

AMENDED IN SENATE AUGUST 12, 2008
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

Introduced by Assembly Member Charles Calderon

February 23, 2007

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~~ 23772, 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, 19172.5, 19185, 19186, 23046.5, 23703.7, 24329, 24462, 24950.5, 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 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 (B) In the case of registered domestic partners and former
2 registered domestic partners, adjusted gross income, for the
3 purposes of computing limitations based upon adjusted gross
4 income, shall mean the adjusted gross income on a federal tax
5 return computed as if the registered domestic partner or former
6 registered domestic partner was treated as a spouse or former
7 spouse, respectively, for federal income tax purposes, and used
8 the same filing status that was used on the state tax return for the
9 same taxable year.

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

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

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

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

19 (7) Due account shall be made for differences in federal and
20 state terminology, effective dates, substitution of “Franchise Tax
21 Board” for “secretary” when appropriate, and other obvious
22 differences.

23 (8) Except as otherwise provided, any reference to Section 501
24 of the Internal Revenue Code shall be interpreted to also refer to
25 Section 23701.

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

29 SEC. 3.4. Section 17041 of the Revenue and Taxation Code
30 is amended to read:

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

39

40 If the taxable income is:

The tax is:

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~~ 2009.

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~~ 2009.

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 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, 2008.

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

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

11 19166. (a) A penalty shall be imposed for understatement of
12 any taxpayer’s liability by a tax return preparer and shall be
13 determined in accordance with Section 6694 of the Internal
14 Revenue Code, ~~except~~ relating to understatement of taxpayer’s
15 liability by tax return preparer, *except* as otherwise provided.

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

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

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

1 (3) The running of the period of limitations provided in Section
2 19371 on the collection by levy or by a proceeding in court in
3 respect of any penalty described in paragraph (1) shall be
4 suspended for the period during which the Franchise Tax Board
5 is prohibited from collecting by levy or a proceeding in court.

6 (c) The amendments made to this section by the act adding this
7 subdivision shall apply to returns prepared after the effective date
8 of this act.

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

11 19172. (a) In addition to the penalty imposed by Section 19706
12 (relating to willful failure to file return, supply information, or pay
13 tax), if any partnership required to file a return under Section 18633
14 or 18633.5 for any taxable year does either of the following:

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

17 (2) Files a return which fails to show the information required
18 under Section 18633 or 18633.5, that partnership shall be liable
19 for a penalty determined under subdivision (b) for each month (or
20 fraction thereof) during which that failure continues (but not to
21 exceed 12 months), unless it is shown that the 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 partners in the partnership
28 during any part of the taxable year.

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

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) The amendments made to this section by the act adding this
36 subdivision shall apply to returns required to be filed after the
37 effective date of the act adding this subdivision.

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

1 19172.5. (a) In addition to the penalty imposed by Section
 2 19706 (relating to willful failure to file return, supply information,
 3 or pay tax), if any “S” corporation required to file a return under
 4 Section 18601 for any taxable year fails to file the return at the
 5 time prescribed therefor (determined with regard to any extension
 6 of time for filing), or files a return that fails to show the information
 7 required under Section 18601, then that “S” corporation shall be
 8 liable for a penalty determined under subdivision (b) for each
 9 month (or fraction thereof) during which that failure continues
 10 (but not to exceed 12 months), unless that failure is due to
 11 reasonable cause.

12 (b) For purposes of subdivision (a), the amount determined
 13 under this subdivision for any month is the product of the
 14 following:

- 15 (1) Seventeen dollars (\$17), multiplied by
- 16 (2) The number of persons who were shareholders in the “S”
 17 corporation during any part of the taxable year.

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

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

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

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

28 19179. (a) A penalty shall be imposed for filing a frivolous
 29 return and shall be determined in accordance with Section 6702
 30 of the Internal Revenue Code, except as otherwise provided.

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

33 (c) Section 6702 of the Internal Revenue Code is modified as
 34 follows:

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

39 (B) By substituting the phrase “frivolous or is based on a
 40 position that the Franchise Tax Board has identified as frivolous

1 under subdivision (d)” instead of the term “frivolous” contained
2 therein.

3 (C) By substituting the phrase “reflects a desire to delay or
4 impede the administration of federal income tax laws as determined
5 by the Secretary of the Treasury or the administration of the tax
6 imposed under Part 10 (commencing with Section 17001), Part 11
7 (commencing with Section 23001), or this part as determined by
8 the Franchise Tax Board” instead of the phrase “reflects a desire
9 to delay or impede the administration of Federal tax laws”
10 contained therein.

11 (D) By substituting the phrase “is based on a position which the
12 Secretary of the Treasury has identified as frivolous under
13 subsection (c) of Section 6702 of the Internal Revenue Code or
14 the Franchise Tax Board has identified as frivolous under
15 subdivision (d)” for the phrase “is based on a position which the
16 Secretary has identified as frivolous under subsection (c).”

17 (E) By substituting the phrase “If the Franchise Tax Board
18 provides a person with notice that a submission is a specified
19 frivolous submission and the person withdraws that submission
20 within 30 days after the notice, the penalty imposed under Section
21 6702(b)(1) of the Internal Revenue Code does not apply with
22 respect to that submission” for the phrase “If the Secretary provides
23 a person with notice that a submission is a specified frivolous
24 submission and such person withdraws such submission within
25 30 days after such notice, the penalty imposed under paragraph
26 (1) shall not apply with respect to such submission.”

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

30 (A) A protest under Section 19041.

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

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

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

35 (ii) Section 19443, relating to compromises.

36 (iii) Section 21004, relating to actions of the Taxpayers’ Rights
37 Advocate.

38 (iv) Section 21015.5, relating to a request for review prior to
39 levy.

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

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

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

13 (A) Imposing the penalty would be against equity and good
14 conscience.

15 (B) Rescinding the penalty would promote compliance with the
16 requirements of this part and Part 10 (commencing with Section
17 17001) or Part 11 (commencing with Section 23001) and effective
18 tax administration.

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

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

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

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

29 19185. (a) Section 6695A of the Internal Revenue Code,
30 relating to substantial and gross valuation misstatements
31 attributable to incorrect appraisals, shall apply, except as otherwise
32 provided.

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

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

37 19186. (a) Section 6702B of the Internal Revenue Code,
38 relating to the fraudulent identification of exempt use property,
39 shall apply, except as otherwise provided.

