

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE JUNE 23, 2008

AMENDED IN SENATE JUNE 14, 2007

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1561**

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**Introduced by Assembly Member Charles Calderon**

February 23, 2007

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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, 23732, 24305, 24357, 24357.1, 24357.7, 24411, 24949.5, 24990.6, 24993, and 25110 of, to add Sections 17020.15, 17132.8, 17144.5, 17225, 17257, 17257.2, 17257.4, 17755, 18037.5, 18155.6, ~~19165~~, 19172.5, 19185, 19186, 23046.5, 23703.7, 24329, 24462, 24950.5, ~~23990.8~~ 24990.8, and 25117 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 1561, as amended, 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 certain excessive claims or credit~~, penalty for understatement of taxpayer's liability by a tax preparer, water's edge elections, 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 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  $\frac{2}{3}$  of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . 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.

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

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

7 SEC. 2. Section 17020.15 is added to the Revenue and Taxation  
8 Code, to read:

9 17020.15. (a) Section 7701(o) of the Internal Revenue Code,  
10 relating to convention or association of churches, shall apply,  
11 except as otherwise provided.

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

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

16 17024.5. (a) (1) Unless otherwise specifically provided, the  
17 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
18 or “Internal Revenue Code of 1986,” for purposes of this part,  
19 mean Title 26 of the United States Code, including all amendments  
20 thereto as enacted on the specified date for the applicable taxable  
21 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	

1 31, 1988..... January 1, 1987  
2 (F) For taxable years beginning on or after  
3 January 1, 1989, and on or before December  
4 31, 1989..... January 1, 1989  
5 (G) For taxable years beginning on or after  
6 January 1, 1990, and on or before December  
7 31, 1990..... January 1, 1990  
8 (H) For taxable years beginning on or after  
9 January 1, 1991, and on or before December  
10 31, 1991..... January 1, 1991  
11 (I) For taxable years beginning on or after  
12 January 1, 1992, and on or before December  
13 31, 1992..... January 1, 1992  
14 (J) For taxable years beginning on or after  
15 January 1, 1993, and on or before December  
16 31, 1996..... January 1, 1993  
17 (K) For taxable years beginning on or after  
18 January 1, 1997, and on or before December  
19 31, 1997..... January 1, 1997  
20 (L) For taxable years beginning on or after  
21 January 1, 1998, and on or before December  
22 31, 2001..... January 1, 1998  
23 (M) For taxable years beginning on or after  
24 January 1, 2002, and on or before December  
25 31, 2004..... January 1, 2001  
26 (N) For taxable years beginning on or after  
27 January 1, 2005, and on or before December  
28 31, 2007..... January 1, 2005  
29 (O) For taxable years beginning on or after  
30 January 1, 2008..... January 1, 2008

31  
32 (2) (A) Unless otherwise specifically provided, for federal laws  
33 enacted on or after January 1, 1987, and on or before the specified  
34 date for the taxable year, uncodified provisions that relate to  
35 provisions of the Internal Revenue Code that are incorporated for  
36 purposes of this part shall be applicable to the same taxable years  
37 as the incorporated provisions.

38 (B) In the case where Section 901 of the Economic Growth and  
39 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
40 provision of the Internal Revenue Code that is incorporated for

1 purposes of this part, Section 901 of the Economic Growth and  
2 Tax Relief Act of 2001 shall apply for purposes of this part in the  
3 same manner and to the same taxable years as it applies for federal  
4 income tax purposes.

5 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
6 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
7 Reconciliation Act of 1990 (Public Law 101-508) modified  
8 numerous provisions of the Internal Revenue Code and provisions  
9 of prior federal acts, some of which are incorporated by reference  
10 into this part. Unless otherwise provided, the provisions described  
11 in the preceding sentence, to the extent that they modify provisions  
12 that are incorporated into this part, are declaratory of existing law  
13 and shall be applied in the same manner and for the same periods  
14 as specified in the Revenue Reconciliation Act of 1990.

15 (b) Unless otherwise specifically provided, when applying any  
16 provision of the Internal Revenue Code for purposes of this part,  
17 a reference to any of the following is not applicable for purposes  
18 of this part:

19 (1) Except as provided in Chapter 4.5 (commencing with Section  
20 23800) of Part 11 of Division 2, an electing small business  
21 corporation, as defined in Section 1361(b) of the Internal Revenue  
22 Code.

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

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

27 (4) A foreign personal holding company, as defined in Section  
28 552 of the Internal Revenue Code.

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

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

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

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

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

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

39 (11) Nonresident aliens.

1 (12) Deduction for personal exemptions, as provided in Section  
2 151 of the Internal Revenue Code.

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

5 (14) The tax, relating to estates, imposed by Section 2001 or  
6 2101 of the Internal Revenue Code.

7 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
8 and Section 172 of the Tax Reform Act of 1984 (Public Law  
9 98-369), relating to treatment of debt instruments, is not applicable  
10 for taxable years beginning before January 1, 1987.

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

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

19 (d) When applying the Internal Revenue Code for purposes of  
20 this part, regulations promulgated in final form or issued as  
21 temporary regulations by “the secretary” shall be applicable as  
22 regulations under this part to the extent that they do not conflict  
23 with this part or with regulations issued by the Franchise Tax  
24 Board.

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

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

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

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

38 (B) (i) If a taxpayer makes a proper election for federal income  
39 tax purposes prior to the time that taxpayer becomes subject to the  
40 tax imposed under this part or Part 11 (commencing with Section

1 23001), that taxpayer is deemed to have made the same election  
2 for purposes of the tax imposed by this part, Part 10.2 (commencing  
3 with Section 18401), and Part 11 (commencing with Section  
4 23001), as applicable, and that taxpayer may not make a separate  
5 election for California tax purposes unless that separate election  
6 is expressly authorized by this part, Part 10.2 (commencing with  
7 Section 18401), or Part 11 (commencing with Section 23001), or  
8 by regulations issued by the Franchise Tax Board.

9 (ii) If a taxpayer has not made a proper election for federal  
10 income tax purposes prior to the time that taxpayer becomes subject  
11 to tax under this part or Part 11 (commencing with Section 23001),  
12 that taxpayer may not make a separate California election for  
13 purposes of this part, Part 10.2 (commencing with Section 18401),  
14 or Part 11 (commencing with Section 23001), unless that separate  
15 election is expressly authorized by this part, Part 10.2 (commencing  
16 with Section 18401), or Part 11 (commencing with Section 23001),  
17 or by regulations issued by the Franchise Tax Board.

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

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

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

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

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

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





1	Not over \$3,650.....	1% of the taxable income
2	Over \$3,650 but not	
3	over \$8,650.....	\$36.50 plus 2% of the excess
4		over \$3,650
5	Over \$8,650 but not	
6	over \$13,650.....	\$136.50 plus 4% of the excess
7		over \$8,650
8	Over \$13,650 but not	
9	over \$18,950.....	\$336.50 plus 6% of the excess
10		over \$13,650
11	Over \$18,950 but not	
12	over \$23,950.....	\$654.50 plus 8% of the excess
13		over \$18,950
14	Over \$23,950.....	\$1,054.50 plus 9.3% of the excess
15		over \$23,950

16

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

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

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

1 If the taxable income is:	The tax is:
2 Not over \$7,300.....	1% of the taxable income
3 Over \$7,300 but not	
4 over \$17,300.....	\$73 plus 2% of the excess
5	over \$7,300
6 Over \$17,300 but not	
7 over \$22,300.....	\$273 plus 4% of the excess
8	over \$17,300
9 Over \$22,300 but not	
10 over \$27,600.....	\$473 plus 6% of the excess
11	over \$22,300
12 Over \$27,600 but not	
13 over \$32,600.....	\$791 plus 8% of the excess
14	over \$27,600
15 Over \$32,600.....	\$1,191 plus 9.3% of the excess
16	over \$32,600

17

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

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

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

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

37 (g) (1) Section 1(g) of the Internal Revenue Code, relating to  
38 certain unearned income of children taxed as if the parent’s income,  
39 shall apply, except as otherwise provided.

1 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,  
2 relating to income included on parent's return, is modified, for  
3 purposes of this part, by substituting "1 percent" for "15 percent."

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

8 (1) The California Department of Industrial Relations shall  
9 transmit annually to the Franchise Tax Board the percentage change  
10 in the California Consumer Price Index for all items from June of  
11 the prior calendar year to June of the current calendar year, no  
12 later than August 1 of the current calendar year.

13 (2) The Franchise Tax Board shall do both of the following:

14 (A) Compute an inflation adjustment factor by adding 100  
15 percent to the percentage change figure that is furnished pursuant  
16 to paragraph (1) and dividing the result by 100.

17 (B) Multiply the preceding taxable year income tax brackets by  
18 the inflation adjustment factor determined in subparagraph (A)  
19 and round off the resulting products to the nearest one dollar (\$1).

20 (i) (1) For purposes of this part, the term "taxable income of a  
21 nonresident or part-year resident" includes each of the following:

22 (A) For any part of the taxable year during which the taxpayer  
23 was a resident of this state (as defined by Section 17014), all items  
24 of gross income and all deductions, regardless of source.

25 (B) For any part of the taxable year during which the taxpayer  
26 was not a resident of this state, gross income and deductions  
27 derived from sources within this state, determined in accordance  
28 with Article 9 of Chapter 3 (commencing with Section 17301) and  
29 Chapter 11 (commencing with Section 17951).

30 (2) For purposes of computing "taxable income of a nonresident  
31 or part-year resident" under paragraph (1), the amount of any net  
32 operating loss sustained in any taxable year during any part of  
33 which the taxpayer was not a resident of this state shall be limited  
34 to the sum of the following:

35 (A) The amount of the loss attributable to the part of the taxable  
36 year in which the taxpayer was a resident.

37 (B) The amount of the loss which, during the part of the taxable  
38 year the taxpayer is not a resident, is attributable to California  
39 source income and deductions allowable in arriving at taxable  
40 income of a nonresident or part-year resident.

1 (3) For purposes of computing “taxable income of a nonresident  
2 or part-year resident” under paragraph (1), any carryover items,  
3 deferred income, suspended losses, or suspended deductions shall  
4 only be includable or allowable to the extent that the carryover  
5 item, deferred income, suspended loss, or suspended deduction  
6 was derived from sources within this state, calculated as if the  
7 nonresident or part-year resident, for the portion of the year he or  
8 she was a nonresident, had been a nonresident for all prior years.

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

11 17052.12. For each taxable year beginning on or after January  
12 1, 1987, there shall be allowed as a credit against the “net tax” (as  
13 defined by Section 17039) for the taxable year an amount  
14 determined in accordance with Section 41 of the Internal Revenue  
15 Code, except as follows:

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

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

23 (2) For each taxable year beginning on or after January 1, 1999,  
24 and before January 1, 2000, the reference to “20 percent” in Section  
25 41(a)(1) of the Internal Revenue Code is modified to read “12  
26 percent.”

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

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

32 (d) “Qualified research” shall include only research conducted  
33 in California.

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

38 (f) (1) With respect to any expense paid or incurred after the  
39 operative date of Section 6378, Section 41(b)(1) of the Internal  
40 Revenue Code is modified to exclude from the definition of

1 “qualified research expense” any amount paid or incurred for  
2 tangible personal property that is eligible for the exemption from  
3 sales or use tax provided by Section 6378.

