

4 (2) The notice required by paragraph (1) shall be made by
5 first-class mail to the address of record not less than 30 days before
6 the day of the first levy with respect to the amount of the unpaid
7 tax for the taxable period. Notice under paragraph (1) is not
8 required if previous mail to the same address was returned
9 undelivered with no forwarding address.

10 (3) The notice required under paragraph (1) shall specify, in
11 simple and nontechnical terms, all of the following:

12 (A) The amount of unpaid tax.

13 (B) A telephone number to call in the event of any questions.

14 (C) The right of the person to request a review during the 30-day
15 period described in paragraph (2).

16 (D) The proposed action or actions that may be taken by the
17 Franchise Tax Board and the rights of the person with respect to
18 the action or actions, including a brief statement that sets forth all
19 of the following:

20 (i) The provisions of California law relating to levy and sale of
21 property.

22 (ii) The procedures applicable to the levy and sale of property
23 under California law.

24 (iii) The independent departmental administrative review
25 available to the taxpayers with respect to the levy and sale and the
26 procedures to obtain that review.

27 (iv) The alternatives available to taxpayers that could prevent
28 levy on property, including installment agreements under Section
29 19008.

30 (v) California legal requirements and procedures with respect
31 to the release of levy.

32 (b) (1) The Taxpayers' Rights Advocate shall establish
33 procedures for an independent departmental administrative review
34 for taxpayers who request review under subparagraph (C) of
35 paragraph (3) of subdivision (a).

36 (2) A person shall be entitled to only one review under this
37 section with respect to the taxable period to which the unpaid tax
38 specified in subparagraph (A) of paragraph (3) of subdivision (a)
39 relates.

1 (3) An independent departmental administrative review under
2 this subdivision shall be conducted by an officer or employee, or
3 officers or employees, who have had no prior involvement with
4 respect to the unpaid tax specified in subparagraph (A) of paragraph
5 (3) of subdivision (a) before the first review under this section or
6 Section 19225. A taxpayer may waive the requirement of this
7 paragraph. Administrative review under this subdivision is not
8 subject to Chapter 4.5 (commencing with Section 11400) of Part
9 1 of Division 3 of the Government Code.

10 (c) (1) The person or persons conducting the independent
11 departmental administrative review shall obtain verification that
12 the requirements of any applicable law or administrative procedures
13 have been met by the board.

14 (2) The taxpayer may raise during the review any relevant issue
15 relating to the unpaid tax or the lien, including any of the following:

16 (A) Appropriate spousal defenses.

17 (B) Challenges to the appropriateness of collection actions.

18 (C) Offers of collection alternatives, that may include the posting
19 of a bond, the substitution of other assets, an installment agreement,
20 or an offer-in-compromise.

21 (3) The determination of the person or persons conducting the
22 review under this subdivision shall take into consideration all of
23 the following:

24 (A) The verification presented under paragraph (1).

25 (B) The issues raised under paragraph (2).

26 (C) Whether any proposed collection action balances the need
27 for the efficient collection of taxes with the legitimate concern of
28 the person that any collection action not be more intrusive than
29 necessary.

30 (4) An issue may not be raised during the review if:

31 (A) The issue was raised and considered at a previous review
32 under this section or in any other administrative or judicial
33 proceeding.

34 (B) The person seeking to raise the issue participated
35 meaningfully in the review or proceeding.

36 (C) *The issue meets the requirement of clause (i) or (ii) of*
37 *Section 6702(b)(2)(A) of the Internal Revenue Code.*

38 This paragraph does not apply to any issue with respect to a
39 change in circumstances of that person that affects the
40 determination.

1 (d) If review is requested under subparagraph (C) of paragraph
2 (3) of subdivision (a), the levy actions that are the subject of the
3 requested review shall be suspended for the period during which
4 the review is pending. In no event shall any period expire before
5 the 15th day after the day upon which there is a final determination
6 in the review.

7 (e) This section does not apply if the board has made a finding
8 under Section 19081 or Section 19082 that the collection of tax is
9 in jeopardy except that the taxpayer shall be given the opportunity
10 for the review described in this section within a reasonable period
11 of time after the levy.

12 (f) If the board holds in abeyance the collection of a liability
13 imposed under Part 10 (commencing with Section 17001) or Part
14 10.2 (commencing with Section 18401), that is final and otherwise
15 due and payable, for a period in excess of six months from the date
16 the hold is first placed on the account, the board shall thereafter
17 mail to the taxpayer a notice prior to issuing a levy or filing or
18 recording a notice of state tax lien.

19 (g) This section is operative for collection actions initiated after
20 the date which is 180 days after the effective date of the act adding
21 this section.

22 (h) *Notwithstanding any other provision of this section, if the*
23 *board determines that any portion of a request for review under*
24 *this section meets the requirement of clause (i) or (ii) of Section*
25 *6702(b)(2)(A) of the Internal Revenue Code, as modified by Section*
26 *19179, then the Franchise Tax Board may treat that portion as if*
27 *it were never submitted and that portion shall not be subject to*
28 *any further administrative or judicial review.*

29 SEC. 41. Section 23045 of the Revenue and Taxation Code is
30 amended to read:

31 23045. For purposes of this part:

32 (a) Section 7702 of the Internal Revenue Code, relating to life
33 insurance contracts, shall apply, except as otherwise provided.

34 (b) Section 7702A of the Internal Revenue Code, relating to
35 modified endowment contracts, shall apply, except as otherwise
36 provided.

37 (c) (1) Section 7702B of the Internal Revenue Code, relating
38 to treatment of qualified long-term care insurance, shall apply,
39 except as otherwise provided.

1 (2) *The amendments made by Section 844 of the Pension*
2 *Protection Act of 2006 (Public Law 109-280) to Section 7702B of*
3 *the Internal Revenue Code shall not apply.*

4 SEC. 42. Section 23046.5 is added to the Revenue and Taxation
5 Code, to read:

6 23046.5. (a) Section 7701(o) of the Internal Revenue Code,
7 relating to convention or association of churches, shall apply,
8 except as otherwise provided.

9 (b) The phrase “this part” shall be substituted for “this title” in
10 Section 7701(o) of the Internal Revenue Code.

11 SEC. 43. Section 23051.5 of the Revenue and Taxation Code
12 is amended to read:

13 23051.5. (a) (1) Unless otherwise specifically provided, the
14 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
15 or “Internal Revenue Code of 1986,” for purposes of this part,
16 mean Title 26 of the United States Code, including all amendments
17 thereto, as enacted on the specified date for the applicable taxable
18 year as defined in paragraph (1) of subdivision (a) of Section
19 17024.5.

20 (2) (A) Unless otherwise specifically provided, for federal laws
21 enacted on or after January 1, 1987, and on or before the specified
22 date for the taxable year, uncodified provisions that relate to
23 provisions of the Internal Revenue Code that are incorporated for
24 purposes of this part, shall be applicable to the same taxable years
25 as the incorporated provisions.

26 (B) In the case where Section 901 of the Economic Growth and
27 Tax Relief Act of 2001 (Public Law 107-16) applies to any
28 provision of the Internal Revenue Code that is incorporated for
29 purposes of this part, Section 901 of the Economic Growth and
30 Tax Relief Act of 2001 (Public Law 107-16) shall apply for
31 purposes of this part in the same manner and to the same taxable
32 years as it applies for federal income tax purposes.

33 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
34 H (Repeal of Expired or Obsolete Provisions) of the Revenue
35 Reconciliation Act of 1990 (Public Law 101-508) modified
36 numerous provisions of the Internal Revenue Code and provisions
37 of prior federal acts, some of which are incorporated by reference
38 into this part. Unless otherwise provided, the provisions described
39 in the preceding sentence, to the extent that they modify provisions
40 that are incorporated into this part, are declaratory of existing law

1 and shall be applied in the same manner and for the same periods
2 as specified in the Revenue Reconciliation Act of 1990.