1 (b) This section shall apply to identifications made after January
2 1, 2008.

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

5 19443. (a) (1) The Executive Officer and Chief Counsel of
6 the Franchise Tax Board, jointly, or their delegates, may
7 compromise any final tax liability in which the reduction of tax is
8 seven thousand five hundred dollars (\$7,500) or less.

9 (2) Except as provided in paragraph (3), the Franchise Tax
10 Board, upon recommendation by its executive officer and chief
11 counsel, jointly, may compromise a final tax liability involving a
12 reduction in tax in excess of seven thousand five hundred dollars
13 (\$7,500). Any recommendation for approval of an offer in
14 compromise that is not either approved or disapproved by the
15 Franchise Tax Board, itself, within 45 days of the submission of
16 the recommendation shall be deemed approved.

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

22 (b) For purposes of this section, “a final tax liability” means
23 any final tax liability arising under Part 10 (commencing with
24 Section 17001) or Part 11 (commencing with Section 23001) or
25 related interest, additions to tax, penalties, or other amounts
26 assessed under this part.

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

29 (1) The taxpayer shall establish that the:

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

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

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

39 (d) A determination by the Franchise Tax Board that it would
40 not be in the best interest of the state to accept an offer in

1 compromise in satisfaction of a final tax liability shall not be
2 subject to administrative appeal or judicial review.

3 (e) When an offer in compromise is either accepted or rejected,
4 or the terms and conditions of a compromise agreement are
5 fulfilled, the Franchise Tax Board shall notify the taxpayer in
6 writing.

7 (f) In the case of a joint and several liability, the acceptance of
8 an offer in compromise from one liable spouse shall not relieve
9 the other spouse from paying the entire liability. However, the
10 amount of the liability shall be reduced by the amount of the
11 accepted offer.

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

- 18 (1) The name of the taxpayer.
- 19 (2) The amount of unpaid tax, and related penalties, additions
20 to tax, interest, or other amounts involved.
- 21 (3) The amount offered.
- 22 (4) A summary of the reason why the compromise is in the best
23 interest of the state.

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

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

- 35 (1) The Franchise Tax Board determines that any person did
36 any of the following acts regarding the making of the offer:
 - 37 (A) Concealed from the Franchise Tax Board any property
38 belonging to the estate of any taxpayer or other person liable for
39 the tax.

1 (B) Received, withheld, destroyed, mutilated, or falsified any
2 book, document, or record or made any false statement, relating
3 to the estate or financial condition of the taxpayer or other person
4 liable for the tax.

5 (2) The taxpayer fails to either:

6 (A) Comply with any of the terms and conditions relative to the
7 offer.

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

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

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

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

25 21015.5. (a) (1) No levy may be made on any property or
26 property right of any person unless the board has notified the
27 person in writing of his or her rights as described in subparagraph
28 (C) of paragraph (3) before the levy is made. Except as provided
29 in subdivision (f), the notice shall be required only once for the
30 taxable period to which the unpaid tax specified in subparagraph
31 (A) of paragraph (3) relates. The notice shall not be required if the
32 unpaid tax for which notice would otherwise be required under
33 this paragraph is consolidated for collection purposes with a
34 preexisting unpaid tax for which notice has been given under this
35 paragraph.

36 (2) The notice required by paragraph (1) shall be made by
37 first-class mail to the address of record not less than 30 days before
38 the day of the first levy with respect to the amount of the unpaid
39 tax for the taxable period. Notice under paragraph (1) is not

1 required if previous mail to the same address was returned
2 undelivered with no forwarding address.

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

5 (A) The amount of unpaid tax.

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

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

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

13 (i) The provisions of California law relating to levy and sale of
14 property.

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

17 (iii) The independent departmental administrative review
18 available to the taxpayers with respect to the levy and sale and the
19 procedures to obtain that review.

20 (iv) The alternatives available to taxpayers that could prevent
21 levy on property, including installment agreements under Section
22 19008.

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

25 (b) (1) The Taxpayers' Rights Advocate shall establish
26 procedures for an independent departmental administrative review
27 for taxpayers who request review under subparagraph (C) of
28 paragraph (3) of subdivision (a).

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

33 (3) An independent departmental administrative review under
34 this subdivision shall be conducted by an officer or employee, or
35 officers or employees, who have had no prior involvement with
36 respect to the unpaid tax specified in subparagraph (A) of paragraph
37 (3) of subdivision (a) before the first review under this section or
38 Section 19225. A taxpayer may waive the requirement of this
39 paragraph. Administrative review under this subdivision is not

1 subject to Chapter 4.5 (commencing with Section 11400) of Part
2 1 of Division 3 of the Government Code.

3 (c) (1) The person or persons conducting the independent
4 departmental administrative review shall obtain verification that
5 the requirements of any applicable law or administrative procedures
6 have been met by the board.

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

9 (A) Appropriate spousal defenses.

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

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

14 (3) The determination of the person or persons conducting the
15 review under this subdivision shall take into consideration all of
16 the following:

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

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

19 (C) Whether any proposed collection action balances the need
20 for the efficient collection of taxes with the legitimate concern of
21 the person that any collection action not be more intrusive than
22 necessary.

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

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

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

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

31 This paragraph does not apply to any issue with respect to a
32 change in circumstances of that person that affects the
33 determination.

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

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

6 (f) If the board holds in abeyance the collection of a liability
 7 imposed under Part 10 (commencing with Section 17001) or Part
 8 10.2 (commencing with Section 18401), that is final and otherwise
 9 due and payable, for a period in excess of six months from the date
 10 the hold is first placed on the account, the board shall thereafter
 11 mail to the taxpayer a notice prior to issuing a levy or filing or
 12 recording a notice of state tax lien.

13 (g) This section is operative for collection actions initiated after
 14 the date which is 180 days after the effective date of the act adding
 15 this section.

16 (h) Notwithstanding any other provision of this section, if the
 17 board determines that any portion of a request for review under
 18 this section meets the requirement of clause (i) or (ii) of Section
 19 6702(b)(2)(A) of the Internal Revenue Code, as modified by
 20 Section 19179, then the Franchise Tax Board may treat that portion
 21 as if it were never submitted and that portion shall not be subject
 22 to any further administrative or judicial review.

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

25 23045. For purposes of this part:

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

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

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

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

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

1 23046.5. (a) Section 7701(o) of the Internal Revenue Code,
2 relating to convention or association of churches, shall apply,
3 except as otherwise provided.