4 (2) For each taxable year beginning on or after January 1, 1998,  
5 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
6 Internal Revenue Code, relating to contract research expenses, is  
7 modified to read “this part or Part 11 (commencing with Section  
8 23001).”

9 (g) (1) For each taxable year beginning on or after January 1,  
10 2000:

11 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of  
12 the Internal Revenue Code is modified to read “one and forty-nine  
13 hundredths of one percent.”

14 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of  
15 the Internal Revenue Code is modified to read “one and  
16 ninety-eight hundredths of one percent.”

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

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

26 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
27 gross receipts, is modified to take into account only those gross  
28 receipts from the sale of property held primarily for sale to  
29 customers in the ordinary course of the taxpayer’s trade or business  
30 that is delivered or shipped to a purchaser within this state,  
31 regardless of f.o.b. point or any other condition of the sale.

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

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

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

39 (1) The last sentence shall not apply.

1 (2) If the amount determined under Section 41(a) of the Internal  
2 Revenue Code for any taxable year exceeds the limitation of  
3 Section 41(g) of the Internal Revenue Code, that amount may be  
4 carried over to other taxable years under the rules of subdivision  
5 (e); except that the limitation of Section 41(g) of the Internal  
6 Revenue Code shall be taken into account in each subsequent  
7 taxable year.

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

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

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

15 SEC. 5. Section 17063 of the Revenue and Taxation Code is  
16 amended to read:

17 17063. (a) There shall be allowed as a credit against the net  
18 tax (as defined by Section 17039) for any taxable year an amount  
19 equal to the minimum tax credit for that taxable year.

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

23 (c) For purposes of this chapter, the amount determined under  
24 Section 53(c)(1) of the Internal Revenue Code shall be the regular  
25 tax as defined by paragraph (2) of subdivision (b) of Section 17062,  
26 reduced by the sum of the credits allowable under this part, other  
27 than:

28 (1) The credits described in paragraph (7) of subdivision (a) of  
29 Section 17039.

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

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

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

38 SEC. 6. Section 17072 of the Revenue and Taxation Code is  
39 amended to read:

1 17072. (a) Section 62 of the Internal Revenue Code, relating  
2 to adjusted gross income defined, shall apply, except as otherwise  
3 provided.

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

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

10 SEC. 7. Section 17085 of the Revenue and Taxation Code is  
11 amended to read:

12 17085. Section 72 of the Internal Revenue Code, relating to  
13 annuities and certain proceeds of life insurance contracts, is  
14 modified as follows:

15 (a) The amendments and transitional rules made by Public Law  
16 99-514 shall be applicable to this part for the same transactions  
17 and the same years as they are applicable for federal purposes,  
18 except that the repeal of Section 72(d) of the Internal Revenue  
19 Code, relating to repeal of special rule for employees' annuities,  
20 shall apply only to the following:

21 (1) Any individual whose annuity starting date is after December  
22 31, 1986.

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

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

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

31 (2) An amount equal to the basis in the account or annuity  
32 allowed by Section 17507 (relating to individual retirement  
33 accounts and simplified employee pensions), the increased basis  
34 allowed by Sections 17504 and 17506 (relating to plans of  
35 self-employed individuals), the increased basis allowed by Section  
36 17501, or the increased basis allowed by Section 17551 that is  
37 remaining after adjustment for reductions in gross income under  
38 this provision in prior taxable years.

39 (c) (1) Except as provided in paragraph (2), the amount of the  
40 penalty imposed under this part shall be computed in accordance



1 with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code  
2 using a rate of 2½ percent, in lieu of the rate provided in those  
3 sections.

4 (2) In the case where Section 72(t)(6) of the Internal Revenue  
5 Code, relating to special rules for simple retirement accounts,  
6 applies, the rate in paragraph (1) shall be 6 percent in lieu of the  
7 2½ percent rate specified therein.

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

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

15 SEC. 8. Section 17132.5 of the Revenue and Taxation Code  
16 is amended to read:

17 17132.5. Section 101 of the Internal Revenue Code, relating  
18 to certain death benefits, is modified as follows:

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

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

32 (2) The amendments made to this section by Chapter 691 of the  
33 Statutes of 2005 shall apply to amounts paid after December 31,  
34 2001, with respect to deaths occurring on or before December 31,  
35 1996.

36 (c) (1) Section 101 of the Internal Revenue Code, as modified  
37 by subdivision (b), is modified to additionally provide that Section  
38 101(i) of the Internal Revenue Code shall apply to any astronaut  
39 whose death occurs in the line of duty.

1 (2) The amendments made to this section by Chapter 552 of the  
2 Statutes of 2004 shall apply to amounts received in taxable years  
3 beginning after December 31, 2002, with respect to deaths  
4 occurring after that date.

5 (d) Section 101(j) of the Internal Revenue Code, relating to the  
6 treatment of certain employer-owned life insurance contracts, shall  
7 apply in accordance with the provisions of Section 863(d) of the  
8 Pension Protection Act of 2006 (Public Law 109-280), relating to  
9 effective dates, except that the phrase “January 1, 2008” shall be  
10 substituted for “the date of the enactment of this Act” contained  
11 therein.

12 SEC. 8.4. Section 17132.8 is added to the Revenue and  
13 Taxation Code, to read:

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

23 SEC. 8.6. Section 17144.5 is added to the Revenue and  
24 Taxation Code, to read:

25 17144.5. Section 108 (a)(1)(E) of the Internal Revenue Code,  
26 relating to discharge of qualified principal residence indebtedness,  
27 shall not apply.

28 SEC. 9. Section 17152 of the Revenue and Taxation Code is  
29 amended to read:

30 17152. Section 121 of the Internal Revenue Code, relating to  
31 exclusion of gain from sale of principal residence, is modified as  
32 follows:

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

37 (b) If the taxpayer is prohibited from filing a joint return  
38 pursuant to Section 18521, Section 121(b)(2)(A) of the Internal  
39 Revenue Code shall nevertheless be treated as being satisfied if  
40 the taxpayer files a joint return for federal income tax purposes

1 for the same taxable year. However, in no instance shall the total  
2 amount excludable from gross income under Section 121(a) of the  
3 Internal Revenue Code with respect to any sale or exchange exceed  
4 the maximum amount allowed by Section 121(b) of the Internal  
5 Revenue Code.

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

19 (2) If a taxpayer fails to make an election for federal purposes  
20 under Section 121(f) of the Internal Revenue Code to not have  
21 Section 121 of the Internal Revenue Code apply to a sale or  
22 exchange, no election under Section 121(f) of the Internal Revenue  
23 Code shall be allowed for state purposes, Section 121 of the  
24 Internal Revenue Code shall apply to that sale or exchange for  
25 state purposes, and a separate election for state purposes shall not  
26 be allowed under paragraph (3) of subdivision (e) of Section  
27 17024.5.

28 (d) (1) If a taxpayer has, at any time, made an election for  
29 federal purposes under Section 312(d)(2) of the Taxpayer Relief  
30 Act of 1997 (Public Law 105-34), relating to sales before date of  
31 enactment, or Section 312(d)(4) of that act, relating to binding  
32 contracts, to not have the amendments made by Section 312 of the  
33 Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale  
34 or exchange, the amendments made by the act adding this  
35 subdivision shall not apply to that sale or exchange, Sections 1, 4,  
36 and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that  
37 sale or exchange, a separate election for state purposes shall not  
38 be allowed under paragraph (3) of subdivision (e) of Section  
39 17024.5, and the federal election shall be binding for purposes of  
40 this part.

1 (2) If a taxpayer fails to make an election for federal purposes  
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, to not have the  
5 amendments made by Section 312 of the Taxpayer Relief Act of  
6 1997 (Public Law 105-34) apply to a sale or exchange, an election  
7 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public  
8 Law 105-34), relating to sales before date of enactment, or Section  
9 312(d)(4) of that act, relating to binding contracts, shall not be  
10 allowed for state purposes, the amendments made by the act adding  
11 this subdivision shall apply to that sale or exchange, Sections 1,  
12 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that  
13 sale or exchange, and a separate election for state purposes shall  
14 not be allowed under paragraph (3) of subdivision (e) of Section  
15 17024.5.

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

27 (2) If a taxpayer fails to make an election for federal purposes  
28 under Section 121(d)(9) of the Internal Revenue Code to suspend  
29 the running of the five-year period described in Sections 121(a),  
30 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that  
31 five-year period may not be suspended under Section 121(d)(9)  
32 of the Internal Revenue Code for state purposes, and a separate  
33 election for state purposes shall not be allowed under paragraph  
34 (3) of subdivision (e) of Section 17024.5.

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

37 (g) (1) The amendments made by Section 417 of the Tax  
38 Reform and Health Care Act of 2006 (Public Law 109-432) to  
39 Section 121(d)(9) of the Internal Revenue Code, relating to  
40 uniformed services, foreign service, and intelligence community,

1 shall apply to sales or exchanges that occurred on or after January  
2 1, 2008.

3 (2) The amendments made by Section 7(a) of the Mortgage  
4 Forgiveness Debt Relief Act of 2007 (Public Law 110-142), to  
5 Section 121 of the Internal Revenue Code, relating to exclusion  
6 of gain from sale of principal residence, shall apply to sales or  
7 exchanges that occurred on or after January 1, 2008.

8 SEC. 10. Section 17206 of the Revenue and Taxation Code is  
9 amended to read:

10 17206. (a) For purposes of Section 17201, Section 170 of the  
11 Internal Revenue Code, relating to charitable, etc., contributions  
12 and gifts, shall be applied to allow a taxpayer to elect to treat any  
13 contribution described in subdivision (b) made in January 2005,  
14 as if that contribution was made on December 31, 2004, and not  
15 in January 2005.

16 (b) A contribution is described in this subdivision if that  
17 contribution is a cash contribution made for the relief of victims  
18 in areas affected by the December 26, 2004, Indian Ocean tsunami  
19 for which a charitable contribution deduction is allowable under  
20 Section 17201.

21 SEC. 11. Section 17225 is added to the Revenue and Taxation  
22 Code, to read:

23 17225. Section 163(h)(3)(E) of the Internal Revenue Code,  
24 relating to mortgage insurance premiums treated as interest, shall  
25 not apply.

26 SEC. 12. Section 17250 of the Revenue and Taxation Code is  
27 amended to read:

28 17250. (a) Section 168 of the Internal Revenue Code is  
29 modified as follows:

30 (1) Any reference to “tax imposed by this chapter” in Section  
31 168 of the Internal Revenue Code means “net tax,” as defined in  
32 Section 17039.

33 (2) (A) Section 168(e)(3) is modified to provide that any  
34 grapevine, replaced in a vineyard in California in any taxable year  
35 beginning on or after January 1, 1992, as a direct result of a  
36 phylloxera infestation in that vineyard, or replaced in a vineyard  
37 in California in any taxable year beginning on or after January 1,  
38 1997, as a direct result of Pierce’s disease in that vineyard, shall  
39 be “five-year property,” rather than “10-year property.”

