

ASSEMBLY BILL

No. 2640

Introduced by Assembly Member Arambula

February 19, 2010

An act to amend Sections 17149, 18037, 18041.5, 18042, 24941, 24942, 24943, 24944, 24950, 24951, 24952, 24954, 24954.1, and 24955 of, and to add Sections 6377, 18036.7, 18036.8, 18037.2, 18037.3, 18037.5, 18037.7, 18038.1, 18038.2, 18045, 24943.5, 24951.5, 24952.3, 24953, 24955.5, 24957, and 24958 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2640, as introduced, Arambula. Sales and use taxes: exemption: manufacturing equipment: income taxes: subsidized parking: nontaxable exchanges.

The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would exempt from sales and use taxes the gross receipts from the sale of, and the storage, use, or other consumption of, manufacturing equipment that is purchased by specified purchasers in a specified amount. This bill would cap the amount of exemption allowed to those specified purchasers at a particular amount, as annually adjusted.

This bill would specify that this exemption does not apply to local sales and use taxes, transactions and use taxes, and specified state sales and use taxes.

The Personal Income Tax Law and the Corporation Tax Law, in modified conformity to federal income tax laws, exclude from taxation any gain from certain exchanges of property.

This bill would, under both laws, remove the exclusion from taxation any gain from those exchanges.

The Personal Income Tax Law provides an exclusion from gross income for compensation or the fair market value of any benefit, except salary or wages, that is received by an employee from an employer for the use of various transportation methods or arrangements, including free or subsidized parking.

This bill would, for taxable years beginning on or after January 1, 2010, remove the exclusion from gross income for free or subsidized parking.

This bill would take effect immediately as a tax levy.

Vote: majority. 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 6377 is added to the Revenue and
2 Taxation Code, to read:

3 6377. (a) (1) Subject to paragraph (2), there are exempted
4 from the taxes imposed by this part the gross receipts from the sale
5 of, and the storage, use, or other consumption in this state of,
6 tangible personal property that is depreciable manufacturing
7 equipment purchased by a qualified purchaser.

8 (2) No exemption shall be allowed where the cutoff date, as
9 described in paragraph (2) of subdivision (c), for that calendar year
10 has been reached.

11 (b) For purposes of this section, “qualified purchaser” means a
12 purchaser engaged in any of those lines of business described in
13 Codes 311111 to 339999, inclusive, of the North American
14 Industrial Classification System (NAICS) Manual published by
15 the United States Office of Management and Budget, 2007 edition.

16 (c) (1) No exemption shall be allowed under this section unless
17 the purchaser furnishes the retailer with an exemption certificate,
18 completed in accordance with any instruction or regulation as the
19 board may prescribe, and the retailer subsequently furnishes the
20 board with a copy of the exemption certificate. The exemption
21 certificate shall contain the purchase price of the depreciable

1 manufacturing equipment, the sale or storage, use, or other
2 consumption of which is exempt from taxes pursuant to subdivision
3 (a).

4 (2) Exemptions under this section shall be allowed on or before
5 the cutoff date established by the Franchise Tax Board and shall
6 be granted on a first-come-first-served basis.

7 (A) For the first calendar year in which this exemption is in
8 effect, the cutoff date shall be the last day of the calendar quarter
9 within which the Franchise Tax Board estimates that the aggregate
10 revenue increase generated from the amendments and additions
11 made to Chapter 13 (commencing with Section 18031) of Part 10
12 and Article 3 (commencing with Section 24941) of Chapter 15 of
13 Part 11 by the act adding this subdivision has reached the baseline
14 amount. For purposes of this subparagraph, “baseline amount”
15 means four hundred fifty million dollars (\$450,000,000).

16 (B) For each subsequent calendar year, the cutoff date shall be
17 the last day of the calendar quarter within which the Franchise Tax
18 Board estimates that the baseline amount has been reached, or that
19 amount is adjusted each calendar year to reflect the rate of inflation
20 or deflation from the previous date that the baseline amount was
21 established, as measured by the Consumer Price Index or other
22 method of measuring the rate of inflation or deflation which the
23 Franchise Tax Board determines is reliable and generally accepted.