3 (b) Unless otherwise specifically provided, when applying the
4 Internal Revenue Code for purposes of this part, a reference to any
5 of the following is not applicable for purposes of this part:

6 (1) Domestic International Sales Corporations (DISC), as
7 defined in Section 992(a) of the Internal Revenue Code.

8 (2) Foreign Sales Corporations (FSC), as defined in Section
9 922(a) of the Internal Revenue Code.

10 (3) A personal holding company, as defined in Section 542 of
11 the Internal Revenue Code.

12 (4) A foreign personal holding company, as defined in Section
13 552 of the Internal Revenue Code.

14 (5) A foreign investment company, as defined in Section 1246(b)
15 of the Internal Revenue Code.

16 (6) A foreign trust as defined in Section 679 of the Internal
17 Revenue Code.

18 (7) Foreign income taxes and foreign income tax credits.

19 (8) Federal tax credits and carryovers of federal tax credits.

20 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
21 and Section 172 of the Tax Reform Act of 1984 (Public Law
22 98-369), relating to treatment of debt instruments, is not applicable
23 for taxable years beginning before January 1, 1987.

24 (2) The provisions contained in Public Law 99-121, relating to
25 the treatment of debt instruments, is not applicable for taxable
26 years beginning before January 1, 1987.

27 (3) For taxable years beginning on and after January 1, 1987,
28 the provisions referred to by paragraphs (1) and (2) shall be
29 applicable for purposes of this part in the same manner and with
30 respect to the same obligations as the federal provisions, except
31 as otherwise provided in this part.

32 (d) When applying the Internal Revenue Code for purposes of
33 this part, regulations promulgated in final form or issued as
34 temporary regulations by “the secretary” shall be applicable as
35 regulations issued under this part to the extent that they do not
36 conflict with this part or with regulations issued by the Franchise
37 Tax Board.

38 (e) Whenever this part allows a taxpayer to make an election,
39 the following rules shall apply:

1 (1) A proper election filed with the Internal Revenue Service
2 in accordance with the Internal Revenue Code or regulations issued
3 by “the secretary” shall be deemed to be a proper election for
4 purposes of this part, unless otherwise expressly provided in this
5 part or in regulations issued by the Franchise Tax Board.

6 (2) A copy of that election shall be furnished to the Franchise
7 Tax Board upon request.

8 (3) (A) Except as provided in subparagraph (B), in order to
9 obtain treatment other than that elected for federal purposes, a
10 separate election shall be filed with the Franchise Tax Board at
11 the time and in the manner that may be required by the Franchise
12 Tax Board.

13 (B) (i) If a taxpayer makes a proper election for federal income
14 tax purposes prior to the time that taxpayer becomes subject to the
15 tax imposed under this part or Part 10 (commencing with Section
16 17001), that taxpayer is deemed to have made the same election
17 for purposes of the tax imposed by this part, Part 10 (commencing
18 with Section 17001), and Part 10.2 (commencing with Section
19 18401), as applicable, and that taxpayer may not make a separate
20 election for California tax purposes unless that separate election
21 is expressly authorized by this part, Part 10 (commencing with
22 Section 17001), or Part 10.2 (commencing with Section 18401),
23 or by regulations issued by the Franchise Tax Board.

24 (ii) If a taxpayer has not made a proper election for federal
25 income tax purposes prior to the time that taxpayer becomes subject
26 to tax under this part or Part 10 (commencing with Section 17001),
27 that taxpayer may not make a separate California election for
28 purposes of this part, Part 10 (commencing with Section 17001),
29 or Part 10.2 (commencing with Section 18401), unless that separate
30 election is expressly authorized by this part, Part 10 (commencing
31 with Section 17001), Part 10.2 (commencing with Section 18401),
32 or by regulations issued by the Franchise Tax Board.

33 (iii) This subparagraph applies only to the extent that the
34 provisions of the Internal Revenue Code or regulations issued by
35 “the secretary” authorizing an election for federal income tax
36 purposes apply for purposes of this part, Part 10 (commencing
37 with Section 17001), or Part 10.2 (commencing with Section
38 18401).

1 (f) Whenever this part allows or requires a taxpayer to file an
2 application or seek consent, the rules set forth in subdivision (e)
3 shall apply to that application or consent.

4 (g) When applying the Internal Revenue Code for purposes of
5 determining the statute of limitations under this part, any reference
6 to a period of three years shall be modified to read four years for
7 purposes of this part.

8 (h) When applying, for purposes of this part, any section of the
9 Internal Revenue Code or any applicable regulation thereunder,
10 all of the following shall apply:

11 (1) For purposes of Chapter 2 (commencing with Section
12 23101), Chapter 2.5 (commencing with Section 23400), and
13 Chapter 3 (commencing with Section 23501), the term “taxable
14 income” shall mean “net income.”

15 (2) For purposes of Article 2 (commencing with Section 23731)
16 of Chapter 4, the term “taxable income” shall mean “unrelated
17 business taxable income,” as defined by Section 23732.

18 (3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall
19 mean this part.

20 (4) The provisions of Section 7806 of the Internal Revenue
21 Code, relating to construction of title, shall apply.

22 (5) Any provision of the Internal Revenue Code that becomes
23 operative on or after the specified date for that taxable year shall
24 become operative on the same date for purposes of this part.

25 (6) Any provision of the Internal Revenue Code that becomes
26 inoperative on or after the specified date for that taxable year shall
27 become inoperative on the same date for purposes of this part.

28 (7) Due account shall be made for differences in federal and
29 state terminology, effective dates, substitution of “Franchise Tax
30 Board” for “secretary” when appropriate, and other obvious
31 differences.

32 (8) Any provision of the Internal Revenue Code that refers to
33 a “corporation” shall, when applicable for purposes of this part,
34 include a “bank,” as defined by Section 23039.

35 (9) *Except as otherwise provided, any reference to Section 501*
36 *of the Internal Revenue Code shall be interpreted to also refer to*
37 *Section 23701.*

38 (i) Any reference to a specific provision of the Internal Revenue
39 Code shall include modifications of that provision, if any, in this
40 part.

1 SEC. 44. Section 23609 of the Revenue and Taxation Code is
2 amended to read:

3 23609. For each taxable year beginning on or after January 1,
4 1987, there shall be allowed as a credit against the “tax” (as defined
5 by Section 23036) an amount determined in accordance with
6 Section 41 of the Internal Revenue Code, except as follows:

7 (a) For each taxable year beginning before January 1, 1997,
8 both of the following modifications shall apply:

9 (1) The reference to “20 percent” in Section 41(a)(1) of the
10 Internal Revenue Code is modified to read “8 percent.”

11 (2) The reference to “20 percent” in Section 41(a)(2) of the
12 Internal Revenue Code is modified to read “12 percent.”

13 (b) (1) For each taxable year beginning on or after January 1,
14 1997, and before January 1, 1999, both of the following
15 modifications shall apply:

16 (A) The reference to “20 percent” in Section 41(a)(1) of the
17 Internal Revenue Code is modified to read “11 percent.”

18 (B) The reference to “20 percent” in Section 41(a)(2) of the
19 Internal Revenue Code is modified to read “24 percent.”

20 (2) For each taxable year beginning on or after January 1, 1999,
21 and before January 1, 2000, both of the following shall apply:

22 (A) The reference to “20 percent” in Section 41(a)(1) of the
23 Internal Revenue Code is modified to read “12 percent.”

24 (B) The reference to “20 percent” in Section 41(a)(2) of the
25 Internal Revenue Code is modified to read “24 percent.”

26 (3) For each taxable year beginning on or after January 1, 2000,
27 both of the following shall apply:

28 (A) The reference to “20 percent” in Section 41(a)(1) of the
29 Internal Revenue Code is modified to read “15 percent.”

30 (B) The reference to “20 percent” in Section 41(a)(2) of the
31 Internal Revenue Code is modified to read “24 percent.”