1 (B) Section 168(g)(3) of the Internal Revenue Code is modified  
2 to provide that any grapevine, replaced in a vineyard in California  
3 in any taxable year beginning on or after January 1, 1992, as a  
4 direct result of a phylloxera infestation in that vineyard, or replaced  
5 in a vineyard in California in any taxable year beginning on or  
6 after January 1, 1997, as a direct result of Pierce's disease in that  
7 vineyard, shall have a class life of 10 years.

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

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

17 (4) Section 168(k) of the Internal Revenue Code, relating to  
18 special allowance for certain property acquired after September  
19 10, 2001, and before January 1, 2005, shall not apply.

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

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

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

28 (8) Section 168(l) of the Internal Revenue Code, relating to the  
29 special allowance for cellulosic biomass ethanol plant property,  
30 shall not apply.

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

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

36 (2) The "state certifying authority," as defined in Section  
37 169(d)(2) of the Internal Revenue Code, means the State Air  
38 Resources Board, in the case of air pollution, and the State Water  
39 Resources Control Board, in the case of water pollution.

1 SEC. 13. Section 17250.5 of the Revenue and Taxation Code  
2 is amended to read:

3 17250.5. (a) Section 167(g) of the Internal Revenue Code,  
4 relating to depreciation under income forecast method, shall be  
5 modified as follows:

6 (1) Section 167(g)(2)(C) of the Internal Revenue Code is  
7 modified by substituting “Section 19521” in lieu of “Section  
8 460(b)(7)” of the Internal Revenue Code.

9 (2) Section 167(g)(5)(D) of the Internal Revenue Code is  
10 modified by substituting “Part 10.2 (commencing with Section  
11 18401) (other than Section 19136)” in lieu of “Subtitle F (other  
12 than Sections 6654 and 6655).”

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

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

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

20 SEC. 14. Section 17257 is added to the Revenue and Taxation  
21 Code, to read:

22 17257. Section 179C of the Internal Revenue Code, relating  
23 to the election to expense certain refineries, shall not apply.

24 SEC. 15. Section 17257.2 is added to the Revenue and Taxation  
25 Code, to read:

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

29 SEC. 16. Section 17257.4 is added to the Revenue and Taxation  
30 Code, to read:

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

34 SEC. 17. Section 17275.5 of the Revenue and Taxation Code  
35 is amended to read:

36 17275.5. (a) No deduction shall be denied under Section  
37 170(f)(8) of the Internal Revenue Code, relating to the  
38 substantiation requirement for certain contributions, upon a  
39 showing that the requirements in Section 170(f)(8) of the Internal

1 Revenue Code have been met with respect to that contribution for  
2 federal purposes.

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

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

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

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

15 SEC. 18. Section 17501 of the Revenue and Taxation Code is  
16 amended to read:

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

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

29 (c) The maximum amount of elective deferrals (as defined  
30 2008in Section 402(g)(3)) for the taxable year that may be excluded  
31 from gross income under Section 402(g) of the Internal Revenue  
32 Code, as applicable for state purposes, shall not exceed the amount  
33 of elective deferrals that may be excluded from gross income under  
34 Section 402(g) of the Internal Revenue Code, as in effect on  
35 January 1, 2008, including additional elective deferrals under  
36 Section 414(v) of the Internal Revenue Code, as in effect on  
37 January 1, 2008.

38 (d) (1) For taxable years beginning on or after January 1, 2002,  
39 the basis of any person in the plan, account, or annuity shall be



1 increased by the amount of elective deferrals not excluded as a  
2 result of the application of subdivision (c).

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

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

13 SEC. 19. Section 17551 of the Revenue and Taxation Code is  
14 amended to read:

15 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the  
16 Internal Revenue Code, relating to accounting periods and methods  
17 of accounting, shall apply, except as otherwise provided.

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

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

27 (2) The maximum deferred compensation for the taxable year  
28 that may be excluded from gross income under Section 457 of the  
29 Internal Revenue Code, as applicable for state purposes, shall not  
30 exceed the amount of deferred compensation that may be excluded  
31 from gross income under Section 457 of the Internal Revenue  
32 Code, as in effect on January 1, 2008, including additional elective  
33 deferrals under Section 414(v) of the Internal Revenue Code, as  
34 in effect on January 1, 2008.

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

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

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

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

13 SEC. 20. Section 17755 is added to the Revenue and Taxation  
14 Code, to read:

15 17755. Section 664(c) of the Internal Revenue Code, relating  
16 to the taxation of trusts, shall not apply and, in lieu thereof, a  
17 charitable remainder annuity trust and a charitable remainder  
18 unitrust shall, for any taxable year, not be subject to any tax  
19 imposed under this part, unless that trust, for the taxable year, has  
20 unrelated business taxable income, within the meaning of Section  
21 23732, determined as if Chapter 4 (commencing with Section  
22 23701) of Part 11, applied to that trust.

23 SEC. 21. Section 17952.5 of the Revenue and Taxation Code  
24 is amended to read:

25 17952.5. (a) For purposes of computing “taxable income of a  
26 nonresident or part-year resident” under paragraph (1) of  
27 subdivision (i) of Section 17041, gross income of a nonresident,  
28 as defined in Section 17015, from sources within this state shall  
29 not include “qualified retirement income” received on or after  
30 January 1, 1996, for any part of the taxable year during which the  
31 taxpayer was not a resident of this state.

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

34 (1) A qualified trust under Section 401(a) of the Internal  
35 Revenue Code that is exempt under Section 501(a) of the Internal  
36 Revenue Code from taxation.

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

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

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

3 (5) An individual retirement plan described in Section  
4 7701(a)(37) of the Internal Revenue Code.

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

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

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

11 (9) Any plan, program, or arrangement described in Section  
12 3121(v)(2)(C) of the Internal Revenue Code, or any plan, program,  
13 or arrangement that is in writing, that provides for retirement  
14 payments in recognition of prior service to be made to a retired  
15 partner, and that is in effect immediately before retirement begins,  
16 if that income is either of the following:

17 (A) Part of a series of substantially equal periodic payments  
18 (not less frequently than annually), which may include income  
19 described in paragraphs (1) to (8), inclusive, made for either of  
20 the following:

21 (i) The life or the life expectancy of the recipient (or the joint  
22 lives or joint life expectancies of the recipient and the designated  
23 beneficiary of the recipient).

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

25 (B) A payment received after termination of employment, under  
26 a plan, program, or arrangement to which that employment relates,  
27 maintained solely for the purpose of providing retirement benefits  
28 for employees in excess of the limitation imposed by Section  
29 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the  
30 Internal Revenue Code, or any combination of those sections, or  
31 any other limitation on contributions or benefits in the Internal  
32 Revenue Code on plans to which any of those sections apply.

33 (C) The fact that payments may be adjusted, from time to time,  
34 pursuant to the plan, program, or arrangement to limit total  
35 disbursements under a predetermined formula, or to provide cost  
36 of living or similar adjustments, will not cause the periodic  
37 payments provided under that plan, program, or arrangement to  
38 fail the “substantially equal periodic payments” test.

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

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

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

12 (e) Except as otherwise provided, references to the Internal  
13 Revenue Code are subject to paragraph (1) of subdivision (a) of  
14 Section 17024.5.

15 SEC. 22. Section 18037.5 is added to the Revenue and Taxation  
16 Code, to read:

17 18037.5. The amendments made by Section 844 of the Pension  
18 Protection Act of 2006 (Public Law 109-280) to Section 1035 of  
19 the Internal Revenue Code, shall not apply.

20 SEC. 23. Section 18155.6 is added to the Revenue and Taxation  
21 Code, to read:

22 18155.6. For taxable years beginning on or after January 1,  
23 2008, specific reference to Sections 1223(4) through (16) of the  
24 Internal Revenue Code in this part shall instead be treated as a  
25 reference to Sections 1223(3) through (15) of the Internal Revenue  
26 Code, respectively.

27 SEC. 24. Section 18165 of the Revenue and Taxation Code is  
28 amended to read:

29 18165. (a) Section 1245(a)(2)(C) of the Internal Revenue  
30 Code, relating to certain deductions treated as amortization, is  
31 modified to also refer to Sections 17252.5, 17265, and 17266.

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

35 SEC. 25. Section 18180 of the Revenue and Taxation Code is  
36 amended to read:

37 18180. (a) Section 7872 of the Internal Revenue Code, relating  
38 to the treatment of loans with below market interest rates, shall  
39 apply, except as otherwise provided.

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

5 SEC. 26. Section 18631 of the Revenue and Taxation Code is  
6 amended to read:

7 18631. (a) This article does not apply to any payment of  
8 interest obligations not taxable under Part 10 (commencing with  
9 Section 17001) or Part 11 (commencing with Section 23001).

10 (b) Except as otherwise provided, every person required to file  
11 an information return with the Secretary of the Treasury under any  
12 of the federal sections listed in subdivision (c) may be required to  
13 file a copy of the federal information return with the Franchise  
14 Tax Board at the time and in the manner as it may, by forms and  
15 instructions, require.

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

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

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

21 (3) Section 6039C of the Internal Revenue Code, relating to  
22 returns with respect to foreign persons holding direct investments  
23 in United States real property interests, if that person holds a direct  
24 investment in a California real property as defined in Section  
25 18662.

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

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

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

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

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

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

4 (10) (A) Section 6050I of the Internal Revenue Code, relating  
5 to cash received in trade or business, etc., except that Section  
6 6050I(g) of the Internal Revenue Code, relating to cash received  
7 by criminal court, shall not apply.

8 (B) (i) The Attorney General shall, upon court order following  
9 a showing ex parte to a magistrate of an articulable suspicion that  
10 an individual or entity has committed a felony offense to which a  
11 federal information return is related, be provided a copy of a federal  
12 information return filed with the Franchise Tax Board under this  
13 paragraph. The Attorney General may make a return or information  
14 therefrom available to a district attorney subject to regulations  
15 promulgated by the Attorney General. The regulations shall require  
16 the district attorney seeking the return or information to specify  
17 in writing the specific reasons for believing that a felony offense  
18 has been committed to which the return or information is related.

19 (ii) Any information or return obtained by the Attorney General  
20 or a district attorney pursuant to this subparagraph shall be  
21 confidential and used only for investigative or prosecutorial  
22 purposes.

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

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

27 (B) In addition to the general requirement under subparagraph  
28 (A), a transferor of a partnership interest shall be required to notify  
29 the partnership of that exchange in accordance with Section  
30 6050K(c) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

11 (22) Section 6050V of the Internal Revenue Code, relating to  
12 returns relating to applicable insurance contracts in which certain  
13 exempt organizations hold interests.

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

18 SEC. 27. Section 19116 of the Revenue and Taxation Code is  
19 amended to read:

20 19116. (a) In the case of an individual who files a return of  
21 tax imposed under Part 10 (commencing with Section 17001) for  
22 a taxable year on or before the due date for the return, including  
23 extensions, if the Franchise Tax Board does not provide a notice  
24 to the taxpayer specifically stating the taxpayer's liability and the  
25 basis of the liability before the close of the notification period, the  
26 Franchise Tax Board shall suspend the imposition of any interest,  
27 penalty, addition to tax, or additional amount with respect to any  
28 failure relating to the return which is computed by reference to the  
29 period of time the failure continues to exist and which is properly  
30 allocable to the suspension period.