24 (d) (1) Notwithstanding any provision of the Bradley-Burns
25 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing
26 with Section 7200)) or the Transactions and Use Tax Law (Part
27 1.6 (commencing with Section 7251)), the exemption provided by
28 this section shall not apply with respect to any tax levied by a
29 county, city, or district pursuant to, or in accordance with, either
30 of those laws.

31 (2) The exemption provided by this section shall not apply with
32 respect to any tax levied pursuant to Sections 6051.2, 6051.5,
33 6201.2, and 6201.5 or pursuant to Section 35 of Article XIII of
34 the California Constitution.

35 SEC. 2. Section 17149 of the Revenue and Taxation Code is
36 amended to read:

37 17149. (a) Gross income does not include compensation or
38 the fair market value of any other benefit, except salary or wages,
39 received by an employee from an employer for participation in

- 1 any ridesharing arrangement in California, including those specified
- 2 in subdivision (b).
- 3 (b) For purposes of this section, compensation or the fair market
- 4 value of any other benefit received for participation in a ridesharing
- 5 arrangement in California includes compensation or other benefit
- 6 received for:
 - 7 (1) Commuting in a vanpool.
 - 8 (2) Commuting in a private commuter bus or buspool.
 - 9 (3) A transit pass for use by the employee or his or her
 - 10 dependents, other than transit passes for use by elementary and
 - 11 secondary school students who are dependents of the employee.
 - 12 (4) Commuting in a subscription taxipool.
 - 13 (5) Commuting in a carpool.
 - 14 ~~(6) Free or subsidized parking.~~
 - 15 ~~(7)~~
 - 16 (6) An employee’s bicycling to or from his or her place of
 - 17 employment.
 - 18 ~~(8)~~
 - 19 (7) Commuting by ferry.
 - 20 ~~(9)~~
 - 21 (8) The use of an alternative transportation method, other than
 - 22 a method otherwise specified in this subdivision, that reduces the
 - 23 use of a motor vehicle by a single occupant to travel to or from
 - 24 that individual’s place of employment.
 - 25 ~~(10)~~
 - 26 (9) Travel to or from a telecommuting facility.
 - 27 (c) For purposes of this section:
 - 28 (1) “Vanpool” means seven or more persons commuting on a
 - 29 daily basis to and from work by means of a vehicle with a seating
 - 30 arrangement designed to carry 7 to 15 adults, including the driver,
 - 31 that is used to transport those persons who commute to and from
 - 32 work on a regular basis.
 - 33 (2) “Transit pass” means any purchase of transit rides that
 - 34 entitles the holder to any number of transit rides to and from the
 - 35 workplace, whether at a discount rate or the base fare rate.
 - 36 (3) “Transit” means transportation service for use by the general
 - 37 public that utilizes buses, railcars, or ferries with a seating capacity
 - 38 of 16 or more persons.
 - 39 (4) “Subscription taxipool” means a type of service in which
 - 40 employers or groups of employees contract with a public or private

1 taxi operator to provide daily commuter service for a group of
2 preassembled subscribers on a prepaid or daily fare basis following
3 a relatively fixed route and schedule tailored to meet the needs of
4 the subscribers.

5 (5) “Ridesharing arrangement” means the transportation of
6 persons in a motor vehicle where that transportation is incidental
7 to another purpose of the driver. The term includes ridesharing
8 arrangements known as carpools, vanpools, and buspools.

9 (6) “Carpool” means two or more persons commuting on a daily
10 basis to and from work by means of a vehicle with a seating
11 arrangement designed to carry less than seven adults, including
12 the driver.

13 (7) “Buspool” means 16 or more persons commuting on a daily
14 basis to and from work by means of a vehicle with a seating
15 arrangement designed to carry more than 15 adult passengers.

16 (8) “Private commuter bus” means a highway vehicle which
17 meets all of the following criteria:

18 (A) Has a seating capacity of at least seven adults, including
19 the driver.

20 (B) At least 50 percent of the mileage of which can be
21 reasonably expected to be used for the purpose of transporting
22 employees to and from work.

23 (C) Is acquired by the taxpayer on or after the date of enactment
24 of this section.

25 (D) With respect to which the taxpayer makes an election under
26 this paragraph on his or her return for the taxable year in which
27 the vehicle is placed in service.