32 (c) (1) With respect to any expense paid or incurred after the
33 operative date of Section 6378, Section 41(b)(1) of the Internal
34 Revenue Code is modified to exclude from the definition of
35 “qualified research expense” any amount paid or incurred for
36 tangible personal property that is eligible for the exemption from
37 sales or use tax provided by Section 6378.

38 (2) “Qualified research” and “basic research” shall include only
39 research conducted in California.

1 (d) The provisions of Section 41(e)(7)(A) of the Internal
 2 Revenue Code, shall be modified so that “basic research,” for
 3 purposes of this section, includes any basic or applied research
 4 including scientific inquiry or original investigation for the
 5 advancement of scientific or engineering knowledge or the
 6 improved effectiveness of commercial products, except that the
 7 term does not include any of the following:
 8 (1) Basic research conducted outside California.
 9 (2) Basic research in the social sciences, arts, or humanities.
 10 (3) Basic research for the purpose of improving a commercial
 11 product if the improvements relate to style, taste, cosmetic, or
 12 seasonal design factors.
 13 (4) Any expenditure paid or incurred for the purpose of
 14 ascertaining the existence, location, extent, or quality of any deposit
 15 of ore or other mineral (including oil and gas).
 16 (e) (1) In the case of a taxpayer engaged in any
 17 biopharmaceutical research activities that are described in codes
 18 2833 to 2836, inclusive, or any research activities that are described
 19 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard
 20 Industrial Classification (SIC) Manual published by the United
 21 States Office of Management and Budget, 1987 edition, or any
 22 other biotechnology research and development activities, the
 23 provisions of Section 41(e)(6) of the Internal Revenue Code shall
 24 be modified to include both of the following:
 25 (A) A qualified organization as described in Section
 26 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an
 27 institution of higher education as described in Section 3304(f) of
 28 the Internal Revenue Code.
 29 (B) A charitable research hospital owned by an organization
 30 that is described in Section 501(c)(3) of the Internal Revenue Code,
 31 is exempt from taxation under Section 501(a) of the Internal
 32 Revenue Code, is not a private foundation, is designated a
 33 “specialized laboratory cancer center,” and has received Clinical
 34 Cancer Research Center status from the National Cancer Institute.
 35 (2) For purposes of this subdivision:
 36 (A) “Biopharmaceutical research activities” means those
 37 activities that use organisms or materials derived from organisms,
 38 and their cellular, subcellular, or molecular components, in order
 39 to provide pharmaceutical products for human or animal
 40 therapeutics and diagnostics. Biopharmaceutical activities make

1 use of living organisms to make commercial products, as opposed
2 to pharmaceutical activities that make use of chemical compounds
3 to produce commercial products.

4 (B) “Other biotechnology research and development activities”
5 means research and development activities consisting of the
6 application of recombinant DNA technology to produce
7 commercial products, as well as research and development
8 activities regarding pharmaceutical delivery systems designed to
9 provide a measure of control over the rate, duration, and site of
10 pharmaceutical delivery.

11 (f) In the case where the credit allowed by this section exceeds
12 the “tax,” the excess may be carried over to reduce the “tax” in
13 the following year, and succeeding years if necessary, until the
14 credit has been exhausted.

15 (g) For each taxable year beginning on or after January 1, 1998,
16 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
17 Internal Revenue Code, relating to contract research expenses, is
18 modified to read “this part or Part 10 (commencing with Section
19 17001).”

20 (h) (1) For each taxable year beginning on or after January 1,
21 2000:

22 (A) The reference to ~~“2.65~~ “3 percent” in Section 41(c)(4)(A)(i)
23 of the Internal Revenue Code is modified to read “one and
24 forty-nine hundredths of one percent.”

25 (B) The reference to ~~“3.2~~ “4 percent” in Section 41(c)(4)(A)(ii)
26 of the Internal Revenue Code is modified to read “one and
27 ninety-eight hundredths of one percent.”

28 (C) The reference to ~~“3.75~~ “5 percent” in Section
29 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read
30 “two and forty-eight hundredths of one percent.”

31 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
32 election under Section 41(c)(4)(A) of the Internal Revenue Code
33 may be made for any taxable year of the taxpayer beginning on or
34 after January 1, 1998. That election shall apply to the taxable year
35 for which made and all succeeding taxable years unless revoked
36 with the consent of the Franchise Tax Board.

37 (3) Section ~~41(e)(6)~~ 41(c)(7) of the Internal Revenue Code,
38 relating to gross receipts, is modified to take into account only
39 those gross receipts from the sale of property held primarily for
40 sale to customers in the ordinary course of the taxpayer’s trade or

1 business that is delivered or shipped to a purchaser within this
2 state, regardless of f.o.b. point or any other condition of the sale.

3 (4) *Section 41(c)(5) of the Internal Revenue Code, relating to*
4 *the election of the alternative simplified credit, shall not apply.*

5 (i) Section 41(h) of the Internal Revenue Code, relating to
6 termination, shall not apply.

7 (j) Section 41(g) of the Internal Revenue Code, relating to
8 special rule for passthrough of credit, is modified by each of the
9 following:

10 (1) The last sentence shall not apply.

11 (2) If the amount determined under Section 41(a) of the Internal
12 Revenue Code for any taxable year exceeds the limitation of
13 Section 41(g) of the Internal Revenue Code, that amount may be
14 carried over to other taxable years under the rules of subdivision
15 (f), except that the limitation of Section 41(g) of the Internal
16 Revenue Code shall be taken into account in each subsequent
17 taxable year.

18 (k) (1) *Section 41(a)(3) of the Internal Revenue Code shall not*
19 *apply.*

20 (2) *Section 41(b)(3)(D) of the Internal Revenue Code, relating*
21 *to amounts paid to eligible small businesses, universities, and*
22 *federal laboratories, shall not apply.*

23 (3) *Section 41(f)(6) of the Internal Revenue Code, relating to*
24 *an energy research consortium, shall not apply.*

25 SEC. 45. Section 23703.7 is added to the Revenue and Taxation
26 Code, to read:

27 23703.7. Section 501(q) of the Internal Revenue Code, relating
28 to special rules for credit counseling organizations, shall apply,
29 except as otherwise provided.

30 (a) The phrase “Section 23701” shall be substituted for
31 “subsection (a)” in Section 501(q)(1) of the Internal Revenue Code.

32 (b) The phrase “described in Section 23701d or Section 23701f”
33 shall be substituted for “described in paragraph (3) or (4) of
34 subsection (c)” in Section 501(q)(1) of the Internal Revenue Code.

35 (c) The phrase “described in Section 23701d and exempt from
36 tax under Section 23701” shall be substituted for “described in
37 subsection (c)(3) and exempt from tax under subsection (a)” in
38 each place that it appears in Section 501(q)(1)(E) of the Internal
39 Revenue Code.

1 (d) The phrase “described in Section 23701d shall not be exempt
2 from tax under Section 23701” shall be substituted for “described
3 in paragraph (3) of subsection (c) shall not be exempt from tax
4 under subsection (a)” in Section 501(q)(2)(A) of the Internal
5 Revenue Code.

6 (e) The phrase “described in Section 23701d and exempt from
7 tax under Section 23701 on January 1, 2007,” shall be substituted
8 for “described in paragraph (3) of subsection (c) and exempt from
9 tax under subsection (a) on the date of the enactment of this
10 subsection” in Section 501(q)(2)(B)(ii) of the Internal Revenue
11 Code.

12 (f) The phrase “January 1, 2008,” shall be substituted for “the
13 date of the enactment of this subsection” in Section
14 501(q)(2)(B)(ii)(I) of the Internal Revenue Code.

15 (g) The phrase “described in Section 23701f shall not be exempt
16 from tax under Section 23701” shall be substituted for “described
17 in paragraph (4) of subsection (c) shall not be exempt from tax
18 under subsection (a)” in Section 501(q)(3) of the Internal Revenue
19 Code.