31 (b) For purposes of this section:

32 (1) Except as provided in subdivision (e), "notification period"  
33 means the 36-month period beginning on the later of either of the  
34 following:

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

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

37 (2) "Suspension period" means the period beginning on the day  
38 after the close of the notification period and ending on the date  
39 which is 15 days after the date on which notice described in  
40 subdivision (a) is provided by the Franchise Tax Board.

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

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

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

10 (1) Any penalty imposed by Section 19131.

11 (2) Any penalty imposed by Section 19132.

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

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

16 (5) Any criminal penalty.

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

19 (7) Any interest, penalty, addition to tax, or additional amount  
 20 relating to any reportable transaction with respect to which the  
 21 requirements of Section 6664(d)(2)(A) of the Internal Revenue  
 22 Code are not met, and any listed transaction, as defined in Section  
 23 6707A(c) of the Internal Revenue Code.

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

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

30 (A) One year from the date the notice required by Section 18622  
 31 is filed with the Franchise Tax Board by the taxpayer or the Internal  
 32 Revenue Service, if the taxpayer or the Internal Revenue Service  
 33 reports that change or correction within six months after the final  
 34 federal determination.

35 (B) Two years from the date when the notice required by Section  
 36 18622 is filed with the Franchise Tax Board by the taxpayer or the  
 37 Internal Revenue Service, if after the six-month period required  
 38 in Section 18622, a taxpayer or the Internal Revenue Service  
 39 reports a change or correction.



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

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

11 (g) This section shall apply to taxable years ending after October  
12 10, 1999.

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

15 (i) (1) The amendments made to paragraph (1) of subdivision  
16 (b) by the act adding this subdivision shall apply to notices  
17 provided after January 1, 2008.

18 (2) Paragraph (3) of subdivision (b), as added by the act adding  
19 this subdivision, shall apply to documents provided on or after  
20 January 1, 2008.

21 SEC. 27.4. Section 19134 of the Revenue and Taxation Code  
22 is amended to read:

23 19134. (a) The provisions of Section 6657 of the Internal  
24 Revenue Code, relating to bad checks, shall apply except as  
25 otherwise provided.

26 (b) Section 6657 of the Internal Revenue Code, relating to bad  
27 checks, is modified to apply to payments made by credit card  
28 remittance or electronic funds transfer (as provided by Section  
29 19011) in addition to payments made by check or money order.

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

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

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

1 SEC. 28. Section 19164 of the Revenue and Taxation Code is  
2 amended to read:

3 19164. (a) (1) (A) An accuracy-related penalty shall be  
4 imposed under this part and shall be determined in accordance  
5 with Section 6662 of the Internal Revenue Code, relating to  
6 imposition of accuracy-related penalty on underpayments, except  
7 as otherwise provided.

8 (B) (i) Except for understatements relating to reportable  
9 transactions to which Section 19164.5 applies, in the case of any  
10 proposed deficiency assessment issued after the last date of the  
11 amnesty period specified in Chapter 9.1 (commencing with Section  
12 19730) for any taxable year beginning prior to January 1, 2003,  
13 the penalty specified in Section 6662(a) of the Internal Revenue  
14 Code shall be computed by substituting “40 percent” for “20  
15 percent.”

16 (ii) Clause (i) shall not apply to any taxable year of a taxpayer  
17 beginning prior to January 1, 2003, if, as of the start date of the  
18 amnesty program period specified in Section 19731, the taxpayer  
19 is then under audit by the Franchise Tax Board, or the taxpayer  
20 has filed a protest under Section 19041, or the taxpayer has filed  
21 an appeal under Section 19045, or the taxpayer is engaged in  
22 settlement negotiations under Section 19442, or the taxpayer has  
23 a pending judicial proceeding in any court of this state or in any  
24 federal court relating to the tax liability of the taxpayer for that  
25 taxable year.

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

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

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

31 (C) For purposes of this section, references in Section 6662(e)  
32 of the Internal Revenue Code and the regulations thereunder,  
33 relating to treatment of an affiliated group that files a consolidated  
34 federal return, are modified to apply to those entities required to  
35 be included in a combined report under Section 25101 or 25110.  
36 For these purposes, entities included in a combined report pursuant  
37 to paragraph (4) or (6) of subdivision (a) of Section 25110 shall  
38 be considered only to the extent required to be included in the  
39 combined report.

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

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

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

10 (4) Section 6662(d)(2)(A) of the Internal Revenue Code is  
11 modified to additionally provide that the excess determined under  
12 Section 6662(d)(2)(A) of the Internal Revenue Code shall be  
13 determined without regard to items to which Section 19164.5  
14 applies and without regard to items with respect to which a penalty  
15 is imposed by Section 19774.

16 (5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the  
17 Internal Revenue Code, as amended by Sections 1219(a)(1) and  
18 1219(a)(2) of the Pension Protection Act of 2006 (Public Law  
19 109-280), shall apply to returns filed on or after January 1, 2008.

20 (b) For purposes of Section 6662(d) of the Internal Revenue  
21 Code, Section 6664 of the Internal Revenue Code, Section  
22 6694(a)(1) of the Internal Revenue Code, and this part, the  
23 Franchise Tax Board may prescribe a list of positions for which  
24 the Franchise Tax Board believes there is not substantial authority  
25 or there is no reasonable belief that the tax treatment is more likely  
26 than not the proper tax treatment. That list (and any revisions  
27 thereof) shall be published through the use of Franchise Tax Board  
28 Notices or other published positions. In addition, the “listed  
29 transactions” identified and published pursuant to the preceding  
30 sentence shall be published on the Web site of the Franchise Tax  
31 Board.

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

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

39 (2) Section 6664(c)(2) of the Internal Revenue Code, as amended  
40 by Section 1219(a)(3) of the Pension Protection Act of 2006 (Public

1 Law 109-280), shall apply to returns filed on or after January 1,  
2 2007 2008.

3 (3) Section 6664(c)(3) of the Internal Revenue Code, as amended  
4 by Section 1219(c)(2) of the Pension Protection Act of 2006 (Public  
5 Law 109-280), shall apply to appraisals prepared with respect to  
6 returns or submissions filed on or after January 1, ~~2007~~ 2008.

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

9 ~~SEC. 28.4. Section 19165 is added to the Revenue and Taxation~~  
10 ~~Code, to read:~~

11 ~~19165. (a) A penalty shall be imposed under this part for a~~  
12 ~~claim or credit made for an excessive amount and shall be~~  
13 ~~determined in accordance with Section 6676 of the Internal~~  
14 ~~Revenue Code, relating to erroneous claim for refund or credit,~~  
15 ~~except as otherwise provided.~~

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

20 ~~(c) This section shall apply to any claim filed or submitted after~~  
21 ~~the effective date of the act adding this section.~~

22 SEC. 28.6. Section 19166 of the Revenue and Taxation Code  
23 is amended to read:

24 19166. (a) A penalty shall be imposed for understatement of  
25 any taxpayer’s liability by a tax return preparer and shall be  
26 determined in accordance with Section 6694 of the Internal  
27 Revenue Code, except relating to understatement of taxpayer’s  
28 liability by tax return preparer, as otherwise provided.

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

31 (1) If, within 30 days after the day on which notice and demand  
32 of any penalty under Section 6694(a) or 6694(b) of the Internal  
33 Revenue Code is made against any person who is a tax return  
34 preparer, that person pays an amount which is not less than 15  
35 percent of the amount of that penalty and files a claim for refund  
36 of the amount so paid, no levy or proceeding in court for the  
37 collection of the remainder of that penalty shall be made, begun,  
38 or prosecuted until the final resolution of a proceeding begun as  
39 provided in paragraph (2). Notwithstanding Section 19381, the  
40 beginning of that proceeding or levy during the time that

1 prohibition is in force may be enjoined in a proceeding in the  
2 superior court.

3 (2) If, within 30 days after the day on which a claim for refund  
4 of any partial payment of any penalty under Section 6694(a) or  
5 6694(b) of the Internal Revenue Code is denied (or, if earlier,  
6 within 30 days after the expiration of six months after the day on  
7 which the claim for refund has been filed), the tax return preparer  
8 fails to begin a proceeding in the superior court for the  
9 determination of his or her liability for that penalty, paragraph (1)  
10 shall cease to apply with respect to that penalty, effective on the  
11 day following the close of the applicable 30-day period referred  
12 to in this subdivision.

13 (3) The running of the period of limitations provided in Section  
14 19371 on the collection by levy or by a proceeding in court in  
15 respect of any penalty described in paragraph (1) shall be  
16 suspended for the period during which the Franchise Tax Board  
17 is prohibited from collecting by levy or a proceeding in court.

18 (c) The amendments made to this section by the act adding this  
19 subdivision shall apply to returns prepared after the effective date  
20 of this act.

21 SEC. 28.8. Section 19172 of the Revenue and Taxation Code  
22 is amended to read:

23 19172. (a) In addition to the penalty imposed by Section 19706  
24 (relating to willful failure to file return, supply information, or pay  
25 tax), if any partnership required to file a return under Section 18633  
26 or 18633.5 for any taxable year does either of the following:

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

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

35 (b) For purposes of subdivision (a), the amount determined  
36 under this subdivision for any month is the product of the  
37 following:

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

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

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

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

7 (e) The amendments made to this section by the act adding this  
8 subdivision shall apply to returns required to be filed after the  
9 effective date of the act adding this subdivision.

10 SEC. 28.9. Section 19172.5 is added to the Revenue and  
11 Taxation Code, to read:

12 19172.5. (a) In addition to the penalty imposed by Section  
13 19706 (relating to willful failure to file return, supply information,  
14 or pay tax), if any "S" corporation required to file a return under  
15 Section 18601 for any taxable year fails to file the return at the  
16 time prescribed therefor (determined with regard to any extension  
17 of time for filing), or files a return that fails to show the information  
18 required under Section 18601, then that "S" corporation shall be  
19 liable for a penalty determined under subdivision (b) for each  
20 month (or fraction thereof) during which that failure continues  
21 (but not to exceed 12 months), unless that failure is due to  
22 reasonable cause.

23 (b) For purposes of subdivision (a), the amount determined  
24 under this subdivision for any month is the product of the  
25 following:

- 26 (1) Seventeen dollars (\$17), multiplied by
- 27 (2) The number of persons who were shareholders in the "S"  
28 corporation during any part of the taxable year.

29 (c) The penalty imposed by subdivision (a) shall be assessed  
30 against the "S" corporation.

31 (d) Article 3 (commencing with Section 19031) (relating to  
32 deficiency assessments) shall not apply with respect to the  
33 assessment or collection of any penalty imposed by subdivision  
34 (a).

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

37 SEC. 29. Section 19179 of the Revenue and Taxation Code is  
38 amended to read:

1 19179. (a) A penalty shall be imposed for filing a frivolous  
2 return and shall be determined in accordance with Section 6702  
3 of the Internal Revenue Code, except as otherwise provided.

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

6 (c) Section 6702 of the Internal Revenue Code is modified as  
7 follows:

8 (1) (A) By substituting the phrase “tax imposed under Part 10  
9 (commencing with Section 17001), Part 11 (commencing with  
10 Section 23001), or this part” for the phrase “tax imposed by this  
11 title” contained therein.

12 (B) By substituting the phrase “frivolous or is based on a  
13 position that the Franchise Tax Board has identified as frivolous  
14 under subdivision (d)” instead of the term “frivolous” contained  
15 therein.