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

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

8 23051.5. (a) (1) Unless otherwise specifically provided, the
9 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
10 or “Internal Revenue Code of 1986,” for purposes of this part,
11 mean Title 26 of the United States Code, including all amendments
12 thereto, as enacted on the specified date for the applicable taxable
13 year as defined in paragraph (1) of subdivision (a) of Section
14 17024.5.

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

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

28 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
29 H (Repeal of Expired or Obsolete Provisions) of the Revenue
30 Reconciliation Act of 1990 (Public Law 101-508) modified
31 numerous provisions of the Internal Revenue Code and provisions
32 of prior federal acts, some of which are incorporated by reference
33 into this part. Unless otherwise provided, the provisions described
34 in the preceding sentence, to the extent that they modify provisions
35 that are incorporated into this part, are declaratory of existing law
36 and shall be applied in the same manner and for the same periods
37 as specified in the Revenue Reconciliation Act of 1990.

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

- 1 (1) Domestic International Sales Corporations (DISC), as
- 2 defined in Section 992(a) of the Internal Revenue Code.
- 3 (2) Foreign Sales Corporations (FSC), as defined in Section
- 4 922(a) of the Internal Revenue Code.
- 5 (3) A personal holding company, as defined in Section 542 of
- 6 the Internal Revenue Code.
- 7 (4) A foreign personal holding company, as defined in Section
- 8 552 of the Internal Revenue Code.
- 9 (5) A foreign investment company, as defined in Section 1246(b)
- 10 of the Internal Revenue Code.
- 11 (6) A foreign trust as defined in Section 679 of the Internal
- 12 Revenue Code.
- 13 (7) Foreign income taxes and foreign income tax credits.
- 14 (8) Federal tax credits and carryovers of federal tax credits.
- 15 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
- 16 and Section 172 of the Tax Reform Act of 1984 (Public Law
- 17 98-369), relating to treatment of debt instruments, is not applicable
- 18 for taxable years beginning before January 1, 1987.
- 19 (2) The provisions contained in Public Law 99-121, relating to
- 20 the treatment of debt instruments, is not applicable for taxable
- 21 years beginning before January 1, 1987.
- 22 (3) For taxable years beginning on and after January 1, 1987,
- 23 the provisions referred to by paragraphs (1) and (2) shall be
- 24 applicable for purposes of this part in the same manner and with
- 25 respect to the same obligations as the federal provisions, except
- 26 as otherwise provided in this part.
- 27 (d) When applying the Internal Revenue Code for purposes of
- 28 this part, regulations promulgated in final form or issued as
- 29 temporary regulations by “the secretary” shall be applicable as
- 30 regulations issued under this part to the extent that they do not
- 31 conflict with this part or with regulations issued by the Franchise
- 32 Tax Board.
- 33 (e) Whenever this part allows a taxpayer to make an election,
- 34 the following rules shall apply:
- 35 (1) A proper election filed with the Internal Revenue Service
- 36 in accordance with the Internal Revenue Code or regulations issued
- 37 by “the secretary” shall be deemed to be a proper election for
- 38 purposes of this part, unless otherwise expressly provided in this
- 39 part or in regulations issued by the Franchise Tax Board.

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

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

8 (B) (i) If a taxpayer makes a proper election for federal income
9 tax purposes prior to the time that taxpayer becomes subject to the
10 tax imposed under this part or Part 10 (commencing with Section
11 17001), that taxpayer is deemed to have made the same election
12 for purposes of the tax imposed by this part, Part 10 (commencing
13 with Section 17001), and Part 10.2 (commencing with Section
14 18401), as applicable, and that taxpayer may not make a separate
15 election for California tax purposes unless that separate election
16 is expressly authorized by this part, Part 10 (commencing with
17 Section 17001), or Part 10.2 (commencing with Section 18401),
18 or by regulations issued by the Franchise Tax Board.

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

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

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

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

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

4 (1) For purposes of Chapter 2 (commencing with Section
 5 23101), Chapter 2.5 (commencing with Section 23400), and
 6 Chapter 3 (commencing with Section 23501), the term “taxable
 7 income” shall mean “net income.”

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

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

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

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

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

21 (7) Due account shall be made for differences in federal and
 22 state terminology, effective dates, substitution of “Franchise Tax
 23 Board” for “secretary” when appropriate, and other obvious
 24 differences.

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

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

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

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

36 23609. For each taxable year beginning on or after January 1,
 37 1987, there shall be allowed as a credit against the “tax” (as defined
 38 by Section 23036) an amount determined in accordance with
 39 Section 41 of the Internal Revenue Code, except as follows:

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

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

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

7 (b) (1) For each taxable year beginning on or after January 1,
8 1997, and before January 1, 1999, both of the following
9 modifications shall apply:

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

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

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

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

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

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

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

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

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

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

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

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

1 activities regarding pharmaceutical delivery systems designed to
2 provide a measure of control over the rate, duration, and site of
3 pharmaceutical delivery.

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

8 (g) For each taxable year beginning on or after January 1, 1998,
9 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
10 Internal Revenue Code, relating to contract research expenses, is
11 modified to read “this part or Part 10 (commencing with Section
12 17001).”

13 (h) (1) For each taxable year beginning on or after January 1,
14 2000:

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

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

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

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

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

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

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

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

4 (1) The last sentence shall not apply.

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

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

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

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

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

21 23703.7. Section 501(q) of the Internal Revenue Code, relating
22 to special rules for credit counseling organizations, shall apply,
23 except as otherwise provided.

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

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

29 (c) The phrase “described in Section 23701d and exempt from
30 tax under Section 23701” shall be substituted for “described in
31 subsection (c)(3) and exempt from tax under subsection (a)” in
32 each place that it appears in Section 501(q)(1)(E) of the Internal
33 Revenue Code.

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

39 (e) The phrase “described in Section 23701d and exempt from
40 tax under Section 23701 on January 1, 2007,” shall be substituted

1 for “described in paragraph (3) of subsection (c) and exempt from
2 tax under subsection (a) on the date of the enactment of this
3 subsection” in Section 501(q)(2)(B)(ii) of the Internal Revenue
4 Code.

5 (f) The phrase “January 1, 2008,” shall be substituted for “the
6 date of the enactment of this subsection” in Section
7 501(q)(2)(B)(ii)(I) of the Internal Revenue Code.