28 ~~(9) “Free or subsidized parking” means the benefit received
29 from an employer for parking while participating in a ridesharing
30 arrangement within California.~~

31 ~~(10)~~

32 (9) “Alternative commute program” means any alternative
33 transportation method or program the purpose of which is to reduce
34 the use of a motor vehicle by a single occupant to travel to and
35 from that individual’s place of employment.

36 *(d) The amendments made to this section by the act adding this
37 subdivision shall apply to taxable years beginning on or after
38 January 1, 2010.*

39 SEC. 3. Section 18036.7 is added to the Revenue and Taxation
40 Code, to read:

1 18036.7. (a) For taxable years beginning on or after January
 2 1, 2010, Section 1031(a) of the Internal Revenue Code, relating
 3 to nonrecognition of gain or loss from exchanges solely in kind
 4 shall not apply.

5 (b) For taxable years beginning on or after January 1, 2010,
 6 Section 1031(f)(1) of the Internal Revenue Code, relating to special
 7 rules for exchanges between related persons shall not apply.

8 (c) For taxable years beginning on or after January 1, 2010,
 9 Section 1031(i) of the Internal Revenue Code, relating to special
 10 rules for mutual ditch, reservoir, or irrigation company stock shall
 11 not apply.

12 SEC. 4. Section 18036.8 is added to the Revenue and Taxation
 13 Code, to read:

14 18036.8. For taxable years beginning on or after January 1,
 15 2010, Section 1032 of the Internal Revenue Code, relating to
 16 exchange of stock for property shall not apply.

17 SEC. 5. Section 18037 of the Revenue and Taxation Code is
 18 amended to read:

19 18037. (a) An election made by a taxpayer pursuant to Section
 20 1033(g)(3) of the Internal Revenue Code, relating to the election
 21 to treat outdoor advertising displays as real property, may not be
 22 denied because the taxpayer has, on his or her federal return,
 23 elected to expense the asset.

24 (b) *For taxable years beginning on or after January 1, 2010,*
 25 *Section 1033(a)(1) of the Internal Revenue Code, relating to*
 26 *involuntary conversions into similar property shall not apply.*

27 (c) *For taxable years beginning on or after January 1, 2010,*
 28 *Section (a)(2)(A) of the Internal Revenue Code, relating to*
 29 *involuntary conversions into money shall not apply.*

30 SEC. 6. Section 18037.2 is added to the Revenue and Taxation
 31 Code, to read:

32 18037.2. For taxable years beginning on or after January 1,
 33 2010, Section 1035 of the Internal Revenue Code, relating to
 34 certain exchanges of insurance policies shall not apply.

35 SEC. 7. Section 18037.3 is added to the Revenue and Taxation
 36 Code, to read:

37 18037.3. For taxable years beginning on or after January 1,
 38 2010, Section 1036 of the Internal Revenue Code, relating to stock
 39 for stock of the same corporation shall not apply.

1 SEC. 8. Section 18037.5 is added to the Revenue and Taxation
2 Code, to read:

3 18037.5. For taxable years beginning on or after January 1,
4 2010, Section 1037 of the Internal Revenue Code, relating to
5 certain exchanges of United States obligation shall not apply.

6 SEC. 9. Section 18037.7 is added to the Revenue and Taxation
7 Code, to read:

8 18037.7. For taxable years beginning on or after January 1,
9 2010, Section 1038(a) of the Internal Revenue Code, relating to
10 general rule for certain acquisitions of property shall not apply.

11 SEC. 10. Section 18038.1 is added to the Revenue and Taxation
12 Code, to read:

13 18038.1. For taxable years beginning on or after January 1,
14 2010, Section 1041(a) of the Internal Revenue Code, relating to
15 transfers of property between spouses or incident to divorce shall
16 not apply.

17 SEC. 11. Section 18038.2 is added to the Revenue and Taxation
18 Code, to read:

19 18038.2. For taxable years beginning on or after January 1,
20 2010, Section 1043 of the Internal Revenue Code, relating to sale
21 of property to comply with conflict-of-interest requirements shall
22 not apply.