20 SEC. 46. Section 23772 of the Revenue and Taxation Code is
21 amended to read:

22 23772. (a) For the purposes of this part—

23 (1) Except as provided in paragraph (2), every organization
24 exempt from taxation under Section 23701 and every trust treated
25 as a private foundation because of Section 4947(a)(1) of the
26 Internal Revenue Code shall file an annual return, stating
27 specifically the items of gross income, receipts, and disbursements,
28 and any other information for the purpose of carrying out the laws
29 under this part as the Franchise Tax Board may by rules or
30 regulations prescribe, and shall keep any records, render under
31 oath any statements, make any other returns, and comply with any
32 rules and regulations as the Franchise Tax Board may from time
33 to time prescribe. The return shall be filed on or before the 15th
34 day of the fifth full calendar month following the close of the
35 taxable year.

36 (2) Exceptions from filing—

37 (A) Mandatory exceptions—Paragraph (1) does not apply to—

38 (i) Churches, their integrated auxiliaries, and conventions or
39 association of churches,

1 (ii) Any organization (other than a private foundation as defined
 2 in Section 23709), the gross receipts of which in each taxable year
 3 are normally not more than twenty-five thousand dollars (\$25,000),
 4 or
 5 (iii) The exclusively religious activities of any religious order.
 6 (B) Discretionary exceptions—The Franchise Tax Board may
 7 permit the filing of a simplified return for organizations based on
 8 either gross receipts or total assets or both gross receipts and total
 9 assets, or may permit the filing of an information statement
 10 (without fee), or may permit the filing of a group return for
 11 incorporated or unincorporated branches of a state or national
 12 organization where it determines that an information return is not
 13 necessary to the efficient administration of this part.
 14 (3) An organization that is required to file an annual information
 15 return shall pay a filing fee of ten dollars (\$10) on or before the
 16 due date for filing the annual information return (determined with
 17 regard to any extension of time for filing the return) required by
 18 this section. In case of failure to pay the fee on or before the due
 19 date, unless it is shown that the failure is due to reasonable cause,
 20 the filing fee shall be twenty-five dollars (\$25). All collection
 21 remedies provided in Article 5 (commencing with Section 18661)
 22 of Chapter 2 of Part 10.2 are applicable to collection of the filing
 23 fee. However, the filing fee does not apply to the organization
 24 described in paragraph (4).
 25 (4) Paragraph (3) does not apply to: (A) a religious organization
 26 exempt under Section 23701d; (B) an educational organization
 27 exempt under Section 23701d, if that organization normally
 28 maintains a regular faculty and curriculum and normally has a
 29 regularly organized body of pupils or students in attendance at the
 30 place where its educational activities are regularly carried on; (C)
 31 a charitable organization, or an organization for the prevention of
 32 cruelty to children or animals, exempt under Section 23701d, if
 33 that organization is supported, in whole or in part, by funds
 34 contributed by the United States or any state or political subdivision
 35 thereof, or is primarily supported by contributions of the general
 36 public; (D) an organization exempt under Section 23701d, if that
 37 organization is operated, supervised, or controlled by or in
 38 connection with a religious organization described in subparagraph
 39 (A).

- 1 (b) Every organization described in Section 23701d that is
2 subject to the requirements of subdivision (a) is required to furnish
3 annually information, at the time and in the manner as the Franchise
4 Tax Board may by rules or regulations prescribe, setting forth all
5 of the following:
- 6 (1) Its gross income for the year.
 - 7 (2) Its expenses attributable to gross income and incurred within
8 the year.
 - 9 (3) Its disbursements within the year for the purposes for which
10 it is exempt.
 - 11 (4) A balance sheet showing its assets, liabilities, and net worth
12 as of the beginning of that year.
 - 13 (5) The total of the contributions and gifts received by it during
14 the year, and the names and addresses of all substantial
15 contributors.
 - 16 (6) The names and addresses of its foundation manager (within
17 the meaning of Section 4946 of the Internal Revenue Code) and
18 highly compensated employees.
 - 19 (7) The compensation and other payments made during the year
20 to each individual described in paragraph (6).
 - 21 (8) In the case of an organization with respect to which an
22 election under Section 23704.5 is effective for the taxable year,
23 the following amounts for that organization for that taxable year:
 - 24 (A) The lobbying expenditures (as defined in Section 4911(c)(1)
25 of the Internal Revenue Code).
 - 26 (B) The lobbying nontaxable amount (as defined in Section
27 4911(c)(2) of the Internal Revenue Code).
 - 28 (C) The grassroots expenditures (as defined in Section
29 4911(c)(3) of the Internal Revenue Code).
 - 30 (D) The grassroots nontaxable amount (as defined in Section
31 4911(c)(4) of the Internal Revenue Code). For purposes of this
32 paragraph, if Section 23740 applies to the organization for the
33 taxable year, the organization shall furnish the amounts with respect
34 to the affiliated group as well as with respect to the organization.
 - 35 (9) Other information with respect to direct or indirect transfers
36 to, and other direct or indirect transactions and relationships with,
37 other organizations described in Sections 23701a to 23701w,
38 inclusive (other than Sections 23701d, 23701k, and 23701t), as
39 the Franchise Tax Board may require to prevent either of the
40 following:

- 1 (A) Diversion of funds from the organization's exempt purpose.
2 (B) Misallocation of revenue or expense.
3 (10) Any other relevant information as the Franchise Tax Board
4 may prescribe.

5 *(11) Each controlling organization, within the meaning of*
6 *Section 512(b)(13) of the Internal Revenue Code, which is subject*
7 *to the requirements of subdivision (a) shall include on the return*
8 *required under subdivision (a) all of the following information:*

9 (A) Any interest, annuities, royalties, or rents received from
10 each controlled entity, within the meaning of Section 512(b)(13)
11 of the Internal Revenue Code.

12 (B) Any loans made to each such controlled entity.

13 (C) Any transfers of funds between such controlling organization
14 and each such controlled entity.

15 (12) (A) Any organization, the gross receipts of which in any
16 taxable year result in the organization being referred to in clause
17 (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or
18 subparagraph (B) of paragraph (3) of subdivision (a), shall do
19 both of the following:

20 (i) *Furnish annually, in electronic form, and at the time and in*
21 *the manner as may be prescribed by the Franchise Tax Board, the*
22 *legal name of the organization, any name under which the*
23 *organization operates or does business, the organization's mailing*
24 *address and the Web site address, if any, the organization's*
25 *taxpayer identification number, the name and address of a*
26 *principal officer, and evidence of the continuing basis for the*
27 *organization's exemption from the filing requirements under*
28 *paragraph (1) of subdivision (a).*

29 (ii) *Upon termination of the existence of the organization, shall*
30 *furnish notice of the termination.*

31 (B) *This paragraph shall apply to notices and returns with*
32 *respect to annual periods beginning on or after January 1, 2007.*

33 (13) (A) *If an organization described in paragraph (1) of*
34 *subdivision (a) or paragraph (12) of this subdivision fails to file*
35 *an annual return or notice required under either subdivision (a)*
36 *or paragraph (12) of this subdivision for three consecutive years,*
37 *that organization's status as an organization exempt from tax*
38 *under Section 23701 shall be considered revoked on and after the*
39 *date set by the Franchise Tax Board for the filing of the third*
40 *annual return or notice. The Franchise Tax Board shall publish*

1 *and maintain a list of any organization for which the tax-exempt*
2 *status is revoked.*

3 *(B) Any organization for which the tax-exempt status is revoked*
4 *under subparagraph (A) must apply for reinstatement of that status*
5 *regardless of whether that organization was originally required*
6 *to make such an application.*

7 *(C) If, upon application for reinstatement of status as an*
8 *organization exempt from tax under Section 23701, an organization*
9 *described in subparagraph (A) can show to the satisfaction of the*
10 *Franchise Tax Board evidence of reasonable cause for the failure*
11 *described in that subparagraph, the organization's exempt status*
12 *may, in the discretion of the Franchise Tax Board, be reinstated*
13 *effective from the date of the revocation under that subparagraph.*

14 *(D) This paragraph shall apply to notices and returns with*
15 *respect to annual periods beginning on or after January 1, 2008.*

16 (c) For the purposes of this part—

17 (1) In the case of a failure to file a return required under this
18 section on the date and in the manner prescribed therefor
19 (determined with regard to any extension of time for filing), unless
20 it is shown that the failure is due to reasonable cause, there shall
21 be paid (on notice and demand by the Franchise Tax Board and in
22 the same manner as tax) by the exempt organization or trust failing
23 so to file, five dollars (\$5) for each month or part thereof during
24 which the failure continues, but the total amount imposed hereunder
25 on any organization for failure to file any return may not exceed
26 forty dollars (\$40).