8 (g) The phrase “described in Section 23701f shall not be exempt
9 from tax under Section 23701” shall be substituted for “described
10 in paragraph (4) of subsection (c) shall not be exempt from tax
11 under subsection (a)” in Section 501(q)(3) of the Internal Revenue
12 Code.

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

15 23772. (a) For the purposes of this part—

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

29 (2) Exceptions from filing—

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

31 (i) Churches, their integrated auxiliaries, and conventions or
32 association of churches,

33 (ii) Any organization (other than a private foundation as defined
34 in Section 23709), the gross receipts of which in each taxable year
35 are normally not more than twenty-five thousand dollars (\$25,000),
36 or

37 (iii) The exclusively religious activities of any religious order.

38 (B) Discretionary exceptions—The Franchise Tax Board may
39 permit the filing of a simplified return for organizations based on
40 either gross receipts or total assets or both gross receipts and total

1 assets, or may permit the filing of an information statement
2 (without fee), or may permit the filing of a group return for
3 incorporated or unincorporated branches of a state or national
4 organization where it determines that an information return is not
5 necessary to the efficient administration of this part.

6 (3) An organization that is required to file an annual information
7 return shall pay a filing fee of ten dollars (\$10) on or before the
8 due date for filing the annual information return (determined with
9 regard to any extension of time for filing the return) required by
10 this section. In case of failure to pay the fee on or before the due
11 date, unless it is shown that the failure is due to reasonable cause,
12 the filing fee shall be twenty-five dollars (\$25). All collection
13 remedies provided in Article 5 (commencing with Section 18661)
14 of Chapter 2 of Part 10.2 are applicable to collection of the filing
15 fee. However, the filing fee does not apply to the organization
16 described in paragraph (4).

17 (4) Paragraph (3) does not apply to: (A) a religious organization
18 exempt under Section 23701d; (B) an educational organization
19 exempt under Section 23701d, if that organization normally
20 maintains a regular faculty and curriculum and normally has a
21 regularly organized body of pupils or students in attendance at the
22 place where its educational activities are regularly carried on; (C)
23 a charitable organization, or an organization for the prevention of
24 cruelty to children or animals, exempt under Section 23701d, if
25 that organization is supported, in whole or in part, by funds
26 contributed by the United States or any state or political subdivision
27 thereof, or is primarily supported by contributions of the general
28 public; (D) an organization exempt under Section 23701d, if that
29 organization is operated, supervised, or controlled by or in
30 connection with a religious organization described in subparagraph
31 (A).

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

- 37 (1) Its gross income for the year.
- 38 (2) Its expenses attributable to gross income and incurred within
39 the year.

- 1 (3) Its disbursements within the year for the purposes for which
2 it is exempt.
- 3 (4) A balance sheet showing its assets, liabilities, and net worth
4 as of the beginning of that year.
- 5 (5) The total of the contributions and gifts received by it during
6 the year, and the names and addresses of all substantial
7 contributors.
- 8 (6) The names and addresses of its foundation manager (within
9 the meaning of Section 4946 of the Internal Revenue Code) and
10 highly compensated employees.
- 11 (7) The compensation and other payments made during the year
12 to each individual described in paragraph (6).
- 13 (8) In the case of an organization with respect to which an
14 election under Section 23704.5 is effective for the taxable year,
15 the following amounts for that organization for that taxable year:
 - 16 (A) The lobbying expenditures (as defined in Section 4911(c)(1)
17 of the Internal Revenue Code).
 - 18 (B) The lobbying nontaxable amount (as defined in Section
19 4911(c)(2) of the Internal Revenue Code).
 - 20 (C) The grassroots expenditures (as defined in Section
21 4911(c)(3) of the Internal Revenue Code).
 - 22 (D) The grassroots nontaxable amount (as defined in Section
23 4911(c)(4) of the Internal Revenue Code). For purposes of this
24 paragraph, if Section 23740 applies to the organization for the
25 taxable year, the organization shall furnish the amounts with respect
26 to the affiliated group as well as with respect to the organization.
- 27 (9) Other information with respect to direct or indirect transfers
28 to, and other direct or indirect transactions and relationships with,
29 other organizations described in Sections 23701a to 23701w,
30 inclusive (other than Sections 23701d, 23701k, and 23701t), as
31 the Franchise Tax Board may require to prevent either of the
32 following:
 - 33 (A) Diversion of funds from the organization's exempt purpose.
 - 34 (B) Misallocation of revenue or expense.
- 35 (10) Any other relevant information as the Franchise Tax Board
36 may prescribe.
- 37 (11) Each controlling organization, within the meaning of
38 Section 512(b)(13) of the Internal Revenue Code, which is subject
39 to the requirements of subdivision (a) shall include on the return
40 required under subdivision (a) all of the following information:

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

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

5 (C) Any transfers of funds between ~~each~~ such controlling
6 organization and each such controlled entity.

7 (12) (A) Any organization, the gross receipts of which in any
8 taxable year result in the organization being referred to in clause
9 (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or
10 subparagraph (B) of paragraph (3) of subdivision (a), shall do both
11 of the following:

12 (i) Furnish annually, in electronic form, and at the time and in
13 the manner as may be prescribed by the Franchise Tax Board, the
14 legal name of the organization, any name under which the
15 organization operates or does business, the organization’s mailing
16 address and the Web site address, if any, the organization’s
17 taxpayer identification number, the name and address of a principal
18 officer, and evidence of the continuing basis for the organization’s
19 exemption from the filing requirements under paragraph (1) of
20 subdivision (a).

21 (ii) Upon termination of the existence of the organization, shall
22 furnish notice of the termination.

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

25 (13) (A) If an organization described in paragraph (1) of
26 subdivision (a) or paragraph (12) of this subdivision fails to file
27 an annual return or notice required under either subdivision (a) or
28 paragraph (12) of this subdivision for three consecutive years, that
29 organization’s status as an organization exempt from tax under
30 Section 23701 shall be considered revoked on and after the date
31 set by the Franchise Tax Board for the filing of the third annual
32 return or notice. The Franchise Tax Board shall publish and
33 maintain a list of any organization for which the tax-exempt status
34 is revoked.