23 SEC. 12. Section 18041.5 of the Revenue and Taxation Code
24 is amended to read:

25 18041.5. (a) No gain shall be recognized with respect to a
26 sale of an assisted housing development to a tenant association,
27 nonprofit organization, profit-motivated organization or individual,
28 or public agency which obligates itself and any successors in
29 interest to maintain the assisted housing development affordable
30 to persons or families of lower income or very low income for
31 either a period of 30 years from the date of sale or the remaining
32 term of existing federal government assistance as listed in
33 subdivision (a) of Section 65863.10 of the Government Code,
34 whichever is greater, provided that all of the proceeds from the
35 sale are reinvested in residential real property, other than a personal
36 residence, in this state within two years after the sale. This
37 obligation shall be recorded at the time of sale in the office of the
38 county recorder of the county in which the development is located.

39 (b) No gain shall be recognized with respect to a sale of a
40 majority or more of units in an assisted housing development

1 converted to condominium interests, to a tenant association,
2 nonprofit organization, profit-motivated organization or individual,
3 or public agency which obligates itself and any successors in
4 interest to maintain the condominiums affordable to persons or
5 families of lower income or very low income for either a period
6 of 30 years from the date of sale or the remaining term of existing
7 federal government assistance as listed in subdivision (a) of Section
8 65863.10 of the Government Code, provided that all of the
9 proceeds from the sale are reinvested in residential real property,
10 other than a personal residence, in this state within two years after
11 the sale. This obligation shall be recorded at the time of sale in the
12 office of the county recorder of the county in which the
13 development is located.

14 (c) No gain shall be recognized with respect to a sale of real
15 property to a majority or more of existing lower income and very
16 low income residents of that property, provided that all of the
17 proceeds from the sale are reinvested in residential real property,
18 other than a personal residence, in this state within two years after
19 the sale.

20 (d) No gain shall be recognized with respect to a sale of a
21 majority or more of units converted to condominium interests to
22 the existing lower income or very low income residents of that
23 property, provided that all of the proceeds from the sale are
24 reinvested in residential real property, other than a personal
25 residence, in this state within two years after the sale.

26 (e) For purposes of this section:

27 (1) "Assisted housing development" means a multifamily rental
28 housing development that receives federal government assistance,
29 appearing of record and containing a legal description of the
30 property, as defined in subdivision (a) of Section 65863.10 of the
31 Government Code.

32 (2) "Tenant association" means a group of tenants who have
33 formed a nonprofit corporation, cooperative corporation, or other
34 entity or organization; or a local nonprofit, regional, or national
35 organization whose purpose includes the acquisition of an assisted
36 housing development, real property, or condominium and which
37 represents the interests of at least a majority of the tenants in the
38 assisted housing development, real property, or condominium.

39 (3) "Nonprofit organization" means a not-for-profit corporation
40 organized pursuant to Division 2 (commencing with Section 5000)

1 of Title 1 of the Corporations Code, which has as its principal
2 purpose the ownership, development, or management of housing
3 or community development projects for persons and families of
4 lower income and very low income, and which has a broadly
5 representative board, a majority of whose members are
6 community-based and has a proven track record of community
7 service.

8 (4) “Public agency” means a housing authority, redevelopment
9 agency, or any other agency of a city, county, or city and county,
10 whether general law or chartered, which is authorized to own,
11 develop, or manage housing or community development projects
12 for persons and families of lower income and very low income.

13 (5) “Regional or national organization” means a not-for-profit,
14 charitable corporation organized on a multicounty, state, or
15 multistate basis which has as its principal purpose the ownership,
16 development, or management of housing or community
17 development projects for persons and families of lower income
18 and very low income.

19 (6) “Regional or national agency” means a multicounty, state,
20 or multistate agency which is authorized to own, develop, or
21 manage housing or community development projects for persons
22 and families of lower income and very low income.

23 (7) “Profit-motivated organization or individual” means an
24 individual or two or more persons organized pursuant to Division
25 1 (commencing with Section 100) of Title 1 of, Division 3
26 (commencing with Section 1200) of Title 1 of, or Division 1
27 (commencing with Section 15001) of Title 2 of, the Corporations
28 Code, which carries on as a business for profit.

29 (8) “Lower income” means those residents having an income
30 as defined by Section 50079.5 of the Health and Safety Code.