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

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

30 (E) By substituting the phrase “If the Franchise Tax Board  
31 provides a person with notice that a submission is a specified  
32 frivolous submission and the person withdraws that submission  
33 within 30 days after the notice, the penalty imposed under Section  
34 6702(b)(1) of the Internal Revenue Code does not apply with  
35 respect to that submission” for the phrase “If the Secretary provides  
36 a person with notice that a submission is a specified frivolous  
37 submission and such person withdraws such submission within  
38 30 days after such notice, the penalty imposed under paragraph  
39 (1) shall not apply with respect to such submission.”

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

- 4 (A) A protest under Section 19041.
- 5 (B) A request for a hearing under Section 19044.
- 6 (C) An application under any of the following sections:
  - 7 (i) Section 19008, relating to agreements for payment of tax
  - 8 liability in installments.
  - 9 (ii) Section 19443, relating to compromises.
  - 10 (iii) Section 21004, relating to actions of the Taxpayers’ Rights
  - 11 Advocate.
  - 12 (iv) Section 21015.5, relating to a request for review prior to
  - 13 levy.

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

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

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

26 (A) Imposing the penalty would be against equity and good  
27 conscience.

28 (B) Rescinding the penalty would promote compliance with the  
29 requirements of this part and Part 10 (commencing with Section  
30 17001) or Part 11 (commencing with Section 23001) and effective  
31 tax administration.

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

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

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



1 SEC. 30. Section 19185 is added to the Revenue and Taxation  
2 Code, to read:

3 19185. (a) Section 6695A of the Internal Revenue Code,  
4 relating to substantial and gross valuation misstatements  
5 attributable to incorrect appraisals, shall apply, except as otherwise  
6 provided.

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

9 SEC. 31. Section 19186 is added to the Revenue and Taxation  
10 Code, to read:

11 19186. (a) Section 6702B of the Internal Revenue Code,  
12 relating to the fraudulent identification of exempt use property,  
13 shall apply, except as otherwise provided.

14 (b) This section shall apply to identifications made after January  
15 1, 2008.

16 SEC. 32. Section 19443 of the Revenue and Taxation Code is  
17 amended to read:

18 19443. (a) (1) The Executive Officer and Chief Counsel of  
19 the Franchise Tax Board, jointly, or their delegates, may  
20 compromise any final tax liability in which the reduction of tax is  
21 seven thousand five hundred dollars (\$7,500) or less.

22 (2) Except as provided in paragraph (3), the Franchise Tax  
23 Board, upon recommendation by its executive officer and chief  
24 counsel, jointly, may compromise a final tax liability involving a  
25 reduction in tax in excess of seven thousand five hundred dollars  
26 (\$7,500). Any recommendation for approval of an offer in  
27 compromise that is not either approved or disapproved by the  
28 Franchise Tax Board, itself, within 45 days of the submission of  
29 the recommendation shall be deemed approved.

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

35 (b) For purposes of this section, “a final tax liability” means  
36 any final tax liability arising under Part 10 (commencing with  
37 Section 17001) or Part 11 (commencing with Section 23001) or  
38 related interest, additions to tax, penalties, or other amounts  
39 assessed under this part.

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

3 (1) The taxpayer shall establish that the:

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

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

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

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

17 (e) When an offer in compromise is either accepted or rejected,  
18 or the terms and conditions of a compromise agreement are  
19 fulfilled, the Franchise Tax Board shall notify the taxpayer in  
20 writing.

21 (f) In the case of a joint and several liability, the acceptance of  
22 an offer in compromise from one liable spouse shall not relieve  
23 the other spouse from paying the entire liability. However, the  
24 amount of the liability shall be reduced by the amount of the  
25 accepted offer.

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

32 (1) The name of the taxpayer.

33 (2) The amount of unpaid tax, and related penalties, additions  
34 to tax, interest, or other amounts involved.

35 (3) The amount offered.

36 (4) A summary of the reason why the compromise is in the best  
37 interest of the state.

38 The public record shall not include any information that relates  
39 to any trade secret, patent, process, style of work, apparatus,  
40 business secret, or organizational structure, that if disclosed, would

1 adversely affect the taxpayer or the national defense. No list shall  
2 be prepared and no releases distributed by the Franchise Tax Board  
3 in connection with these statements.

4 (h) Any compromise made under this section may be rescinded,  
5 all compromised liabilities may be reestablished (without regard  
6 to any statute of limitations that otherwise may be applicable), and  
7 no portion of the amount offered in compromise refunded, if either  
8 of the following occurs:

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

11 (A) Concealed from the Franchise Tax Board any property  
12 belonging to the estate of any taxpayer or other person liable for  
13 the tax.

14 (B) Received, withheld, destroyed, mutilated, or falsified any  
15 book, document, or record or made any false statement, relating  
16 to the estate or financial condition of the taxpayer or other person  
17 liable for the tax.

18 (2) The taxpayer fails to either:

19 (A) Comply with any of the terms and conditions relative to the  
20 offer.

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

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

33 (j) This section shall become operative on the effective date of  
34 Chapter 931 of the Statutes of 1999 without regard to the taxable  
35 year at issue.

36 SEC. 33. Section 21015.5 of the Revenue and Taxation Code  
37 is amended to read:

38 21015.5. (a) (1) No levy may be made on any property or  
39 property right of any person unless the board has notified the  
40 person in writing of his or her rights as described in subparagraph

1 (C) of paragraph (3) before the levy is made. Except as provided  
2 in subdivision (f), the notice shall be required only once for the  
3 taxable period to which the unpaid tax specified in subparagraph  
4 (A) of paragraph (3) relates. The notice shall not be required if the  
5 unpaid tax for which notice would otherwise be required under  
6 this paragraph is consolidated for collection purposes with a  
7 preexisting unpaid tax for which notice has been given under this  
8 paragraph.

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

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

17 (A) The amount of unpaid tax.

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

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

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

25 (i) The provisions of California law relating to levy and sale of  
26 property.

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

29 (iii) The independent departmental administrative review  
30 available to the taxpayers with respect to the levy and sale and the  
31 procedures to obtain that review.

32 (iv) The alternatives available to taxpayers that could prevent  
33 levy on property, including installment agreements under Section  
34 19008.

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

37 (b) (1) The Taxpayers' Rights Advocate shall establish  
38 procedures for an independent departmental administrative review  
39 for taxpayers who request review under subparagraph (C) of  
40 paragraph (3) of subdivision (a).

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

5 (3) An independent departmental administrative review under  
6 this subdivision shall be conducted by an officer or employee, or  
7 officers or employees, who have had no prior involvement with  
8 respect to the unpaid tax specified in subparagraph (A) of paragraph  
9 (3) of subdivision (a) before the first review under this section or  
10 Section 19225. A taxpayer may waive the requirement of this  
11 paragraph. Administrative review under this subdivision is not  
12 subject to Chapter 4.5 (commencing with Section 11400) of Part  
13 1 of Division 3 of the Government Code.

14 (c) (1) The person or persons conducting the independent  
15 departmental administrative review shall obtain verification that  
16 the requirements of any applicable law or administrative procedures  
17 have been met by the board.

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

20 (A) Appropriate spousal defenses.

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

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

25 (3) The determination of the person or persons conducting the  
26 review under this subdivision shall take into consideration all of  
27 the following:

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

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

30 (C) Whether any proposed collection action balances the need  
31 for the efficient collection of taxes with the legitimate concern of  
32 the person that any collection action not be more intrusive than  
33 necessary.

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

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

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

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

3 This paragraph does not apply to any issue with respect to a  
4 change in circumstances of that person that affects the  
5 determination.

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

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

17 (f) If the board holds in abeyance the collection of a liability  
18 imposed under Part 10 (commencing with Section 17001) or Part  
19 10.2 (commencing with Section 18401), that is final and otherwise  
20 due and payable, for a period in excess of six months from the date  
21 the hold is first placed on the account, the board shall thereafter  
22 mail to the taxpayer a notice prior to issuing a levy or filing or  
23 recording a notice of state tax lien.

24 (g) This section is operative for collection actions initiated after  
25 the date which is 180 days after the effective date of the act adding  
26 this section.

27 (h) Notwithstanding any other provision of this section, if the  
28 board determines that any portion of a request for review under  
29 this section meets the requirement of clause (i) or (ii) of Section  
30 6702(b)(2)(A) of the Internal Revenue Code, as modified by  
31 Section 19179, then the Franchise Tax Board may treat that portion  
32 as if it were never submitted and that portion shall not be subject  
33 to any further administrative or judicial review.

34 SEC. 34. Section 23045 of the Revenue and Taxation Code is  
35 amended to read:

36 23045. For purposes of this part:

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

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

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

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

10 SEC. 35. Section 23046.5 is added to the Revenue and Taxation  
11 Code, to read:

12 23046.5. (a) Section 7701(o) of the Internal Revenue Code,  
13 relating to convention or association of churches, shall apply,  
14 except as otherwise provided.

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

17 SEC. 36. Section 23051.5 of the Revenue and Taxation Code  
18 is amended to read:

19 23051.5. (a) (1) Unless otherwise specifically provided, the  
20 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
21 or “Internal Revenue Code of 1986,” for purposes of this part,  
22 mean Title 26 of the United States Code, including all amendments  
23 thereto, as enacted on the specified date for the applicable taxable  
24 year as defined in paragraph (1) of subdivision (a) of Section  
25 17024.5.

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

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

39 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
40 H (Repeal of Expired or Obsolete Provisions) of the Revenue

1 Reconciliation Act of 1990 (Public Law 101-508) modified  
2 numerous provisions of the Internal Revenue Code and provisions  
3 of prior federal acts, some of which are incorporated by reference  
4 into this part. Unless otherwise provided, the provisions described  
5 in the preceding sentence, to the extent that they modify provisions  
6 that are incorporated into this part, are declaratory of existing law  
7 and shall be applied in the same manner and for the same periods  
8 as specified in the Revenue Reconciliation Act of 1990.

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

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

14 (2) Foreign Sales Corporations (FSC), as defined in Section  
15 922(a) of the Internal Revenue Code.

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

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

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

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

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

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

26 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
27 and Section 172 of the Tax Reform Act of 1984 (Public Law  
28 98-369), relating to treatment of debt instruments, is not applicable  
29 for taxable years beginning before January 1, 1987.

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

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

38 (d) When applying the Internal Revenue Code for purposes of  
39 this part, regulations promulgated in final form or issued as  
40 temporary regulations by “the secretary” shall be applicable as



1 regulations issued under this part to the extent that they do not  
2 conflict with this part or with regulations issued by the Franchise  
3 Tax Board.

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

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

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

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

18 (B) (i) If a taxpayer makes a proper election for federal income  
19 tax purposes prior to the time that taxpayer becomes subject to the  
20 tax imposed under this part or Part 10 (commencing with Section  
21 17001), that taxpayer is deemed to have made the same election  
22 for purposes of the tax imposed by this part, Part 10 (commencing  
23 with Section 17001), and Part 10.2 (commencing with Section  
24 18401), as applicable, and that taxpayer may not make a separate  
25 election for California tax purposes unless that separate election  
26 is expressly authorized by this part, Part 10 (commencing with  
27 Section 17001), or Part 10.2 (commencing with Section 18401),  
28 or by regulations issued by the Franchise Tax Board.