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

39 (C) If, upon application for reinstatement of status as an
40 organization exempt from tax under Section 23701, an organization

1 described in subparagraph (A) can show to the satisfaction of the
2 Franchise Tax Board evidence of reasonable cause for the failure
3 described in that subparagraph, the organization's exempt status
4 may, in the discretion of the Franchise Tax Board, be reinstated
5 effective from the date of the revocation under that subparagraph.

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

8 (c) For the purposes of this part—

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

19 (2) The Franchise Tax Board may make written demand upon
20 a private foundation failing to file under paragraph (1) of this
21 subdivision specifying therein a reasonable future date by which
22 the filing shall be made, and if the filing is not made on or before
23 that date, and unless it is shown that failure so to file is due to
24 reasonable cause, there shall be paid (on notice and demand by
25 the Franchise Tax Board and in the same manner as tax) by the
26 person failing so to file, in addition to the penalty prescribed in
27 paragraph (1), a penalty of five dollars (\$5) each month or part
28 thereof after the expiration of the time specified in the written
29 demand during which the failure continues, but the total amount
30 imposed hereunder on all persons for the failure to file shall not
31 exceed twenty-five dollars (\$25). If more than one person is liable
32 under this paragraph for a failure to file, all of those persons shall
33 be jointly and severally liable with respect to the failure. The term
34 "person" as used herein means any officer, director, trustee,
35 employee, member, or other individual who is under a duty to
36 perform the act in respect of which the violation occurs.

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

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

1 24305. (a) Except as provided in subdivisions (b) and (c),
2 amounts received under life insurance policies and contracts paid
3 by reason of the death of the insured but if such amounts are held
4 by the insurer under an agreement to pay interest thereon, the
5 interest payments shall be included in gross income.

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

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

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

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

22 24329. Section 139 of the Internal Revenue Code, relating to
23 disaster relief payments, shall apply, except as otherwise provided.

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

26 24357. (a) There shall be allowed as a deduction any charitable
27 contribution (as defined in Section 24359) payment of which is
28 made within the taxable year. A charitable contribution shall be
29 allowable as a deduction only if verified under regulations
30 prescribed by the Franchise Tax Board.

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

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

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

39 (2) The election allowed by paragraph (1) may be made only
40 at the time of the filing of the return for the taxable year, and shall

1 be signified in the manner as the Franchise Tax Board shall by
2 regulations prescribe.

3 (c) For purposes of this section, payment of a charitable
4 contribution that consists of a future interest in tangible personal
5 property shall be treated as made only when all intervening interests
6 in, and rights to the actual possession or enjoyment of, the property
7 have expired or are held by persons other than the taxpayer or
8 those standing in a relationship to the taxpayer described in Section
9 24428. For purposes of the preceding sentence, a fixture which is
10 intended to be severed from the real property shall be treated as
11 tangible personal property.

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

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

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

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

28 (g) (1) Notwithstanding any other provision of law to the
29 contrary, for purposes of this section and Section 24341, Section
30 170 of the Internal Revenue Code, relating to charitable
31 contributions and gifts, shall be applied to allow a taxpayer to elect
32 to treat any contribution described in paragraph (2) made in January
33 2005, as if that contribution was made on December 31, 2004, and
34 not in January 2005.

35 (2) A contribution is described in this paragraph if that
36 contribution is a cash contribution made for the relief of victims
37 in areas affected by the December 26, 2004, Indian Ocean tsunami
38 for which a charitable contribution deduction is allowable under
39 this section.

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

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

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

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

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

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

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

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

20 SEC. 45. Section 24357.1 of the Revenue and Taxation Code
21 is amended to read:

22 24357.1. (a) The amount of any charitable contribution of
23 property otherwise taken into account under Section 24357 shall
24 be reduced by the amount of gain that would have been realized
25 if the property contributed had been sold by the taxpayer at its fair
26 market value (determined at the time of that contribution).

27 (b) For purposes of subdivision (a), in the case of a charitable
28 contribution of less than the taxpayer's entire interest in the
29 property contributed, the taxpayer's adjusted basis in that property
30 shall be allocated between the interest contributed and any interest
31 not contributed in accordance with regulations prescribed by the
32 Franchise Tax Board.

33 (c) The provisions of subdivision (a) shall apply in the case of
34 a charitable contribution of tangible personal property if either of
35 the following conditions is satisfied:

36 (1) The use by the donee is unrelated to the purpose or function
37 constituting the basis for its exemption under Section 501 of the
38 Internal Revenue Code or Section 23701, or, in the case of a
39 governmental unit, to any purpose or function described in Section
40 24359.

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

7 (d) (1) In the case of an applicable disposition of applicable
8 property, there shall be included in the income of the donor of that
9 property for the taxable year of the donor in which the applicable
10 disposition occurs an amount equal to the excess, if any, of the
11 following amount:

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

14 (B) The donor's basis in that property at the time that property
15 was contributed.

16 (2) For purposes of this subdivision, both of the following
17 definitions apply:

18 (A) "Applicable disposition" means any sale, exchange, or other
19 disposition by the donee of applicable property after the last day
20 of the taxable year of the donor in which that property was
21 contributed, and before the last day of the three-year period
22 beginning on the date of the contribution of that property, unless
23 the donee makes a certification in accordance with paragraph (3).

24 (B) "Applicable property" means charitable deduction property,
25 as defined in Section 6050L(a)(2)(A) of the Internal Revenue Code,
26 that is tangible personal property, the use of which identified by
27 the donee as related to the purpose or function constituting the
28 basis of the donee's exemption under Section 501 of the Internal
29 Revenue Code or Section 23701, and for which a deduction in
30 excess of the donor's basis is allowed.

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

35 (A) Certifies that the use of the property by the donee was
36 related to the purpose or function constituting the basis for the
37 donee's exemption under Section 501 of the Internal Revenue
38 Code or Section 23701 and describes how the property was used
39 and how that use furthered that purpose or function.

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

4 (e) (1) For purposes of Section 24357 and subdivision (a), and
5 notwithstanding Section 24912, in the case of a charitable
6 contribution of taxidermy property that is made by the person who
7 prepared, stuffed, or mounted the property, or by any person who
8 paid or incurred the cost of such preparation, stuffing, or mounting,
9 only the cost of the preparing, stuffing, or mounting shall be
10 included in the basis of that property.

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

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

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

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

19 (f) The amendments made to this section by the act adding this
20 subdivision shall apply to contributions made on or after January
21 1, 2008, without regard to taxable year.