31 (9) “Very low income” means those residents having an income
32 as defined by Section 50105 of the Health and Safety Code.

33 (10) “Resident” means a tenant or other person who lawfully
34 occupies a unit located in a qualified low-income housing project
35 as defined under Section 17058, and whose income qualifies as
36 lower income or very low income.

37 (11) “Condominium” means the interest in real property defined
38 in Section 783 of the Civil Code.

39 (f) If the purchase of residential real property results in the
40 nonrecognition of gain on the sale of an assisted housing

1 development, real property, or condominium under subdivision
2 (a), (b), (c), or (d), in determining the adjusted basis of the
3 purchased residential real property as of any time following the
4 sale of the assisted housing development, real property, or
5 condominium, the adjustments to the basis shall include a reduction
6 by an amount equal to the amount of the gain not so recognized
7 on the sale of the assisted housing development, real property, or
8 condominium. If more than one parcel of residential real property
9 has been purchased, the nonrecognized gain from the sale of the
10 assisted housing development, real property, or condominium shall
11 be attributed to the parcels of residential real property on a pro
12 rata basis based upon the purchase prices of those parcels.

13 (g) In accordance with subdivision (a), (b), (c), or (d), if the sale
14 of an assisted housing development, real property, or condominium
15 results in a gain during the taxable year, then all of the following
16 shall apply:

17 (1) The statutory period for the assessment of any deficiency
18 attributable to any part of the gain shall not expire before the
19 expiration of four years from the date the Franchise Tax Board is
20 notified (on the form as the Franchise Tax Board may provide) of
21 one of the following:

22 (A) The cost of purchasing the residential real property which
23 satisfies the requirement of subdivision (a), (b), (c), or (d), and
24 results in the nonrecognition of gain.

25 (B) The intention not to reinvest all of the proceeds from the
26 sale in residential real property within the period specified in
27 subdivision (a), (b), (c), or (d).

28 (C) The failure to reinvest all of the proceeds from the sale in
29 residential real property within the period specified in subdivision
30 (a), (b), (c), or (d).

31 (2) The deficiency may be assessed before the expiration of the
32 period specified in paragraph (1), notwithstanding the provisions
33 of any other law or rule of law which would otherwise prevent the
34 assessment.

35 (3) All information regarding the sale of an assisted housing
36 development, real property, or condominium, at a gain in
37 accordance with subdivision (a), (b), (c), or (d), shall be disclosed
38 in the return for the taxable year in which the sale took place in
39 order to determine if the sale qualifies and the amount of

1 nonrecognition of gain qualifies under subdivision (a), (b), (c), or
2 (d).

3 (h) The Department of Housing and Community Development
4 shall do all of the following:

5 (1) Certify that the lower income or very low income resident
6 meets the definitions provided in paragraphs (8) and (9) of
7 subdivision (e).

8 (2) Provide an annual listing to the Franchise Tax Board, in a
9 form and manner agreed upon by the Franchise Tax Board and the
10 Department of Housing and Community Development, of the
11 names and identification numbers of the persons who are members
12 of the group of purchasers who are lower income or very low
13 income residents that were issued a certification, and the names
14 and identification numbers of the sellers of the property.

15 (3) Provide the group of purchasers who are lower income or
16 very low income residents a copy of the certification.

17 (i) The group of purchasers who are lower income or very low
18 income residents shall do all of the following:

19 (1) Provide the Department of Housing and Community
20 Development with documents, as deemed necessary by the
21 department, verifying the income of each member of the group.

22 (2) Provide a copy of the certification to the seller of the assisted
23 housing development, real property, or condominium.

24 (3) Retain a copy of the certification.

25 (j) The seller of the assisted housing development, real property,
26 or condominium shall do all of the following:

27 (1) Obtain a copy of the certification from the group of
28 purchasers who are lower income or very low income residents of
29 the assisted housing development, real property, or condominium.

30 (2) Retain a copy of the group's lower income or very low
31 income certification for tax purposes.

32 (k) *This section shall cease to be operative for taxable years*
33 *beginning on or after January 1, 2010.*

34 SEC. 13. Section 18042 of the Revenue and Taxation Code is
35 amended to read:

36 18042. (a) Section 1042 of the Internal Revenue Code, relating
37 to sales of stock to employee stock ownership plans or certain
38 cooperatives, shall apply to taxable years beginning on or after
39 January 1, 1995, and before January 1, 2010.