27 (2) The Franchise Tax Board may make written demand upon
28 a private foundation failing to file under paragraph (1) of this
29 subdivision specifying therein a reasonable future date by which
30 the filing shall be made, and if the filing is not made on or before
31 that date, and unless it is shown that failure so to file is due to
32 reasonable cause, there shall be paid (on notice and demand by
33 the Franchise Tax Board and in the same manner as tax) by the
34 person failing so to file, in addition to the penalty prescribed in
35 paragraph (1), a penalty of five dollars (\$5) each month or part
36 thereof after the expiration of the time specified in the written
37 demand during which the failure continues, but the total amount
38 imposed hereunder on all persons for the failure to file shall not
39 exceed twenty-five dollars (\$25). If more than one person is liable
40 under this paragraph for a failure to file, all of those persons shall

1 be jointly and severally liable with respect to the failure. The term
 2 “person” as used herein means any officer, director, trustee,
 3 employee, member, or other individual who is under a duty to
 4 perform the act in respect of which the violation occurs.

5 *(3) This subdivision shall not apply with respect to any notice*
 6 *required under paragraph (12) of subdivision (b).*

7 SEC. 47. Section 24305 of the Revenue and Taxation Code is
 8 amended to read:

9 24305. (a) Except as provided in ~~subdivision (b)~~ *subdivisions*
 10 *(b) and (c)*, amounts received under life insurance policies and
 11 contracts paid by reason of the death of the insured but if such
 12 amounts are held by the insurer under an agreement to pay interest
 13 thereon, the interest payments shall be included in gross income.

14 (b) Proceeds of flexible premium contracts payable by reason
 15 of death shall be excluded from gross income only in accordance
 16 with the provisions of Section 101(f) of the Internal Revenue Code.

17 (c) (1) *In the case of an employer-owned life insurance contract,*
 18 *any amount received by reason of death of an insured shall be*
 19 *excluded from gross income only in accordance with the provisions*
 20 *of Section 101(j) of the Internal Revenue Code.*

21 (2) *Section 101(j) of the Internal Revenue Code, relating to*
 22 *treatment of certain employer-owned life insurance contracts,*
 23 *shall apply in accordance with the provisions of Section 863(d) of*
 24 *the Pension Protection Act of 2006 (Public Law 109-280), relating*
 25 *to effective dates, except that the phrase “January 1, 2008” shall*
 26 *be substituted for “the date of the enactment of this Act” contained*
 27 *therein.*

28 SEC. 48. Section 24329 is added to the Revenue and Taxation
 29 Code, to read:

30 24329. Section 139 of the Internal Revenue Code, relating to
 31 disaster relief payments, shall apply, except as otherwise provided.

32 SEC. 49. Section 24357 of the Revenue and Taxation Code is
 33 amended to read:

34 24357. (a) There shall be allowed as a deduction any charitable
 35 contribution (as defined in Section 24359) payment of which is
 36 made within the taxable year. A charitable contribution shall be
 37 allowable as a deduction only if verified under regulations
 38 prescribed by the Franchise Tax Board.

1 (b) (1) In the case of a corporation reporting its income on the
2 accrual basis, the corporation may elect to treat the contribution
3 as paid during that taxable year if both of the following occur:

4 (A) The board of directors authorizes a charitable contribution
5 during the taxable year.

6 (B) Payment of the contribution is made after the close of that
7 taxable year and on or before the 15th day of the third month
8 following the close of the taxable year.

9 (2) The election allowed by paragraph (1) may be made only
10 at the time of the filing of the return for the taxable year, and shall
11 be signified in the manner as the Franchise Tax Board shall by
12 regulations prescribe.

13 (c) For purposes of this section, payment of a charitable
14 contribution that consists of a future interest in tangible personal
15 property shall be treated as made only when all intervening interests
16 in, and rights to the actual possession or enjoyment of, the property
17 have expired or are held by persons other than the taxpayer or
18 those standing in a relationship to the taxpayer described in Section
19 24428. For purposes of the preceding sentence, a fixture which is
20 intended to be severed from the real property shall be treated as
21 tangible personal property.

22 (d) No deduction shall be allowed under this section for traveling
23 expenses (including amounts expended for meals and lodging)
24 while away from home, whether paid directly or by reimbursement,
25 unless there is no significant element of personal pleasure,
26 recreation, or vacation in that travel.

27 (e) (1) Section 170(f)(8) of the Internal Revenue Code, relating
28 to substantiation requirement for certain contributions, shall apply,
29 except as otherwise provided.

30 (2) No deduction shall be denied under Section 170(f)(8) of the
31 Internal Revenue Code, relating to substantiation requirement for
32 certain contributions, upon a showing that the requirements in
33 Section 170(f)(8) of the Internal Revenue Code have been met
34 with respect to that contribution for federal purposes.

35 (f) Section 170(f)(9) of the Internal Revenue Code, relating to
36 the denial of the deduction for lobbying activities shall apply,
37 except as otherwise provided.

38 (g) (1) Notwithstanding any other provision of law to the
39 contrary, for purposes of this section and Section 24341, Section
40 170 of the Internal Revenue Code, ~~as amended by Public Law~~

1 ~~109-1~~ relating to charitable contributions, shall be applied to allow
 2 a taxpayer to elect to treat any contribution described in paragraph
 3 (2) made in January 2005, as if that contribution was made on
 4 December 31, 2004, and not in January 2005.

5 (2) A contribution is described in this paragraph if that
 6 contribution is a cash contribution made for the relief of victims
 7 in areas affected by the December 26, 2004, Indian Ocean tsunami
 8 for which a charitable contribution deduction is allowable under
 9 this section.

10 (h) (1) Section 170(f)(11)(E) of the Internal Revenue Code,
 11 relating to a qualified appraisal and appraiser, shall apply, except
 12 as otherwise provided.

13 (2) This subdivision shall apply to appraisals prepared with
 14 respect to returns or submissions filed on or after January 1, 2008.

15 (i) (1) Section 170(f)(16) of the Internal Revenue Code, relating
 16 to contributions of clothing and household items, shall apply,
 17 except as otherwise provided.

18 (2) This subdivision shall apply to contributions made on or
 19 after January 1, 2008.

20 (j) (1) Section 170(f)(17) of the Internal Revenue Code, relating
 21 to recordkeeping, shall apply, except as otherwise provided.

22 (2) This subdivision shall apply to contributions made in taxable
 23 years beginning on or after January 1, 2008.

24 (k) (1) Section 170(o) of the Internal Revenue Code, relating
 25 to special rules for fractional gifts, shall apply, except as otherwise
 26 provided.

27 (2) This subdivision shall apply to contributions made on or
 28 after January 1, 2008.

29 SEC. 50. Section 24357.1 of the Revenue and Taxation Code
 30 is amended to read:

31 24357.1. (a) The amount of any charitable contribution of
 32 property otherwise taken into account under Section 24357 shall
 33 be reduced by the amount of gain that would have been realized
 34 if the property contributed had been sold by the taxpayer at its fair
 35 market value (determined at the time of that contribution).

36 (b) For purposes of subdivision (a), in the case of a charitable
 37 contribution of less than the taxpayer's entire interest in the
 38 property contributed, the taxpayer's adjusted basis in that property
 39 shall be allocated between the interest contributed and any interest

1 not contributed in accordance with regulations prescribed by the
2 Franchise Tax Board.