22 SEC. 46. Section 24357.7 of the Revenue and Taxation Code
23 is amended to read:

24 24357.7. (a) (1) For purposes of paragraph (3) of subdivision
25 (b) of Section 24357.2, the term “qualified conservation
26 contribution” means a contribution—

27 (A) Of a qualified real property interest,

28 (B) To a qualified organization,

29 (C) Exclusively for conservation purposes.

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

33 (i) The entire interest of the donor other than a qualified mineral
34 interest.

35 (ii) A remainder interest.

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

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

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

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

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

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

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

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

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

13 (3) The preservation of open space (including farmland and
14 forest land) where that preservation is for any of the following:

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

16 (B) Pursuant to a clearly delineated federal, state, or local
17 governmental conservation policy, and will yield a significant
18 public benefit.

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

21 (d) In the case of any contribution of a qualified real property
22 interest, which is a restriction with respect to the exterior of a
23 building described in paragraph (2) of subdivision (e), that
24 contribution shall not be considered to be exclusively for
25 conservation purposes unless all of the following conditions are
26 met:

27 (1) That interest includes a restriction that preserves the entire
28 exterior of the building, including the front, sides, rear, and height
29 of the building, and prohibits any change in the exterior of the
30 building which is inconsistent with the historical character of that
31 exterior.

32 (2) The donor and donee enter into a written agreement
33 certifying, under penalty of perjury, that the donee is a qualified
34 organization, as defined in subdivision (b), with a purpose of
35 environmental protection, land conservation, open-space
36 preservation, and has the resources to manage and enforce the
37 restriction and a commitment to do so.

38 (3) In the case of any contribution made in a taxable year
39 beginning on or after January 1, 2008, the taxpayer includes with

1 the taxpayer’s return for the taxable year of the contribution all of
2 the following information:

3 (A) A qualified appraisal, within the meaning of Section
4 170(f)(11)(E) of the Internal Revenue Code, of the qualified
5 property interest.

6 (B) Photographs of the entire exterior of the building.

7 (C) A description of all restrictions on the development of the
8 building.

9 (e) The term “certified historic structure” means either of the
10 following:

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

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

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

22 (f) For purposes of this section:

23 (1) A contribution shall not be treated as exclusively for
24 conservation purposes unless the conservation purpose is protected
25 in perpetuity.

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

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

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

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

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

1 (h) The amendments made to this section by the act adding this
2 subdivision shall apply to contributions made on or after January
3 1, 2008.

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

6 24411. (a) For purposes of those taxpayers electing to compute
7 income under Section 25110, to the extent not otherwise allowed
8 as a deduction or eliminated from income, ~~all of the following~~
9 ~~shall apply~~:

10 (1) One hundred percent of the qualifying dividends described
11 in subdivision (d).

12 (2) Twenty-seven percent of qualifying dividends described in
13 Section 25117.

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

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

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

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

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

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

29 For purposes of this subdivision:

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

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

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

38 “Construction project” does not include the operation, rental,
39 leasing, or depletion of real property, land, or any improvement
40 thereto.

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

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

8 24462. (a) Section 355(b) of the Internal Revenue Code,
 9 relating to special rule with respect to the active business
 10 requirement under Section 355(b) of the Internal Revenue Code,
 11 is modified as follows:

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

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

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

21 (b) Section 355(g) of the Internal Revenue Code, relating to
 22 sections not applying to distributions involving disqualified
 23 investment corporations, is modified by substituting the phrase
 24 “January 1, 2008,” for “the date of the enactment of this
 25 subsection” in Section 355(g)(2)(A)(i) of the Internal Revenue
 26 Code.

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

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

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

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

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

39 24949.5. (a) For purposes of Sections 24943 through 24946,
 40 Section 1033(h) of the Internal Revenue Code, relating to special

1 rules for property damaged by presidentially declared disasters,
2 shall apply, except as otherwise provided.

3 (b) For purposes of Sections 24943 through 24946, Section
4 1033(i) of the Internal Revenue Code, relating to nonrecognition
5 not to apply if corporation acquires replacement property from
6 related person, shall apply, except as otherwise provided.

7 (c) For purposes of Sections 24943 through 24946, Section
8 1033(j) of the Internal Revenue Code, relating to sales or exchanges
9 to implement microwave relocation policy, shall apply, except as
10 otherwise provided.

11 (d) For purposes of Sections 24943 to 24946, inclusive, Section
12 1033(k) of the Internal Revenue Code, relating to sales or
13 exchanges under certain hazard mitigation programs, shall apply,
14 except as otherwise provided.

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

17 24950.5. 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. 53. Section 24981 of the Revenue and Taxation Code is
21 repealed.

22 SEC. 54. Section 24988 of the Revenue and Taxation Code is
23 repealed.

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

26 24990.6. (a) Section 1245(a)(2)(C) of the Internal Revenue
27 Code, relating to certain deductions treated as amortization, is
28 modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

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

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

34 24990.8. For taxable years beginning on or after January 1,
35 2008, specific reference to Sections 1223(4) to (16), inclusive, of
36 the Internal Revenue Code in this part shall instead be treated as
37 a reference to Sections 1223(3) to (15), inclusive, of the Internal
38 Revenue Code, respectively.

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

1 24993. (a) Section 7872 of the Internal Revenue Code, relating
2 to the treatment of loans with below market interest rates, shall
3 apply, except as otherwise provided.

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

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

11 25110. (a) Notwithstanding Section 25101, a qualified
12 taxpayer, as defined in paragraph (2) of subdivision (b), that is
13 subject to the tax imposed under this part, may elect to determine
14 its income derived from or attributable to sources within this state
15 pursuant to a water’s-edge election in accordance with the
16 provisions of this part, as modified by this article. A taxpayer, that
17 makes a water’s-edge election on or after January 1, 2006, shall
18 take into account that portion of its own income and apportionment
19 factors and the income and apportionment factors of its affiliated
20 entities to the extent provided below:

21 (1) The entire income and apportionment factors of any of the
22 following corporations:

23 (A) Domestic international sales corporations, as described in
24 Sections 991 to 994, inclusive, of the Internal Revenue Code and
25 foreign sales corporations as described in Sections 921 to 927,
26 inclusive, of the Internal Revenue Code.

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

30 (C) Corporations that are incorporated in the United States,
31 excluding corporations making an election pursuant to Sections
32 931 to 936, inclusive, of the Internal Revenue Code.