1 (b) For taxable years beginning on or after January 1, 1998, and
2 *before January 1, 2010*, Section 1042 of the Internal Revenue
3 Code, relating to sales of stock to employee stock ownership plans
4 or certain cooperatives, is modified to provide that the term
5 “domestic corporation” shall instead mean “domestic C
6 corporation.”

7 (c) Section 1042(g) of the Internal Revenue Code, relating to
8 application of section to sales of stock in agricultural refiners and
9 processors to eligible farm cooperatives, shall not apply.

10 (d) *For taxable years beginning on or after January 1, 2010,*
11 *Section 1042(a) of the Internal Revenue Code, relating to sales of*
12 *stock to employee stock ownership plans or certain cooperatives*
13 *shall not apply.*

14 (e) *For taxable years beginning on or after January 1, 2010,*
15 *Section 1042(e)(3) of the Internal Revenue Code, relating to*
16 *application of recapture to qualified replacement property shall*
17 *not apply.*

18 SEC. 14. Section 18045 is added to the Revenue and Taxation
19 Code, to read:

20 18045. For taxable years beginning on or after January 1, 2010,
21 Section 1058 of the Internal Revenue Code, relating to special
22 rules for transfers of securities under certain agreements shall not
23 apply.

24 SEC. 15. Section 24941 of the Revenue and Taxation Code is
25 amended to read:

26 24941. ~~Section~~ (a) *For taxable years beginning before January*
27 *1, 2010, Section 1031 of the Internal Revenue Code, relating to*
28 *exchange of property held for productive use or investment, shall*
29 *apply, except as otherwise provided.*

30 (b) *For taxable years beginning on or after January 1, 2010,*
31 *Section 1031(a) of the Internal Revenue Code, relating to*
32 *nonrecognition of gain or loss from exchanges solely in kind shall*
33 *not apply.*

34 (c) *For taxable years beginning on or after January 1, 2010,*
35 *Section 1031(f)(1) of the Internal Revenue Code, relating to special*
36 *rules for exchanges between related persons shall not apply.*

37 (d) *For taxable years beginning on or after January 1, 2010,*
38 *Section 1031(i) of the Internal Revenue Code, relating to special*
39 *rules for mutual ditch, reservoir, or irrigation company stock shall*
40 *not apply.*

1 SEC. 16. Section 24942 of the Revenue and Taxation Code is
2 amended to read:

3 24942. (a) No gain or loss shall be recognized to a corporation
4 on the receipt of money or other property in exchange for stock
5 (including treasury stock) of that corporation. No gain or loss shall
6 be recognized by a corporation with respect to any lapse or
7 acquisition of an option, or with respect to a securities futures
8 contract (as defined in Section 1234B of the Internal Revenue
9 Code, to buy or sell its stock (including treasury stock).

10 (b) For basis of property acquired by a corporation in certain
11 exchanges for its stock, see Sections 24552 to 24554, inclusive.

12 (c) *This section shall cease to be operative for taxable years*
13 *beginning on or after January 1, 2010.*

14 SEC. 17. Section 24943 of the Revenue and Taxation Code is
15 amended to read:

16 24943. If property (as a result of its destruction in whole or in
17 part, theft, seizure, or requisition or condemnation or threat or
18 imminence thereof) is compulsorily or involuntarily converted—

19 (a) Into property similar or related in service or use to the
20 property so converted, no gain shall be recognized.

21 (b) Into money, and the disposition of the converted property
22 occurred before January 1, 1953, no gain shall be recognized if
23 such money is forthwith in good faith, under regulations prescribed
24 by the Franchise Tax Board, expended in the acquisition of other
25 property similar or related in service or use to the property so
26 converted, or in the acquisition of control of a corporation owning
27 such other property, or in the establishment of a replacement fund.
28 If any part of the money is not so expended, the gain shall be
29 recognized to the extent of the money which is not so expended
30 (regardless of whether such money is received in one or more
31 taxable years and regardless of whether or not the money which
32 is not so expended constitutes gain). For purposes of this subsection
33 and Section 24944, the term “disposition of the converted property”
34 means the destruction, theft, seizure, requisition, or condemnation
35 of the converted property, or the sale or exchange of such property
36 under threat or imminence of requisition or condemnation.

