

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2928**

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**Introduced by Assembly Member Spitzer**

February 22, 2008

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An act to amend Section ~~18171~~ 19280 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2928, as amended, Spitzer. ~~Income tax deduction: depreciation. Collections: amounts imposed by a court.~~

*Existing law provides, among other things, that delinquent restitution imposed by a superior court upon a person or entity for specified criminal offenses be referred by the county or the state to the Franchise Tax Board for collection in certain instances.*

*This bill would provide that the Department of Corrections and Rehabilitation shall have the authority to refer a restitution order, for purposes of those collection provisions, for any person who is or has been under the jurisdiction of the department, as provided.*

~~The Personal Income Tax Law provides for modified conformity to specified federal income tax laws relating to the tax treatment of "additional depreciation."~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

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

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

1     *SECTION 1. Section 19280 of the Revenue and Taxation Code*  
2     *is amended to read:*

3     19280. (a) (1) Fines, state or local penalties, forfeitures,  
4     restitution fines, restitution orders, or any other amounts imposed  
5     by a superior court of the State of California upon a person or any  
6     other entity that are due and payable in an amount totaling no less  
7     than one hundred dollars (\$100), in the aggregate, for criminal  
8     offenses, including all offenses involving a violation of the Vehicle  
9     Code, may, no sooner than 90 days after payment of that amount  
10    becomes delinquent, *or upon discharge of parole for that person,*  
11    be referred by the superior court, the county, or the state to the  
12    Franchise Tax Board for collection under guidelines prescribed  
13    by the Franchise Tax Board. *The Department of Corrections and*  
14    *Rehabilitation shall have the authority to refer a restitution order,*  
15    *for purposes of subparagraph (B) of paragraph (2) of this*  
16    *subdivision, for any person who is or has been under the*  
17    *jurisdiction of the Department of Corrections and Rehabilitation.*

18    (2) For purposes of this subdivision:

19    (A) The amounts referred by the superior court, the county, or  
20    state under this section may include any amounts that a government  
21    entity may add to the court-imposed obligation as a result of the  
22    underlying offense, trial, or conviction. For purposes of this article,  
23    those amounts shall be deemed to be imposed by the court.

24    (B) Restitution orders may be referred to the Franchise Tax  
25    Board only by a government entity, as agreed upon by the  
26    Franchise Tax Board, provided that all of the following apply:

27    (i) The government entity has the authority to collect on behalf  
28    of the state or the victim.

29    (ii) The government entity shall be responsible for distributing  
30    the restitution order collections, as appropriate.

31    (iii) The government entity shall ensure, in making the referrals  
32    and distributions, that it coordinates with any other related  
33    collection activities that may occur by superior courts, counties,  
34    or other state agencies.

35    (iv) The government entity shall ensure compliance with laws  
36    relating to the reimbursement of the State Restitution Fund.

1 (C) The Franchise Tax Board shall establish criteria for referral,  
2 which shall include setting forth a minimum dollar amount subject  
3 to referral and collection.

4 (b) The Franchise Tax Board, in conjunction with the Judicial  
5 Council, shall seek whatever additional resources are needed to  
6 accept referrals from all 58 counties or superior courts.

7 (c) Upon written notice to the debtor from the Franchise Tax  
8 Board, any amount referred to the Franchise Tax Board under  
9 subdivision (a) and any interest thereon, including any interest on  
10 the amount referred under subdivision (a) that accrued prior to the  
11 date of referral, shall be treated as final and due and payable to the  
12 State of California, and shall be collected from the debtor by the  
13 Franchise Tax Board in any manner authorized under the law for  
14 collection of a delinquent personal income tax liability, including,  
15 but not limited to, issuance of an order and levy under Article 4  
16 (commencing with Section 706.070) of Chapter 5 of Division 2  
17 of Title 9 of Part 2 of the Code of Civil Procedure in the manner  
18 provided for earnings withholding orders for taxes.

19 (d) (1) Part 10 (commencing with Section 17001), this part,  
20 Part 10.7 (commencing with Section 21001), and Part 11  
21 (commencing with Section 23001) shall apply to amounts referred  
22 under this article in the same manner and with the same force and  
23 effect and to the full extent as if the language of those laws had  
24 been incorporated in full into this article, except to the extent that  
25 any provision is either inconsistent with this article or is not  
26 relevant to this article.

27 (2) Any information, information sources, or enforcement  
28 remedies and capabilities available to the court or the state referring  
29 to the amount due described in subdivision (a), shall be available  
30 to the Franchise Tax Board to be used in conjunction with, or  
31 independent of, the information, information sources, or remedies  
32 and capabilities available to the Franchise Tax Board for purposes  
33 of administering Part 10 (commencing with Section 17001), this  
34 part, Part 10.7 (commencing with Section 21001), or Part 11  
35 (commencing with Section 23001).

36 (e) The activities required to implement and administer this part  
37 shall not interfere with the primary mission of the Franchise Tax  
38 Board to administer Part 10 (commencing with Section 17001)  
39 and Part 11 (commencing with Section 23001).

1 (f) For amounts referred for collection under subdivision (a),  
 2 interest shall accrue at the greater of the rate applicable to the  
 3 amount due being collected or the rate provided under Section  
 4 19521. When notice of the amount due includes interest and is  
 5 mailed to the debtor and the amount is paid within 15 days after  
 6 the date of notice, interest shall not be imposed for the period after  
 7 the date of notice.

8 (g) In no event shall a collection under this article be construed  
 9 as a payment of income taxes imposed under Part 10 (commencing  
 10 with Section 17001) or Part 11 (commencing with Section 23001).

11 ~~SECTION 1. Section 18171 of the Revenue and Taxation Code~~  
 12 ~~is amended to read:~~

13 ~~18171. Section 1250(b) of the Internal Revenue Code, relating~~  
 14 ~~to additional depreciation, is modified as follows:~~

15 (a) ~~“Depreciation adjustments,” as defined in Section 1250(b)(3)~~  
 16 ~~of the Internal Revenue Code, shall not include the following:~~

17 (1) ~~For taxable years beginning on or after January 1, 1983,~~  
 18 ~~amortization under Section 17251 or under Section 188 of the~~  
 19 ~~Internal Revenue Code.~~

20 (2) ~~For taxable years beginning prior to January 1, 1983,~~  
 21 ~~amortization under former Section 17226, relating to pollution~~  
 22 ~~control facilities, or former Section 17227, relating to trademarks.~~

23 (b) ~~“Additional depreciation,” as defined in Section 1250(b)(4)~~  
 24 ~~of the Internal Revenue Code, includes the following:~~

25 (1) ~~For taxable years beginning on or after January 1, 1983,~~  
 26 ~~amortization under Section 167(k) of the Internal Revenue Code.~~

27 (2) ~~For taxable years beginning before January 1, 1983,~~  
 28 ~~amortization under former Section 17211.7, relating to low-income~~  
 29 ~~rental housing, or former Section 17228.5, relating to certified~~  
 30 ~~historic structures.~~