33 (D) Export trade corporations, as described in Sections 970 to
34 972, inclusive, of the Internal Revenue Code.

35 (2) With respect to a corporation that is not described in
36 subparagraphs (A), (B), (C), and (D) of paragraph (1), the income
37 and apportionment factors of that corporation to the extent of its
38 income derived from or attributable to sources within the United
39 States and its factors assignable to a location within the United
40 States in accordance with paragraph (3) of subdivision (b). Income

1 of that corporation derived from or attributable to sources within
2 the United States as determined by federal income tax laws shall
3 be limited to, and determined from, the books of account
4 maintained by the corporation with respect to its activities
5 conducted within the United States.

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

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

12 (1) An “affiliated corporation” means a corporation that is a
13 member of a commonly controlled group as defined in Section
14 25105.

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

17 (A) Files with the state tax return, on which the water’s-edge
18 election is made, a consent to the taking of depositions, at the time
19 and place most reasonably convenient to all parties, from key
20 domestic corporate individuals and to the acceptance of subpoenas
21 duces tecum requiring reasonable production of documents to the
22 Franchise Tax Board, as provided in Section 19504, by the State
23 Board of Equalization, as provided in Section 5005 of Title 18 of
24 the California Code of Regulations, or by the courts of this state,
25 as provided in Chapter 2 (commencing with Section 1985) of Title
26 3 of Part 4 of, and Chapter 9 (commencing with Section 2025.010)
27 of Title 4 of Part 4 of, the Code of Civil Procedure. The consent
28 relates to issues of jurisdiction and service and does not waive any
29 defenses that a taxpayer may otherwise have. The consent shall
30 remain in effect as long as the water’s-edge election is in effect,
31 and shall be limited to providing that information necessary to
32 review or adjust income or deductions in a manner authorized by
33 Section 482, 861, Subpart F of Part III of Subchapter N, or similar
34 provisions, of the Internal Revenue Code, together with the
35 regulations adopted pursuant to those provisions, and for the
36 conduct of an investigation with respect to any unitary business
37 in which the taxpayer may be involved.

38 (B) Agrees that, for purposes of this article, dividends received
39 by any corporation whose income and apportionment factors are
40 taken into account pursuant to subdivision (a) from either of the

1 following are functionally related dividends and shall be presumed
2 to be business income:

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

6 (ii) Any corporation that is either a significant source of supply
7 for the unitary business or a significant purchaser of the output of
8 the unitary business, or that sells a significant part of its output or
9 obtains a significant part of its raw materials or input from the
10 unitary business. "Significant," as used in this subparagraph, means
11 an amount of 15 percent or more of either input or output.

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

14 (3) The definitions and locations of property, payroll, and sales
15 shall be determined under the laws and regulations that set forth
16 the apportionment formulas used by the individual states to assign
17 net income subject to taxes on, or measured by, net income in that
18 state. If a state does not impose a tax on, or measured by, net
19 income or does not have laws or regulations with respect to the
20 assignment of property, payroll, and sales, the laws and regulations
21 provided in Article 2 (commencing with Section 25120) shall
22 apply.

23 Sales shall be considered to be made to a state only if the
24 corporation making the sale may otherwise be subject to a tax on,
25 or measured by, net income under the Constitution or laws of the
26 United States, and shall not include sales made to a corporation
27 whose income and apportionment factors are taken into account
28 pursuant to subdivision (a) in determining the amount of income
29 of the taxpayer derived from or attributable to sources within this
30 state.

31 (4) "The United States" means the 50 states of the United States
32 and the District of Columbia.

33 (c) All references in this part to income determined pursuant to
34 Section 25101 shall also mean income determined pursuant to this
35 section.

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

38 25117. (a) Except as otherwise provided, income taken into
39 account by all affiliated entities whose income and apportionment
40 factors are determined pursuant to Section 25110 shall include

1 income described in Subpart F of the Internal Revenue Code
2 (commencing with Section 951). The income that is taken into
3 account shall for all purposes be treated as a dividend actually
4 paid, and be subject to any provision or limitation related to the
5 treatment of dividends, including, but not limited to, Sections
6 24344, 24410, 24411, and 25106. The amount taken into account
7 shall be treated as business or nonbusiness income as defined in
8 Section 25120, as the case may be.

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

10 (1) Exclusions from gross income under Section 959 of the
11 Internal Revenue Code, relating to previously taxed income, shall
12 apply, including amounts related to income previously taxed under
13 federal law in years prior to the water's-edge election.

14 (2) Federal adjustments to stock basis made pursuant to Section
15 961 of the Internal Revenue Code, relating to adjustments to basis
16 of stock in controlled foreign corporations and of other property,
17 including adjustments made prior to the water's-edge election,
18 shall apply.

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

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

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

26 (6) For purposes of this section, a federal election to exclude
27 from Subpart F income the income described in Section 954(b)(4)
28 of the Internal Revenue Code shall apply, including amounts related
29 to income previously taxed under federal law in years prior to the
30 water's-edge election. No election under this subparagraph shall
31 be allowed for state purposes unless a valid election was made for
32 federal purposes.

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

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

37 (2) Section 959 of the Internal Revenue Code, relating to
38 exclusion from gross income of previously taxed earnings and
39 profits, shall apply, but only to the extent attributable to income

1 that has been taken into account pursuant to subdivision (a) during
2 the period of the water's-edge election.

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

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

7 (B) Reduced by both the following:

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

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

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

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

21 (e) If a distribution with respect to earnings and profits from a
22 given year is eligible for treatment as previously taxed income and
23 would, without regard to the application of this section, be eligible
24 for deduction, exclusion, or elimination under another section
25 under this part, if paid as a dividend, in no event shall the combined
26 effect of those sections and the rules relating to previously taxed
27 income result in a deduction, exclusion, or elimination greater than
28 the amount of the earnings and profits that apply to the distribution.

29 (f) Subdivision (a) of Section 24425 shall not apply to amounts
30 excluded from gross income pursuant to this section or to amounts
31 deducted pursuant to paragraph (2) of subdivision (a) of Section
32 24411.