3 (c) *The provisions of subdivision (a) shall apply in the case of*
4 *a charitable contribution of tangible personal property if either*
5 *of the following conditions is satisfied:*

6 (1) *The use by the donee is unrelated to the purpose or function*
7 *constituting the basis for its exemption under Section 501 of the*
8 *Internal Revenue Code or Section 23701, or, in the case of a*
9 *governmental unit, to any purpose or function described in Section*
10 *24359.*

11 (2) *The tangible personal property is applicable property, as*
12 *defined in subparagraph (B) of paragraph (2) of subdivision (d),*
13 *that is sold, exchanged, or otherwise disposed of by the donee*
14 *before the last day of the taxable year in which the contribution*
15 *was made and with respect to which the donee has not made a*
16 *certification in accordance with paragraph (3) of subdivision (d).*

17 (d) (1) *In the case of an applicable disposition of applicable*
18 *property, there shall be included in the income of the donor of that*
19 *property for the taxable year of the donor in which the applicable*
20 *disposition occurs an amount equal to the excess, if any, of the*
21 *following amount:*

22 (A) *The amount of the deduction allowed to the donor under*
23 *Section 24357 with respect to that property, over*

24 (B) *The donor's basis in that property at the time that property*
25 *was contributed.*

26 (2) *For purposes of this subdivision, both of the following*
27 *definitions apply:*

28 (A) *"Applicable disposition" means any sale, exchange, or*
29 *other disposition by the donee of applicable property after the last*
30 *day of the taxable year of the donor in which that property was*
31 *contributed, and before the last day of the three-year period*
32 *beginning on the date of the contribution of that property, unless*
33 *the donee makes a certification in accordance with paragraph (3).*

34 (B) *"Applicable property" means charitable deduction property,*
35 *as defined in Section 6050L(a)(2)(A) of the Internal Revenue Code,*
36 *that is tangible personal property, the use of which identified by*
37 *the donee as related to the purpose or function constituting the*
38 *basis of the donee's exemption under Section 501 of the Internal*
39 *Revenue Code or Section 23701, and for which a deduction in*
40 *excess of the donor's basis is allowed.*

1 (3) A certification meets the requirements of this paragraph if
 2 it is a written statement, which is signed under penalty of perjury
 3 by an officer of the donee organization, that meets either of the
 4 following conditions:

5 (A) Certifies that the use of the property by the donee was
 6 related to the purpose or function constituting the basis for the
 7 donee’s exemption under Section 501 of the Internal Revenue Code
 8 or Section 23701 and describes how the property was used and
 9 how that use furthered that purpose or function.

10 (B) States the intended use of the property by the donee at the
 11 time of the contribution and certifies that the intended use has
 12 become impossible or infeasible to implement.

13 (e) (1) For purposes of Section 24357 and subdivision (a), and
 14 notwithstanding Section 24912, in the case of a charitable
 15 contribution of taxidermy property that is made by the person who
 16 prepared, stuffed, or mounted the property, or by any person who
 17 paid or incurred the cost of such preparation, stuffing, or mounting,
 18 only the cost of the preparing, stuffing, or mounting shall be
 19 included in the basis of that property.

20 (2) For purposes of this section, the term “taxidermy property”
 21 means any work of art that satisfies all of the following
 22 requirements:

23 (A) Is the reproduction or preservation of an animal, in whole
 24 or in part.

25 (B) Is prepared, stuffed, or mounted for purposes of recreating
 26 one or more characteristics of the animal.

27 (C) Contains a part of the body of the dead animal.

28 (f) The amendments made to this section by the act adding this
 29 subdivision shall apply to contributions made on or after January
 30 1, 2008, without regard to taxable year.

31 SEC. 51. Section 24357.7 of the Revenue and Taxation Code
 32 is amended to read:

33 24357.7. (a) (1) For purposes of paragraph (3) of subdivision
 34 (b) of Section 24357.2, the term “qualified conservation
 35 contribution” means a contribution—

36 (A) Of a qualified real property interest,

37 (B) To a qualified organization,

38 (C) Exclusively for conservation purposes.

1 (2) For purposes of this subdivision, the term “qualified real
2 property interest” means any of the following interests in real
3 property:

4 (i) The entire interest of the donor other than a qualified mineral
5 interest.

6 (ii) A remainder interest.

7 (iii) A restriction (granted in perpetuity) on the use which may
8 be made of the real property.

9 (b) For purposes of subdivision (a), the term “qualified
10 organization” means an organization which:

11 (1) Is described in subdivision (a) or (b) of Section 24359, or

12 (2) Is described in Section 23701(d), and—

13 (A) Meets the requirements of Section 509(a)(2) of the Internal
14 Revenue Code, or

15 (B) Meets the requirements of Section 509(a)(3) of the Internal
16 Revenue Code and is controlled by an organization described in
17 paragraph (1) or in subparagraph (A).

18 (c) For purposes of this section, the term “conservation purpose”
19 means any of the following:

20 (1) The preservation of land areas for outdoor recreation by, or
21 the education of, the general public.

22 (2) The protection of a relatively natural habitat of fish, wildlife,
23 or plants, or similar ecosystem.

24 (3) The preservation of open space (including farm land and
25 forest land) where that preservation is for any of the following:

26 (A) For the scenic enjoyment of the general public.

27 (B) Pursuant to a clearly delineated federal, state, or local
28 governmental conservation policy, and will yield a significant
29 public benefit.

30 (C) The preservation of a historically important land area or a
31 certified historic structure.

32 (d) *In the case of any contribution of a qualified real property*
33 *interest, which is a restriction with respect to the exterior of a*
34 *building described in paragraph (2) of subdivision (e), that*
35 *contribution shall not be considered to be exclusively for*
36 *conservation purposes unless all of the following conditions are*
37 *met:*

38 (1) *That interest includes a restriction that preserves the entire*
39 *exterior of the building, including the front, sides, rear, and height*
40 *of the building, and prohibits any change in the exterior of the*

1 *building which is inconsistent with the historical character of that*
 2 *exterior.*

3 (2) *The donor and donee enter into a written agreement*
 4 *certifying, under penalty of perjury, that the donee is a qualified*
 5 *organization, as defined in subdivision (b), with a purpose of*
 6 *environmental protection, land conservation, open-space*
 7 *preservation, and has the resources to manage and enforce the*
 8 *restriction and a commitment to do so.*

9 (3) *In the case of any contribution made in a taxable year*
 10 *beginning on or after January 1, 2008, the taxpayer includes with*
 11 *the taxpayer’s return for the taxable year of the contribution all*
 12 *of the following information:*

13 (A) *A qualified appraisal, within the meaning of Section*
 14 *170(f)(11)(E) of the Internal Revenue Code, of the qualified*
 15 *property interest.*

16 (B) *Photographs of the entire exterior of the building.*

17 (C) *A description of all restrictions on the development of the*
 18 *building.*

19 ~~(d)~~

20 (e) *The term “certified historic structure” means ~~any building,~~*
 21 *~~structure, or land area which either of the following:~~*

22 (1) ~~*Is Any building, structure, or land area that is listed in the*~~
 23 ~~*National Register, or Register.*~~

24 (2) (A) ~~*Is Any building that is located in a registered historic*~~
 25 ~~*district (as defined in Section 47(c)(3)(B)) of the Internal Revenue*~~
 26 ~~*Code and is certified by the Secretary of the Interior to the secretary*~~
 27 ~~*as being of historic significance to the district.*~~

28 (B) *A building, structure, or land area satisfies the ~~preceding~~*
 29 ~~*sentence requirements of paragraph (A) if it satisfies that sentence*~~
 30 ~~*those requirements either at the time of the transfer or on the due*~~
 31 ~~*date (including extensions) for filing the transferor’s return under*~~
 32 ~~*this part for the taxable year in which the transfer is made.*~~

33 ~~(e)~~

34 (f) *For purposes of this section:*

35 (1) *A contribution shall not be treated as exclusively for*
 36 *conservation purposes unless the conservation purpose is protected*
 37 *in perpetuity.*

38 (2) (A) *Except as provided in subparagraph (B), in the case of*
 39 *a contribution of any interest where there is a retention of a*
 40 *qualified mineral interest, this subdivision shall not be treated as*

1 met if at any time there may be extraction or removal of minerals
2 by any surface mining method.