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

38 (iii) This subparagraph applies only to the extent that the  
39 provisions of the Internal Revenue Code or regulations issued by  
40 “the secretary” authorizing an election for federal income tax

1 purposes apply for purposes of this part, Part 10 (commencing  
2 with Section 17001), or Part 10.2 (commencing with Section  
3 18401).

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

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

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

14 (1) For purposes of Chapter 2 (commencing with Section  
15 23101), Chapter 2.5 (commencing with Section 23400), and  
16 Chapter 3 (commencing with Section 23501), the term “taxable  
17 income” shall mean “net income.”

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

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

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

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

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

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

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

38 (9) Except as otherwise provided, any reference to Section 501  
39 of the Internal Revenue Code shall be interpreted to also refer to  
40 Section 23701.

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

4 SEC. 37. Section 23609 of the Revenue and Taxation Code is  
5 amended to read:

6 23609. For each taxable year beginning on or after January 1,  
7 1987, there shall be allowed as a credit against the “tax” (as defined  
8 by Section 23036) an amount determined in accordance with  
9 Section 41 of the Internal Revenue Code, except as follows:

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

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

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

16 (b) (1) For each taxable year beginning on or after January 1,  
17 1997, and before January 1, 1999, both of the following  
18 modifications shall apply:

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

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

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

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

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

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

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

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

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

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

3 (d) The provisions of Section 41(e)(7)(A) of the Internal  
4 Revenue Code, shall be modified so that “basic research,” for  
5 purposes of this section, includes any basic or applied research  
6 including scientific inquiry or original investigation for the  
7 advancement of scientific or engineering knowledge or the  
8 improved effectiveness of commercial products, except that the  
9 term does not include any of the following:

10 (1) Basic research conducted outside California.

11 (2) Basic research in the social sciences, arts, or humanities.

12 (3) Basic research for the purpose of improving a commercial  
13 product if the improvements relate to style, taste, cosmetic, or  
14 seasonal design factors.

15 (4) Any expenditure paid or incurred for the purpose of  
16 ascertaining the existence, location, extent, or quality of any deposit  
17 of ore or other mineral (including oil and gas).

18 (e) (1) In the case of a taxpayer engaged in any  
19 biopharmaceutical research activities that are described in codes  
20 2833 to 2836, inclusive, or any research activities that are described  
21 in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard  
22 Industrial Classification (SIC) Manual published by the United  
23 States Office of Management and Budget, 1987 edition, or any  
24 other biotechnology research and development activities, the  
25 provisions of Section 41(e)(6) of the Internal Revenue Code shall  
26 be modified to include both of the following:

27 (A) A qualified organization as described in Section  
28 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an  
29 institution of higher education as described in Section 3304(f) of  
30 the Internal Revenue Code.

31 (B) A charitable research hospital owned by an organization  
32 that is described in Section 501(c)(3) of the Internal Revenue Code,  
33 is exempt from taxation under Section 501(a) of the Internal  
34 Revenue Code, is not a private foundation, is designated a  
35 “specialized laboratory cancer center,” and has received Clinical  
36 Cancer Research Center status from the National Cancer Institute.

37 (2) For purposes of this subdivision:

38 (A) “Biopharmaceutical research activities” means those  
39 activities that use organisms or materials derived from organisms,  
40 and their cellular, subcellular, or molecular components, in order

1 to provide pharmaceutical products for human or animal  
2 therapeutics and diagnostics. Biopharmaceutical activities make  
3 use of living organisms to make commercial products, as opposed  
4 to pharmaceutical activities that make use of chemical compounds  
5 to produce commercial products.

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

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

17 (g) For each taxable year beginning on or after January 1, 1998,  
18 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the  
19 Internal Revenue Code, relating to contract research expenses, is  
20 modified to read “this part or Part 10 (commencing with Section  
21 17001).”

22 (h) (1) For each taxable year beginning on or after January 1,  
23 2000:

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

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

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

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

39 (3) Section 41(c)(7) of the Internal Revenue Code, relating to  
40 gross receipts, is modified to take into account only those gross

1 receipts from the sale of property held primarily for sale to  
2 customers in the ordinary course of the taxpayer's trade or business  
3 that is delivered or shipped to a purchaser within this state,  
4 regardless of f.o.b. point or any other condition of the sale.

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

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

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

12 (1) The last sentence shall not apply.

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

20 (k) (1) Section 41(a)(3) of the Internal Revenue Code shall not  
21 apply.

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

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

27 SEC. 38. Section 23703.7 is added to the Revenue and Taxation  
28 Code, to read:

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

32 (a) The phrase "Section 23701" shall be substituted for  
33 "subsection (a)" in Section 501(q)(1) of the Internal Revenue Code.

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

37 (c) The phrase "described in Section 23701d and exempt from  
38 tax under Section 23701" shall be substituted for "described in  
39 subsection (c)(3) and exempt from tax under subsection (a)" in

1 each place that it appears in Section 501(q)(1)(E) of the Internal  
2 Revenue Code.

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

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

14 (f) The phrase “January 1, 2008,” shall be substituted for “the  
15 date of the enactment of this subsection” in Section  
16 501(q)(2)(B)(ii)(I) of the Internal Revenue Code.

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

22 SEC. 40. Section 23772 of the Revenue and Taxation Code is  
23 amended to read:

24 23772. (a) For the purposes of this part—

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

38 (2) Exceptions from filing—

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

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



1 connection with a religious organization described in subparagraph  
2 (A).

3 (b) Every organization described in Section 23701d that is  
4 subject to the requirements of subdivision (a) is required to furnish  
5 annually information, at the time and in the manner as the Franchise  
6 Tax Board may by rules or regulations prescribe, setting forth all  
7 of the following:

8 (1) Its gross income for the year.

9 (2) Its expenses attributable to gross income and incurred within  
10 the year.

11 (3) Its disbursements within the year for the purposes for which  
12 it is exempt.

13 (4) A balance sheet showing its assets, liabilities, and net worth  
14 as of the beginning of that year.

15 (5) The total of the contributions and gifts received by it during  
16 the year, and the names and addresses of all substantial  
17 contributors.

18 (6) The names and addresses of its foundation manager (within  
19 the meaning of Section 4946 of the Internal Revenue Code) and  
20 highly compensated employees.

21 (7) The compensation and other payments made during the year  
22 to each individual described in paragraph (6).

23 (8) In the case of an organization with respect to which an  
24 election under Section 23704.5 is effective for the taxable year,  
25 the following amounts for that organization for that taxable year:

26 (A) The lobbying expenditures (as defined in Section 4911(c)(1)  
27 of the Internal Revenue Code).

28 (B) The lobbying nontaxable amount (as defined in Section  
29 4911(c)(2) of the Internal Revenue Code).

30 (C) The grassroots expenditures (as defined in Section  
31 4911(c)(3) of the Internal Revenue Code).

32 (D) The grassroots nontaxable amount (as defined in Section  
33 4911(c)(4) of the Internal Revenue Code). For purposes of this  
34 paragraph, if Section 23740 applies to the organization for the  
35 taxable year, the organization shall furnish the amounts with respect  
36 to the affiliated group as well as with respect to the organization.

37 (9) Other information with respect to direct or indirect transfers  
38 to, and other direct or indirect transactions and relationships with,  
39 other organizations described in Sections 23701a to 23701w,  
40 inclusive (other than Sections 23701d, 23701k, and 23701t), as

1 the Franchise Tax Board may require to prevent either of the  
2 following:

3 (A) Diversion of funds from the organization's exempt purpose.

4 (B) Misallocation of revenue or expense.

5 (10) Any other relevant information as the Franchise Tax Board  
6 may prescribe.

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

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

14 (B) Any loans made to such controlled entity.

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

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

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

31 (ii) Upon termination of the existence of the organization, shall  
32 furnish notice of the termination.

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

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

1 set by the Franchise Tax Board for the filing of the third annual  
2 return or notice. The Franchise Tax Board shall publish and  
3 maintain a list of any organization for which the tax-exempt status  
4 is revoked.

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

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

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

18 (c) For the purposes of this part—

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

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

1 exceed twenty-five dollars (\$25). If more than one person is liable  
2 under this paragraph for a failure to file, all of those persons shall  
3 be jointly and severally liable with respect to the failure. The term  
4 “person” as used herein means any officer, director, trustee,  
5 employee, member, or other individual who is under a duty to  
6 perform the act in respect of which the violation occurs.

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

9 SEC. 41. Section 24305 of the Revenue and Taxation Code is  
10 amended to read:

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

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

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

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

30 SEC. 42. Section 24329 is added to the Revenue and Taxation  
31 Code, to read:

32 24329. Section 139 of the Internal Revenue Code, relating to  
33 disaster relief payments, shall apply, except as otherwise provided.

34 SEC. 44. Section 24357 of the Revenue and Taxation Code is  
35 amended to read:

36 24357. (a) There shall be allowed as a deduction any charitable  
37 contribution (as defined in Section 24359) payment of which is  
38 made within the taxable year. A charitable contribution shall be  
39 allowable as a deduction only if verified under regulations  
40 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, relating to charitable

1 contributions and gifts, shall be applied to allow a taxpayer to elect  
2 to treat any contribution described in paragraph (2) made in January  
3 2005, as if that contribution was made on December 31, 2004, and  
4 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. 45. 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 of  
5 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 other  
29 disposition by the donee of applicable property after the last day  
30 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  
8 Code or Section 23701 and describes how the property was used  
9 and 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. 46. 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 farmland 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 of  
12 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 (e) The term “certified historic structure” means either of the  
20 following:

21 (1) Any building, structure, or land area that is listed in the  
22 National Register.

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

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

32 (f) For purposes of this section:

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

36 (2) (A) Except as provided in subparagraph (B), in the case of  
37 a contribution of any interest where there is a retention of a  
38 qualified mineral interest, this subdivision shall not be treated as  
39 met if at any time there may be extraction or removal of minerals  
40 by any surface mining method.

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

6 (g) For purposes of this section, the term “qualified mineral  
7 interest” means either of the following:

8 (1) Subsurface oil, gas, or other minerals.

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

10 (h) The amendments made to this section by the act adding this  
11 subdivision shall apply to contributions made on or after January  
12 1, 2008.

13 SEC. 49.3. Section 24411 of the Revenue and Taxation Code  
14 is amended to read:

15 24411. (a) For purposes of those taxpayers electing to compute  
16 income under Section 25110, to the extent not otherwise allowed  
17 as a deduction or eliminated from income, all of the following  
18 shall apply:

19 (1) One hundred percent of the qualifying dividends described  
20 in subdivision (d).

21 (2) Twenty-seven percent of qualifying dividends described in  
22 Section 25117.

23 (3) Seventy-five percent of qualifying dividends, other than  
24 those referred to in paragraphs (1) or (2).

25 (b) “Qualifying dividends” means those received by the  
26 water’s-edge group from corporations if both of the following  
27 conditions are satisfied:

28 (1) The average of the property, payroll, and sales factors within  
29 the United States for the corporation is less than 20 percent.

30 (2) More than 50 percent of the total combined voting power  
31 of all classes of stock entitled to vote is owned directly or indirectly  
32 by the water’s-edge group.

33 (c) The water’s-edge group consists of corporations whose  
34 income and apportionment factors are taken into account pursuant  
35 to Section 25110.