37 For purposes of this section and Section 24944, the term
38 “control” means the ownership of stock possessing at least 80
39 percent of the total combined voting power of all classes of stock

1 entitled to vote and at least 80 percent of the total number of shares
2 of all other classes of stock of the corporation.

3 *(c) This section shall cease to be operative for taxable years*
4 *beginning on or after January 1, 2010.*

5 SEC. 18. Section 24943.5 is added to the Revenue and Taxation
6 Code, to read:

7 24943.5. (a) For taxable years beginning on or after January
8 1, 2010, Section 1033(a)(1) of the Internal Revenue Code, relating
9 to involuntary conversions into similar property shall not apply.

10 (b) For taxable years beginning on or after January 1, 2010,
11 Section (a)(2)(A) of the Internal Revenue Code, relating to
12 involuntary conversions into money shall not apply.

13 SEC. 19. Section 24944 of the Revenue and Taxation Code is
14 amended to read:

15 ~~24944.~~ *(a) For taxable years beginning before January 1,*
16 *2010, if* property (as a result of its destruction in whole or in part,
17 theft, seizure, or requisition or condemnation or threat or
18 imminence thereof) is compulsorily or involuntarily converted
19 into money or into property not similar or related in service or use
20 to the converted property, and the disposition of the converted
21 property (as defined in subdivision (b) of Section 24943) occurred
22 after December 31, 1952, the gain (if any) shall be recognized
23 except to the extent hereinafter provided in this section:

24 ~~(a)~~

25 (b) If the taxpayer during the period specified in subdivision
26 (b), for the purpose of replacing the property so converted,
27 purchases other property similar or related in service or use to the
28 property so converted, or purchases stock in the acquisition of
29 control of a corporation owning such other property, at the election
30 of the taxpayer the gain shall be recognized only to the extent that
31 the amount realized upon such conversion (regardless of whether
32 such amount is received in one or more taxable years) exceeds the
33 cost of such other property or such stock. Such election shall be
34 made at such time and in such manner as the Franchise Tax Board
35 may by regulations prescribe. For purposes of this subdivision—

36 (1) No property or stock acquired before the disposition of the
37 converted property shall be considered to have been acquired for
38 the purpose of replacing such converted property unless held by
39 the taxpayer on the date of such disposition; and

1 (2) The taxpayer shall be considered to have purchased property
2 or stock only if, but for the provisions of Section 24947, the
3 unadjusted basis of such property or stock would be its cost within
4 the meaning of Section 24912.

5 (b)

6 (c) The period referred to in subdivision (a) shall be the period
7 beginning with the date of the disposition of the converted property,
8 or the earliest date of the threat or imminence of requisition or
9 condemnation of the converted property, whichever is the earlier,
10 and ending—

11 (1) Two years after the close of the first taxable year in which
12 any part of the gain upon the conversion is realized; or

13 (2) Subject to such terms and conditions as may be specified
14 by the Franchise Tax Board, at the close of such later date as the
15 Franchise Tax Board may designate on application by the taxpayer.
16 Such application shall be made at such time and in such manner
17 as the Franchise Tax Board may by regulations prescribe.

18 (e)

19 (d) For purposes of this section and Section 24943, replacement
20 property “similar or related in service or use” shall include, in the
21 case of a nonprofit water utility corporation, personal property
22 used for the transmission or storage of water.

23 SEC. 20. Section 24950 of the Revenue and Taxation Code is
24 amended to read:

25 24950. (a) *For taxable years beginning before January 1,*
26 *2010, Section 1035 of the Internal Revenue Code, relating to*
27 *certain exchanges of insurance policies, shall apply, except as*
28 *otherwise provided.*

29 (b) *For taxable years beginning on or after January 1, 2010,*
30 *Section 1035 of the Internal Revenue Code, relating to certain*
31 *exchanges of insurance polies, shall not apply.*