3 (B) With respect to any contribution of property in which the
4 ownership of the surface estate and mineral interests has been and
5 remains separated, paragraph (1) shall be treated as met if the
6 probability of surface mining occurring on that property is so
7 remote as to be negligible.

8 (f)

9 (g) For purposes of this section, the term “qualified mineral
10 interest” ~~means~~— *means either of the following:*

11 (1) Subsurface oil, gas, or other ~~minerals~~; and *minerals*.

12 (2) The right to access to those minerals.

13 (h) *The amendments made to this section by the act adding this*
14 *subdivision shall apply to contributions made on or after January*
15 *1, 2008.*

16 SEC. 52. Section 24462 is added to the Revenue and Taxation
17 Code, to read:

18 24462. (a) Section 355(b) of the Internal Revenue Code,
19 relating to special rule with respect to the active business
20 requirement under Section 355(b) of the Internal Revenue Code,
21 is modified as follows:

22 (1) The phrase “January 1, 2008,” shall be substituted for “the
23 date of the enactment of this paragraph” in Section 355(b)(3)(A)
24 of the Internal Revenue Code.

25 (2) The phrase “January 1, 2008,” shall be substituted for “the
26 date of the enactment of this paragraph” in Section 355(b)(3)(C)(i)
27 of the Internal Revenue Code.

28 (3) The phrase “January 1, 2008,” shall be substituted for “the
29 date of the enactment of this paragraph” in Section 355(b)(3)(D)
30 of the Internal Revenue Code.

31 (b) Section 355(g) of the Internal Revenue Code, relating to
32 sections not applying to distributions involving disqualified
33 investment corporations, is modified by substituting the phrase
34 “January 1, 2008,” for “the date of the enactment of this
35 subsection” in Section 355(g)(2)(A)(i) of the Internal Revenue
36 Code.

37 (c) The provisions of Section 507(b) of Public Law 109-222,
38 relating to effective dates, shall apply and are modified as follows:

1 (1) The phrase “January 1, 2008,” shall be substituted for “the
2 date of the enactment of this Act” in Section 507(b)(1) of Public
3 Law 109-222.

4 (2) The phrase “January 1, 2008,” shall be substituted for “such
5 date of enactment” in Section 507(b)(2)(A) of Public Law 109-222.

6 (d) The amendments made by the act adding this subdivision
7 shall apply as of the dates specified in this section, without regard
8 to taxable year.

9 SEC. 53. Section 24949.5 of the Revenue and Taxation Code
10 is amended to read:

11 24949.5. (a) For purposes of Sections 24943 through 24946,
12 Section 1033(h) of the Internal Revenue Code, relating to special
13 rules for property damaged by presidentially declared disasters,
14 shall apply, except as otherwise provided.

15 (b) For purposes of Sections 24943 through 24946, Section
16 1033(i) of the Internal Revenue Code, relating to nonrecognition
17 not to apply if corporation acquires replacement property from
18 related person, shall apply, except as otherwise provided.

19 (c) For purposes of Sections 24943 through 24946, Section
20 1033(j) of the Internal Revenue Code, relating to sales or exchanges
21 to implement microwave relocation policy, shall apply, except as
22 otherwise provided.

23 (d) *For purposes of Sections 24943 to 24946, inclusive, Section*
24 *1033(k) of the Internal Revenue Code, relating to sales or*
25 *exchanges under certain hazard mitigation programs, shall apply,*
26 *except as otherwise provided.*

27 SEC. 54. Section 24950.5 is added to the Revenue and Taxation
28 Code, to read:

29 24950.5. The amendments made by Section 844 of the Pension
30 Protection Act of 2006 (Public Law 109-280) to Section 1035 of
31 the Internal Revenue Code shall not apply.

32 SEC. 55. Section 24981 of the Revenue and Taxation Code is
33 repealed.

34 ~~24981. Section 1081 of the Internal Revenue Code, relating to~~
35 ~~nonrecognition of gain or loss on exchanges or distributions in~~
36 ~~obedience to orders of the federal Securities and Exchange~~
37 ~~Commission, shall apply, except as otherwise provided.~~

38 SEC. 56. Section 24988 of the Revenue and Taxation Code is
39 repealed.

1 ~~24988. For purposes of Section 24981, Section 1082 of the~~
2 ~~Internal Revenue Code, relating to basis for determining gain or~~
3 ~~loss, shall apply, except as otherwise provided.~~

4 SEC. 57. Section 24990.6 of the Revenue and Taxation Code
5 is amended to read:

6 24990.6. (a) Section 1245(a)(2)(C) of the Internal Revenue
7 Code, relating to certain deductions treated as amortization, is
8 modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

9 (b) *Section 1245(b)(8) of the Internal Revenue Code, relating*
10 *to the disposition of amortizable Section 197 intangibles, shall*
11 *apply to dispositions of property on or after January 1, 2008.*

12 SEC. 58. Section 24990.8 is added to the Revenue and Taxation
13 Code, to read:

14 24990.8. For taxable years beginning on or after January 1,
15 2008, specific reference to Sections 1223(4) to (16), inclusive, of
16 the Internal Revenue Code in this part shall instead be treated as
17 a reference to Sections 1223(3) to (15), inclusive, of the Internal
18 Revenue Code, respectively.

19 SEC. 59. Section 24993 of the Revenue and Taxation Code is
20 amended to read:

21 24993. (a) Section 7872 of the Internal Revenue Code, relating
22 to the treatment of loans with below market interest rates, shall
23 apply, except as otherwise provided.

24 (b) *Section 7872(h) of the Internal Revenue Code, relating to*
25 *the exception for loans to qualified continuing care facilities, shall*
26 *apply to calendar years beginning on or after January 1, 2008,*
27 *with respect to loans made before, on, or after that date.*

28 SEC. 60. Sections 1 to 14, inclusive, of the Tax Technical
29 Correction Act of 2007 (Public Law 110-172), Section 426 of
30 Division A of the Tax Reform and Health Care Act of 2006 (Public
31 Law 109-432), Section 1 of the Disaster Mitigation Payments Act
32 of 2005 (Public Law 109-7), and Sections 402 to 413, inclusive,
33 of the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV
34 of Public Law 109-135) enacted numerous technical corrections
35 and clarifications to provisions of the Internal Revenue Code,
36 including technical corrections and clarifications relating to the
37 Tax Relief and Health Care Act of 2006 (Public Law 109-142),
38 Title XII of the Pension Protection Act of 2006 (Public Law
39 109-280), the Tax Increase Prevention and Reconciliation Act of
40 2005 (Public Law 109-222), the Energy Tax Incentives Act (Title

1 XIII of the Energy Policy Act of 2005) (Public Law 109-58), the
2 Working Families Tax Relief Act of 2004 (Public Law 108-311),
3 the American Jobs Creation Act of 2004 (Public Law 108-357),
4 the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public
5 Law 108-27), the Victims of Terrorism Tax Relief Act of 2001
6 (Public Law 107-134), the Economic Growth and Tax Relief
7 Reconciliation Act of 2001 (Public Law 107-16), Tax Relief
8 Extension Act of 1999 (Public Law 106-170), the Internal Revenue
9 Service Restructuring and Reform Act of 1998) (Public Law
10 105-206), the Taxpayer Relief Act of 1997 (Public Law 105-34),
11 the Omnibus Budget Reconciliation Act of 1990 (Public Law
12 101-508), the Omnibus Budget Reconciliation Act of 1987
13 (Revenue Act of 1987) (Public Law 100-203), some of which are
14 incorporated by reference into Part 10 (commencing with Section
15 17001), Part 10.2 (commencing with Section 18401), and Part 11
16 (commencing with Section 23001) of Division 2 of the Revenue
17 and Taxation Code. Unless otherwise specifically provided, the
18 technical corrections and clarifications described in the preceding
19 sentence, to the extent that they correct or clarify provisions that
20 are incorporated by specific reference into the Revenue and
21 Taxation Code, are declaratory of existing law and shall be applied
22 in the same manner and for the same periods as specified in the
23 Disaster Mitigation Payments Act of 2005 (Public Law 109-7),
24 the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV of
25 Public Law 109-135), the Tax Reform and Health Care Act of
26 2006 (Public Law 109-432), the Tax Technical Correction Act of
27 2007 (Public Law 110-172), or if later, the specified date of
28 incorporation.