36 (d) Dividends derived from a construction project, the location  
37 of which is not subject to the taxpayer’s control.

38 For purposes of this subdivision:

39 (1) “Construction project” means any activity which meets the  
40 following requirements:

1 (A) Is undertaken for any entity, including a governmental  
2 entity, which is not affiliated with the taxpayer.

3 (B) The majority of its cost of performance is attributable to an  
4 addition to real property or an alteration of land or any  
5 improvement thereto as those terms are utilized for purposes of  
6 this code.

7 “Construction project” does not include the operation, rental,  
8 leasing, or depletion of real property, land, or any improvement  
9 thereto.

10 (2) “Location of which is not subject to the taxpayer’s control”  
11 means that the place at which the majority of the construction takes  
12 place results from the nature or character of the construction project  
13 and not as a result of the terms of the contract or agreement  
14 governing the construction project.

15 SEC. 50. Section 24462 is added to the Revenue and Taxation  
16 Code, to read:

17 24462. (a) Section 355(b) of the Internal Revenue Code,  
18 relating to special rule with respect to the active business  
19 requirement under Section 355(b) of the Internal Revenue Code,  
20 is modified as follows:

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

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

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

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

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

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

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

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

6 SEC. 51. Section 24949.5 of the Revenue and Taxation Code  
7 is amended to read:

8 24949.5. (a) For purposes of Sections 24943 through 24946,  
9 Section 1033(h) of the Internal Revenue Code, relating to special  
10 rules for property damaged by presidentially declared disasters,  
11 shall apply, except as otherwise provided.

12 (b) For purposes of Sections 24943 through 24946, Section  
13 1033(i) of the Internal Revenue Code, relating to nonrecognition  
14 not to apply if corporation acquires replacement property from  
15 related person, shall apply, except as otherwise provided.

16 (c) For purposes of Sections 24943 through 24946, Section  
17 1033(j) of the Internal Revenue Code, relating to sales or exchanges  
18 to implement microwave relocation policy, shall apply, except as  
19 otherwise provided.

20 (d) For purposes of Sections 24943 to 24946, inclusive, Section  
21 1033(k) of the Internal Revenue Code, relating to sales or  
22 exchanges under certain hazard mitigation programs, shall apply,  
23 except as otherwise provided.

24 SEC. 52. Section 24950.5 is added to the Revenue and Taxation  
25 Code, to read:

26 24950.5. The amendments made by Section 844 of the Pension  
27 Protection Act of 2006 (Public Law 109-280) to Section 1035 of  
28 the Internal Revenue Code shall not apply.

29 SEC. 53. Section 24981 of the Revenue and Taxation Code is  
30 repealed.

31 SEC. 54. Section 24988 of the Revenue and Taxation Code is  
32 repealed.

33 SEC. 55. Section 24990.6 of the Revenue and Taxation Code  
34 is amended to read:

35 24990.6. (a) Section 1245(a)(2)(C) of the Internal Revenue  
36 Code, relating to certain deductions treated as amortization, is  
37 modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

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

1 SEC. 56. Section 24990.8 is added to the Revenue and Taxation  
2 Code, to read:

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

8 SEC. 57. Section 24993 of the Revenue and Taxation Code is  
9 amended to read:

10 24993. (a) Section 7872 of the Internal Revenue Code, relating  
11 to the treatment of loans with below market interest rates, shall  
12 apply, except as otherwise provided.

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

17 SEC. 57.3. Section 25110 of the Revenue and Taxation Code,  
18 as added by Section 2 of Chapter 22 of the Statutes of 2006, is  
19 amended to read:

20 25110. (a) Notwithstanding Section 25101, a qualified  
21 taxpayer, as defined in paragraph (2) of subdivision (b), that is  
22 subject to the tax imposed under this part, may elect to determine  
23 its income derived from or attributable to sources within this state  
24 pursuant to a water's-edge election in accordance with the  
25 provisions of this part, as modified by this article. A taxpayer, that  
26 makes a water's-edge election on or after January 1, 2006, shall  
27 take into account that portion of its own income and apportionment  
28 factors and the income and apportionment factors of its affiliated  
29 entities to the extent provided below:

30 (1) The entire income and apportionment factors of any of the  
31 following corporations:

32 (A) Domestic international sales corporations, as described in  
33 Sections 991 to 994, inclusive, of the Internal Revenue Code and  
34 foreign sales corporations as described in Sections 921 to 927,  
35 inclusive, of the Internal Revenue Code.

36 (B) Any corporation (other than a bank), regardless of the place  
37 where it is incorporated if the average of its property, payroll, and  
38 sales factors within the United States is 20 percent or more.

1 (C) Corporations that are incorporated in the United States,  
2 excluding corporations making an election pursuant to Sections  
3 931 to 936, inclusive, of the Internal Revenue Code.

4 (D) Export trade corporations, as described in Sections 970 to  
5 972, inclusive, of the Internal Revenue Code.

6 (2) With respect to a corporation that is not described in  
7 subparagraphs (A), (B), (C), and (D) of paragraph (1), the income  
8 and apportionment factors of that corporation to the extent of its  
9 income derived from or attributable to sources within the United  
10 States and its factors assignable to a location within the United  
11 States in accordance with paragraph (3) of subdivision (b). Income  
12 of that corporation derived from or attributable to sources within  
13 the United States as determined by federal income tax laws shall  
14 be limited to, and determined from, the books of account  
15 maintained by the corporation with respect to its activities  
16 conducted within the United States.

17 (3) The income and apportionment factors of the corporations  
18 described in this subdivision shall be taken into account only to  
19 the extent that they would have been taken into account had no  
20 election under this section been made.

21 (b) For purposes of this article and Section 24411, all of the  
22 following definitions apply:

23 (1) An “affiliated corporation” means a corporation that is a  
24 member of a commonly controlled group as defined in Section  
25 25105.

26 (2) A “qualified taxpayer” means a corporation that does both  
27 of the following:

28 (A) Files with the state tax return, on which the water’s-edge  
29 election is made, a consent to the taking of depositions, at the time  
30 and place most reasonably convenient to all parties, from key  
31 domestic corporate individuals and to the acceptance of subpoenas  
32 duces tecum requiring reasonable production of documents to the  
33 Franchise Tax Board, as provided in Section 19504, by the State  
34 Board of Equalization, as provided in Section 5005 of Title 18 of  
35 the California Code of Regulations, or by the courts of this state,  
36 as provided in Chapter 2 (commencing with Section 1985) of Title  
37 3 of Part 4 of, and Chapter 9 (commencing with Section 2025.010)  
38 of Title 4 of Part 4 of, the Code of Civil Procedure. The consent  
39 relates to issues of jurisdiction and service and does not waive any  
40 defenses that a taxpayer may otherwise have. The consent shall

1 remain in effect as long as the water’s-edge election is in effect,  
2 and shall be limited to providing that information necessary to  
3 review or adjust income or deductions in a manner authorized by  
4 Section 482, 861, Subpart F of Part III of Subchapter N, or similar  
5 provisions, of the Internal Revenue Code, together with the  
6 regulations adopted pursuant to those provisions, and for the  
7 conduct of an investigation with respect to any unitary business  
8 in which the taxpayer may be involved.

9 (B) Agrees that, for purposes of this article, dividends received  
10 by any corporation whose income and apportionment factors are  
11 taken into account pursuant to subdivision (a) from either of the  
12 following are functionally related dividends and shall be presumed  
13 to be business income:

14 (i) A corporation of which more than 50 percent of the voting  
15 stock is owned, directly or indirectly, by members of the unitary  
16 group and which is engaged in the same general line of business.

17 (ii) Any corporation that is either a significant source of supply  
18 for the unitary business or a significant purchaser of the output of  
19 the unitary business, or that sells a significant part of its output or  
20 obtains a significant part of its raw materials or input from the  
21 unitary business. “Significant,” as used in this subparagraph, means  
22 an amount of 15 percent or more of either input or output.

23 All other dividends shall be classified as business or nonbusiness  
24 income without regard to this subparagraph.

25 (3) The definitions and locations of property, payroll, and sales  
26 shall be determined under the laws and regulations that set forth  
27 the apportionment formulas used by the individual states to assign  
28 net income subject to taxes on, or measured by, net income in that  
29 state. If a state does not impose a tax on, or measured by, net  
30 income or does not have laws or regulations with respect to the  
31 assignment of property, payroll, and sales, the laws and regulations  
32 provided in Article 2 (commencing with Section 25120) shall  
33 apply.

34 Sales shall be considered to be made to a state only if the  
35 corporation making the sale may otherwise be subject to a tax on,  
36 or measured by, net income under the Constitution or laws of the  
37 United States, and shall not include sales made to a corporation  
38 whose income and apportionment factors are taken into account  
39 pursuant to subdivision (a) in determining the amount of income



1 of the taxpayer derived from or attributable to sources within this  
2 state.

3 (4) “The United States” means the 50 states of the United States  
4 and the District of Columbia.

5 (c) All references in this part to income determined pursuant to  
6 Section 25101 shall also mean income determined pursuant to this  
7 section.

8 SEC. 57.6. Section 25117 is added to the Revenue and Taxation  
9 Code, to read:

10 25117. (a) Except as otherwise provided, income taken into  
11 account by all affiliated entities whose income and apportionment  
12 factors are determined pursuant to Section 25110 shall include  
13 income described in Subpart F of the Internal Revenue Code  
14 (commencing with Section 951). The income that is taken into  
15 account shall for all purposes be treated as a dividend actually  
16 paid, and be subject to any provision or limitation related to the  
17 treatment of dividends, including, but not limited to, Sections  
18 24344, 24410, 24411, and 25106. The amount taken into account  
19 shall be treated as business or nonbusiness income as defined in  
20 Section 25120, as the case may be.

21 (b) In the application of Subpart F of the Internal Revenue Code:

22 (1) Exclusions from gross income under Section 959 of the  
23 Internal Revenue Code, relating to previously taxed income, shall  
24 apply, including amounts related to income previously taxed under  
25 federal law in years prior to the water’s-edge election.

26 (2) Federal adjustments to stock basis made pursuant to Section  
27 961 of the Internal Revenue Code, relating to adjustments to basis  
28 of stock in controlled foreign corporations and of other property,  
29 including adjustments made prior to the water’s-edge election,  
30 shall apply.

31 (3) The provisions of and any reference to Section 1248 of the  
32 Internal Revenue Code, relating to gain from certain sales or  
33 exchanges of stock in certain foreign corporations, shall not apply.

34 (4) Section 960 of the Internal Revenue Code, relating to special  
35 rules for foreign tax credit, shall not apply.

36 (5) Section 965 of the Internal Revenue Code, relating to  
37 temporary dividends received deduction, shall not apply.

38 (6) For purposes of this section, a federal election to exclude  
39 from Subpart F income the income described in Section 954(b)(4)  
40 of the Internal Revenue Code shall apply, including amounts related

1 to income previously taxed under federal law in years prior to the  
2 water's-edge election. No election under this subparagraph shall  
3 be allowed for state purposes unless a valid election was made for  
4 federal purposes.

5 (c) In the event that a water's-edge election is terminated, for  
6 taxable years thereafter, the following rules apply:

7 (1) Subpart F of the Internal Revenue Code shall not apply,  
8 except as provided in this subdivision.