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

36 SEC. 58. Sections 1 to 11, inclusive, of the Tax Technical
37 Correction Act of 2007 (Public Law 110-172), Section 426 of
38 Division A of the Tax Reform and Health Care Act of 2006 (Public
39 Law 109-432), Section 1 of the Disaster Mitigation Payments Act
40 of 2005 (Public Law 109-7), and Sections 402 to 413, inclusive,

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

37 SEC. 59. (a) Except as provided in subdivision (b), the
38 amendments made to Sections 19179, 19443, and 21015.5 of the
39 Revenue and Taxation Code by this act shall apply to returns filed,

1 submissions made, and issues raised on or after the effective date
2 of this act or January 1, 2009, whichever is later.

3 (b) The amendments made to Sections 19179, 19443, and
4 21015.5 of the Revenue and Taxation Code by this act shall be
5 applicable for submissions made or issues raised after the date on
6 which the Secretary of the Treasury or the Franchise Tax Board
7 first prescribe a list under Section 6702(c) of the Internal Revenue
8 Code or subdivision (c) of Section 19179 of the Revenue and
9 Taxation Code, respectively.

10 (c) The amendments added to Sections 24411 and 25110 of the
11 Revenue and Taxation Code by this act, and the addition of Section
12 25117 to the Revenue and Taxation Code by this act, shall apply
13 to taxable years beginning on or after January 1, 2008.

14 SEC. 60. The Legislature finds and declares that the
15 amendments made by this act to the Revenue and Taxation Code,
16 incorporating, by reference, the amendments made by Sections
17 827 and 828 of the Pension Protection Act of 2006 (Public Law
18 109-280) to Section 72 of the Internal Revenue Code, shall apply
19 in the same manner and for the same periods as specified in
20 Sections 827 and 828 of the Pension Protection Act of 2006 (Public
21 Law 109-280). The Legislature finds and declares that this act
22 serves a public purpose by providing equitable treatment for
23 reservists called to active duty and emergency service personnel,
24 and ultimately, benefitting all of the citizens of this state.

25 SEC. 61. (a) Except as provided in subdivision (b), the
26 amendments made by the enactment of this act to the Revenue and
27 Taxation Code, incorporating, by reference, the amendments made
28 by Section 1220 of the Pension Protection Act of 2006 (Public
29 Law 109-280) to Sections 501 and 513 of the Internal Revenue
30 Code, shall apply in the same manner and for the same periods as
31 specified in Section 1220(c) of the Pension Protection Act of 2006
32 (Public Law 109-280).

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

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

39 (2) The phrase “described in Section 23701d or Section 23701f”
40 shall be substituted for “described in paragraph (3) or (4) of section

1 501(c) of the Internal Revenue Code of 1986” in Section 1220(c)(2)
2 of Public Law 109-280.

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

6 SEC. 62. The Legislature finds and declares that the
7 amendments made by this act to Section 17952.5 of the Revenue
8 and Taxation Code make that code compatible with the technical
9 changes made by Public Law 109-264 to Section 114 of title 4 of
10 the United States Code, relating to limitation on state income
11 taxation of certain pension income, and do not constitute a change
12 in, but are declaratory of, existing law and shall be applied in the
13 same manner and for the same periods as specified in Section 1
14 of Public Law 109-264. The Legislature finds and declares that
15 this act and the retroactive application contained in the preceding
16 sentence are necessary to clarify that the Legislature intended for
17 Chapter 506 of the Statutes of 1996 to apply to certain retired
18 partners. Additionally, the Legislature finds and declares that this
19 act serves a public purpose by ensuring the fair and consistent
20 application of California law to “qualified retirement income”
21 received on or after January 1, 1996, for any part of the taxable
22 year during which the taxpayer was not a resident of this state and,
23 thereby, preventing unnecessary litigation to determine the
24 taxability of that “qualified retirement income.”

25 SEC. 63. The Legislature finds and declares that the
26 amendments made by this act to Section 24949.5 of the Revenue
27 and Taxation Code, the addition of Section 24329 to the Revenue
28 and Taxation Code, and the incorporation by reference of the
29 amendments made by Section 1 of the Disaster Mitigation
30 Payments Act of 2005 (Public Law 109-7), which amended
31 Sections 139 and 1033 of the Internal Revenue Code, in the
32 Revenue and Taxation Code, conform California law to the
33 amendments made to Sections 139 and 1033 of the Internal
34 Revenue Code by Section 1 of the Disaster Mitigation Payments
35 Act of 2005 (Public Law 109-7) and do not constitute a change
36 in, but are declaratory of, existing law and shall be applied in the
37 same manner and for the same periods as specified in Section 1
38 of the Disaster Mitigation Payments Act of 2005 (Public Law
39 109-7). The Legislature finds and declares that this act and the
40 retroactive application contained in the preceding sentence are

1 necessary to clarify that, when the Legislature enacted the exclusion
2 from gross income for disaster relief payments in Chapter 807 of
3 the Statutes of 2002, it intended to exclude disaster mitigation
4 payments from gross income and treat sales and exchanges under
5 certain hazard mitigation programs as involuntary conversions.
6 Additionally, the Legislature finds and declares that this act serves
7 a public purpose by ensuring the fair and consistent application of
8 California law to all property owners, many of whom are
9 low-income people, that have taken or will take necessary
10 preventive measures to mitigate risk of harm and property damage
11 from disasters, thereby saving lives and reducing the need for
12 future taxpayer assistance.

13 SEC. 63.4. Section 8.6 of this bill adds Section 17144.5 to the
14 Revenue and Taxation Code, which provides amendments related
15 to Section 108 of the Internal Revenue Code. Senate Bill 1055
16 also adds Section 17144.5 to the Revenue and Taxation Code,
17 which also provides amendments related to Section 108 of the
18 Internal Revenue Code. *Assembly Bill 1918 also adds Section*
19 *17144.5 to the Revenue and Taxation Code, which also provides*
20 *amendments related to Section 108 of the Internal Revenue Code.*
21 Section 8.6 of this bill shall not become operative if (a) ~~both bills~~
22 *this bill and either Senate Bill 1055 or Assembly Bill 1918* are
23 enacted and become effective on or before January 1, 2009, and
24 (b) each bill *enacted* adds Section 17144.5 to the Revenue and
25 Taxation Code.

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

34 (b) The amendments made to Section 19166 of the Revenue
35 and Taxation Code by this act do not affect the operative date of
36 the changes made to Section 19166 of the Revenue and Taxation
37 Code by Chapter 656 of the Statutes of 2003 and by Chapter 691
38 of the Statutes of 2005.

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

O