29 SEC. 61. (a) Except as provided in subdivision (b), the
30 amendments made to Sections 19179, 19443, and 21015.5 of the
31 Revenue and Taxation Code by this act shall apply to returns filed,
32 submissions made, and issues raised on or after the effective date
33 of this act or January 1, 2009, whichever is later.

34 (b) The amendments made to Sections 19179, 19443, and
35 21015.5 of the Revenue and Taxation Code by this act shall be
36 applicable for submissions made or issues raised after the date on
37 which the Secretary of the Treasury or the Franchise Tax Board
38 first prescribe a list under Section 6702(c) of the Internal Revenue
39 Code or subdivision (c) of Section 19179 of the Revenue and
40 Taxation Code, respectively.

1 SEC. 62. The Legislature finds and declares that the
2 amendments made by this act to the Revenue and Taxation Code,
3 incorporating, by reference, the amendments made by Sections
4 827 and 828 of the Pension Protection Act of 2006 (Public Law
5 109-280) to Section 72 of the Internal Revenue Code, shall apply
6 in the same manner and for the same periods as specified in
7 Sections 827 and 828 of the Pension Protection Act of 2006 (Public
8 Law 109-280). The Legislature finds and declares that this act
9 serves a public purpose by providing equitable treatment for
10 reservists called to active duty and emergency service personnel,
11 and ultimately, benefitting all of the citizens of this state.

12 SEC. 63. (a) Except as provided in subdivision (b), the
13 amendments made by the enactment of this act to the Revenue and
14 Taxation Code, incorporating, by reference, the amendments made
15 by Section 1220 of the Pension Protection Act of 2006 (Public
16 Law 109-280) to Sections 501 and 513 of the Internal Revenue
17 Code, shall apply in the same manner and for the same periods as
18 specified in Section 1220(c) of the Pension Protection Act of 2006
19 (Public Law 109-280).

20 (b) The provisions of Section 1220(c) of the Pension Protection
21 Act of 2006 (Public Law 109-280), relating to effective date, are
22 modified as follows:

23 (1) The phrase “beginning on or after January 1, 2008” shall be
24 substituted for “beginning after the date of the enactment of this
25 Act” in Section 1220(c)(1) of Public Law 109-280.

26 (2) The phrase “described in Section 23701d or Section 23701f”
27 shall be substituted for “described in paragraph (3) or (4) of section
28 501(c) of the Internal Revenue Code of 1986” in Section 1220(c)(2)
29 of Public Law 109-280.

30 (3) The phrase “January 1, 2008” shall be substituted for “the
31 date of the 2008” enactment of this Act” in each place that it
32 appears in Section 1220(c)(2) of Public Law 109-280.

33 SEC. 64. The Legislature finds and declares that the
34 amendments made by this act to Section 17952.5 of the Revenue
35 and Taxation Code make that code compatible with the technical
36 changes made by Public Law 109-264 to Section 114 of title 4 of
37 the United States Code, relating to limitation on state income
38 taxation of certain pension income, and do not constitute a change
39 in, but are declaratory of, existing law and shall be applied in the
40 same manner and for the same periods as specified in Section 1

1 of Public Law 109-264. The Legislature finds and declares that
2 this act and the retroactive application contained in the preceding
3 sentence are necessary to clarify that the Legislature intended for
4 Chapter 506 of the Statutes of 1996 to apply to certain retired
5 partners. Additionally, the Legislature finds and declares that this
6 act serves a public purpose by ensuring the fair and consistent
7 application of California law to “qualified retirement income”
8 received on or after January 1, 1996, for any part of the taxable
9 year during which the taxpayer was not a resident of this state and,
10 thereby, preventing unnecessary litigation to determine the
11 taxability of that “qualified retirement income.”

12 SEC. 65. The Legislature finds and declares that the
13 amendments made by this act to Section 24949.5 of the Revenue
14 and Taxation Code, the addition of Section 24329 to the Revenue
15 and Taxation Code, and the incorporation by reference of the
16 amendments made by Section 1 of the Disaster Mitigation
17 Payments Act of 2005 (Public Law 109-7), which amended
18 Sections 139 and 1033 of the Internal Revenue Code, in the
19 Revenue and Taxation Code, conform California law to the
20 amendments made to Sections 139 and 1033 of the Internal
21 Revenue Code by Section 1 of the Disaster Mitigation Payments
22 Act of 2005 (Public Law 109-7) and do not constitute a change
23 in, but are declaratory of, existing law and shall be applied in the
24 same manner and for the same periods as specified in Section 1
25 of the Disaster Mitigation Payments Act of 2005 (Public Law
26 109-7). The Legislature finds and declares that this act and the
27 retroactive application contained in the preceding sentence are
28 necessary to clarify that, when the Legislature enacted the exclusion
29 from gross income for disaster relief payments in Chapter 807 of
30 the Statutes of 2002, it intended to exclude disaster mitigation
31 payments from gross income and treat sales and exchanges under
32 certain hazard mitigation programs as involuntary conversions.
33 Additionally, the Legislature finds and declares that this act serves
34 a public purpose by ensuring the fair and consistent application of
35 California law to all property owners, many of whom are
36 low-income people, that have taken or will take necessary
37 preventive measures to mitigate risk of harm and property damage
38 from disasters, thereby saving lives and reducing the need for
39 future taxpayer assistance.

1 SEC. 66. Section 11 of this bill adds Section 17144.5 to the
2 Revenue and Taxation Code, which provides amendments related
3 to Section 108 of the Internal Revenue Code. Senate Bill 1055
4 also adds Section 17144.5 to the Revenue and Taxation Code,
5 which also provides amendments related to Section 108 of the
6 Internal Revenue Code. Assembly Bill 1918 also adds Section
7 17144.5 to the Revenue and Taxation Code, which also provides
8 amendments related to Section 108 of the Internal Revenue Code.
9 Section 11 of this bill shall not become operative if (a) this bill
10 and either Senate Bill 1055 or Assembly Bill 1918 are enacted and
11 become effective on or before January 1, 2009, and (b) each bill
12 enacted adds Section 17144.5 to the Revenue and Taxation Code.

13 SEC. 67. (a) The amendments made to Section 19166 of the
14 Revenue and Taxation Code by Section 33 of this act conform to
15 federal changes made to Section 6694 of the Internal Revenue
16 Code by Section 8246(b) of the Small Business and Work
17 Opportunity Tax Act of 2007 (Public Law 110-28). Those
18 amendments are substantially the same as amendments previously
19 made to Section 19166 by Chapter 656 of the Statutes of 2003 and
20 by Chapter 691 of the Statutes of 2005.

21 (b) The amendments made to Section 19166 of the Revenue
22 and Taxation Code by this act do not affect the operative date of
23 the changes made to Section 19166 of the Revenue and Taxation
24 Code by Chapter 656 of the Statutes of 2003 and by Chapter 691
25 of the Statutes of 2005.

26 SEC. 68. This act addresses the fiscal emergency declared by
27 the Governor by proclamation on January 10, 2008, pursuant to
28 subdivision (f) of Section 10 of Article IV of the California
29 Constitution.

30 SEC. 69. This act provides for a tax levy within the meaning
31 of Article IV of the Constitution and shall go into immediate effect.

O