9 (2) Section 959 of the Internal Revenue Code, relating to  
10 exclusion from gross income of previously taxed earnings and  
11 profits, shall apply, but only to the extent attributable to income  
12 that has been taken into account pursuant to subdivision (a) during  
13 the period of the water's-edge election.

14 (3) Stock basis shall be determined as if this section did not  
15 apply, except that stock basis shall be:

16 (A) Increased by income taken into account pursuant to  
17 subdivision (a) during the period of the water's-edge election.

18 (B) Reduced by both the following:

19 (i) That portion of amounts excluded from income under  
20 paragraph (2) of subdivision (b) that are attributable to income  
21 taken into account pursuant to subdivision (a) during the period  
22 of the water's-edge election.

23 (ii) Amounts described by paragraph (2) of subdivision (c)  
24 excluded from income after termination of the water's-edge  
25 election.

26 (d) (1) Except as provided in paragraph (2), this section shall  
27 apply to taxable years beginning on or after January 1, 2008.

28 (2) In the event that two or more taxpayers subject to the same  
29 election under Section 25110 have different taxable years, this  
30 section shall apply as of the first day of the first taxable year of  
31 those respective taxpayers that begins on or after January 1, 2008.

32 (e) If a distribution with respect to earnings and profits from a  
33 given year is eligible for treatment as previously taxed income and  
34 would, without regard to the application of this section, be eligible  
35 for deduction, exclusion, or elimination under another section  
36 under this part, if paid as a dividend, in no event shall the combined  
37 effect of those sections and the rules relating to previously taxed  
38 income result in a deduction, exclusion, or elimination greater than  
39 the amount of the earnings and profits that apply to the distribution.

1 (f) Subdivision (a) of Section 24425 shall not apply to amounts  
2 excluded from gross income pursuant to this section or to amounts  
3 deducted pursuant to paragraph (2) of subdivision (a) of Section  
4 24411.

5 (g) The Franchise Tax Board may prescribe regulations as may  
6 be necessary and appropriate to carry out the purposes of this  
7 section.

8 SEC. 58. Sections 1 to 11, inclusive, of the Tax Technical  
9 Correction Act of 2007 (Public Law 110-172), Section 426 of  
10 Division A of the Tax Reform and Health Care Act of 2006 (Public  
11 Law 109-432), Section 1 of the Disaster Mitigation Payments Act  
12 of 2005 (Public Law 109-7), and Sections 402 to 413, inclusive,  
13 of the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV  
14 of Public Law 109-135) enacted numerous technical corrections  
15 and clarifications to provisions of the Internal Revenue Code,  
16 including technical corrections and clarifications relating to the  
17 Tax Relief and Health Care Act of 2006 (Public Law 109-142),  
18 Title XII of the Pension Protection Act of 2006 (Public Law  
19 109-280), the Tax Increase Prevention and Reconciliation Act of  
20 2005 (Public Law 109-222), the Energy Tax Incentives Act (Title  
21 XIII of the Energy Policy Act of 2005) (Public Law 109-58), the  
22 Working Families Tax Relief Act of 2004 (Public Law 108-311),  
23 the American Jobs Creation Act of 2004 (Public Law 108-357),  
24 the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public  
25 Law 108-27), the Victims of Terrorism Tax Relief Act of 2001  
26 (Public Law 107-134), the Economic Growth and Tax Relief  
27 Reconciliation Act of 2001 (Public Law 107-16), Tax Relief  
28 Extension Act of 1999 (Public Law 106-170), the Internal Revenue  
29 Service Restructuring and Reform Act of 1998) (Public Law  
30 105-206), the Taxpayer Relief Act of 1997 (Public Law 105-34),  
31 the Omnibus Budget Reconciliation Act of 1990 (Public Law  
32 101-508), the Omnibus Budget Reconciliation Act of 1987  
33 (Revenue Act of 1987) (Public Law 100-203), some of which are  
34 incorporated by reference into Part 10 (commencing with Section  
35 17001), Part 10.2 (commencing with Section 18401), and Part 11  
36 (commencing with Section 23001) of Division 2 of the Revenue  
37 and Taxation Code. Unless otherwise specifically provided, the  
38 technical corrections and clarifications described in the preceding  
39 sentence, to the extent that they correct or clarify provisions that  
40 are incorporated by specific reference into the Revenue and

1 Taxation Code, are declaratory of existing law and shall be applied  
2 in the same manner and for the same periods as specified in the  
3 Disaster Mitigation Payments Act of 2005 (Public Law 109-7),  
4 the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV of  
5 Public Law 109-135), the Tax Reform and Health Care Act of  
6 2006 (Public Law 109-432), the Tax Technical Correction Act of  
7 2007 (Public Law 110-172), or if later, the specified date of  
8 incorporation.

9 SEC. 59. (a) Except as provided in subdivision (b), the  
10 amendments made to Sections 19179, 19443, and 21015.5 of the  
11 Revenue and Taxation Code by this act shall apply to returns filed,  
12 submissions made, and issues raised on or after the effective date  
13 of this act or January 1, 2009, whichever is later.

14 (b) The amendments made to Sections 19179, 19443, and  
15 21015.5 of the Revenue and Taxation Code by this act shall be  
16 applicable for submissions made or issues raised after the date on  
17 which the Secretary of the Treasury or the Franchise Tax Board  
18 first prescribe a list under Section 6702(c) of the Internal Revenue  
19 Code or subdivision (c) of Section 19179 of the Revenue and  
20 Taxation Code, respectively.

21 (c) The amendments added to Sections 24411 and 25110 of the  
22 Revenue and Taxation Code by this act, and the addition of Section  
23 25117 to the Revenue and Taxation Code by this act, shall apply  
24 to taxable years beginning on or after January 1, 2008.

25 SEC. 60. The Legislature finds and declares that the  
26 amendments made by this act to the Revenue and Taxation Code,  
27 incorporating, by reference, the amendments made by Sections  
28 827 and 828 of the Pension Protection Act of 2006 (Public Law  
29 109-280) to Section 72 of the Internal Revenue Code, shall apply  
30 in the same manner and for the same periods as specified in  
31 Sections 827 and 828 of the Pension Protection Act of 2006 (Public  
32 Law 109-280). The Legislature finds and declares that this act  
33 serves a public purpose by providing equitable treatment for  
34 reservists called to active duty and emergency service personnel,  
35 and ultimately, benefitting all of the citizens of this state.

36 SEC. 61. (a) Except as provided in subdivision (b), the  
37 amendments made by the enactment of this act to the Revenue and  
38 Taxation Code, incorporating, by reference, the amendments made  
39 by Section 1220 of the Pension Protection Act of 2006 (Public  
40 Law 109-280) to Sections 501 and 513 of the Internal Revenue

1 Code, shall apply in the same manner and for the same periods as  
2 specified in Section 1220(c) of the Pension Protection Act of 2006  
3 (Public Law 109-280).

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

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

10 (2) The phrase “described in Section 23701d or Section 23701f”  
11 shall be substituted for “described in paragraph (3) or (4) of section  
12 501(c) of the Internal Revenue Code of 1986” in Section 1220(c)(2)  
13 of Public Law 109-280.

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

17 SEC. 62. The Legislature finds and declares that the  
18 amendments made by this act to Section 17952.5 of the Revenue  
19 and Taxation Code make that code compatible with the technical  
20 changes made by Public Law 109-264 to Section 114 of title 4 of  
21 the United States Code, relating to limitation on state income  
22 taxation of certain pension income, 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 Public Law 109-264. The Legislature finds and declares that  
26 this act and the retroactive application contained in the preceding  
27 sentence are necessary to clarify that the Legislature intended for  
28 Chapter 506 of the Statutes of 1996 to apply to certain retired  
29 partners. Additionally, the Legislature finds and declares that this  
30 act serves a public purpose by ensuring the fair and consistent  
31 application of California law to “qualified retirement income”  
32 received on or after January 1, 1996, for any part of the taxable  
33 year during which the taxpayer was not a resident of this state and,  
34 thereby, preventing unnecessary litigation to determine the  
35 taxability of that “qualified retirement income.”

36 SEC. 63. The Legislature finds and declares that the  
37 amendments made by this act to Section 24949.5 of the Revenue  
38 and Taxation Code, the addition of Section 24329 to the Revenue  
39 and Taxation Code, and the incorporation by reference of the  
40 amendments made by Section 1 of the Disaster Mitigation

1 Payments Act of 2005 (Public Law 109-7), which amended  
2 Sections 139 and 1033 of the Internal Revenue Code, in the  
3 Revenue and Taxation Code, conform California law to the  
4 amendments made to Sections 139 and 1033 of the Internal  
5 Revenue Code by Section 1 of the Disaster Mitigation Payments  
6 Act of 2005 (Public Law 109-7) and do not constitute a change  
7 in, but are declaratory of, existing law and shall be applied in the  
8 same manner and for the same periods as specified in Section 1  
9 of the Disaster Mitigation Payments Act of 2005 (Public Law  
10 109-7). The Legislature finds and declares that this act and the  
11 retroactive application contained in the preceding sentence are  
12 necessary to clarify that, when the Legislature enacted the exclusion  
13 from gross income for disaster relief payments in Chapter 807 of  
14 the Statutes of 2002, it intended to exclude disaster mitigation  
15 payments from gross income and treat sales and exchanges under  
16 certain hazard mitigation programs as involuntary conversions.  
17 Additionally, the Legislature finds and declares that this act serves  
18 a public purpose by ensuring the fair and consistent application of  
19 California law to all property owners, many of whom are  
20 low-income people, that have taken or will take necessary  
21 preventive measures to mitigate risk of harm and property damage  
22 from disasters, thereby saving lives and reducing the need for  
23 future taxpayer assistance.

24 SEC. 63.4. Section 8.6 of this bill adds Section 17144.5 to the  
25 Revenue and Taxation Code, which provides amendments related  
26 to Section 108 of the Internal Revenue Code. Senate Bill 1055  
27 also adds Section 17144.5 to the Revenue and Taxation Code,  
28 which also provides amendments related to Section 108 of the  
29 Internal Revenue Code. Section 8.6 of this bill shall not become  
30 operative if (a) both bills are enacted and become effective on or  
31 before January 1, 2009, and (b) each bill adds Section 17144.5 to  
32 the Revenue and Taxation Code.

33 SEC. 63.5. (a) The amendments made to Section 19166 of the  
34 Revenue and Taxation Code by Section 28.6 of this act conform  
35 to federal changes made to Section 6694 of the Internal Revenue  
36 Code by Section 8246(b) of the Small Business and Work  
37 Opportunity Tax Act of 2007 (Public Law 110-28). Those  
38 amendments are substantially the same as amendments previously  
39 made to Section 19166 by Chapter 656 of the Statutes of 2003 and  
40 by Chapter 691 of the Statutes of 2005.

1 (b) The amendments made to Section 19166 of the Revenue  
2 and Taxation Code by this act do not affect the operative date of  
3 the changes made to Section 19166 of the Revenue and Taxation  
4 Code by Chapter 656 of the Statutes of 2003 and by Chapter 691  
5 of the Statutes of 2005.

6 SEC. 64. This act provides for a tax levy within the meaning  
7 of Article IV of the Constitution and shall go into immediate effect.

O