32 SEC. 21. Section 24951 of the Revenue and Taxation Code is
33 amended to read:

34 24951. (a) *For taxable years beginning before January 1,*
35 *2010, Section 1036 of the Internal Revenue Code, relating to stock*
36 *for stock of same corporation, shall apply, except as otherwise*
37 *provided.*

38 (b) *For taxable years beginning on or after January 1, 2010,*
39 *Section 1036 of the Internal Revenue Code, relating to stock for*
40 *stock of same corporation shall not apply.*

1 SEC. 22. Section 24951.5 is added to the Revenue and Taxation
2 Code, to read:

3 24951.5. For taxable years beginning on or after January 1,
4 2010, Section 1037 of the Internal Revenue Code, relating to
5 certain exchanges of United States obligation shall not apply.

6 SEC. 23. Section 24952 of the Revenue and Taxation Code is
7 amended to read:

8 24952. (a) ~~For taxable years beginning before January 1,~~
9 ~~2010, if—~~

10
11 (1) A sale of real property gives rise to indebtedness to the
12 seller which is secured by the real property sold, and

13
14 (2) The seller of such property reacquires such property in
15 partial or full satisfaction of such indebtedness,

16
17
18 then, except as provided in subdivisions (b) and (d), no gain or
19 loss shall result to the seller from such reacquisition, and no debt
20 shall become worthless or partially worthless as a result of such
21 reacquisition.

22 (b) (1) In the case of a reacquisition of real property to which
23 subdivision (a) applies, gain shall result from such reacquisition
24 to the extent that—

25 (A) The amount of money and the fair market value of other
26 property (other than obligations of the purchaser) received, prior
27 to such reacquisition, with respect to the sale of such property,
28 exceeds

29 (B) The amount of the gain on the sale of such property included
30 in the measure of tax or returned as income for periods prior to
31 such reacquisition.

32 (2) The amount of gain determined under paragraph (1) resulting
33 from a reacquisition during any taxable year beginning after
34 December 31, 1964, shall not exceed the amount by which the
35 price at which the real property was sold exceeded its adjusted
36 basis, reduced by the sum of—

37 (A) The amount of the gain on the sale of such property included
38 in the measure of tax or returned as income for periods prior to
39 the reacquisition of such property, and

1 (B) The amount of money and the fair market value of other
2 property (other than obligations of the purchaser received with
3 respect to the sale of such property) paid or transferred by the seller
4 in connection with the reacquisition of such property.

5 For purposes of this paragraph, the price at which real property
6 is sold is the gross sales price reduced by the selling commissions,
7 legal fees, and other expenses incident to the sale of such property
8 which are properly taken into account in determining gain or loss
9 on such sale.

10 (3) Except as provided in this section, the gain determined under
11 this subdivision resulting from a reacquisition to which subdivision
12 (a) applies shall be recognized, notwithstanding any other provision
13 of this part.

14 (c) If subdivision (a) applies to the reacquisition of any real
15 property, the basis of such property upon such reacquisition shall
16 be the adjusted basis of the indebtedness to the seller secured by
17 such property (determined as of the date of reacquisition), increased
18 by the sum of—

19 (1) The amount of the gain determined under subdivision (b)
20 resulting from such reacquisition, and

21 (2) The amount described in subparagraph (B) of paragraph (2)
22 of subdivision (b).

23 If any indebtedness to the seller secured by such property is not
24 discharged upon the reacquisition of such property, the basis of
25 such indebtedness shall be zero.

26 (d) If, prior to a reacquisition of real property to which
27 subdivision (a) applies, the seller has treated indebtedness secured
28 by such property as having become worthless or partially
29 worthless—

30 (1) Such seller shall be considered as receiving, upon the
31 reacquisition of such property, an amount equal to the amount of
32 such indebtedness treated by him as having become worthless, and

33 (2) The adjusted basis of such indebtedness shall be increased
34 (as of the date of reacquisition) by an amount equal to the amount
35 so considered as received by such seller.

36 (e) *For taxable years beginning on or after January 1, 2010,*
37 *Section 1038(a) of the Internal Revenue Code, relating to general*
38 *rule for certain acquisitions of property shall not apply.*

39 SEC. 24. Section 24952.3 is added to the Revenue and Taxation
40 Code, to read:

1 24952.3. For taxable years beginning on or after January 1,
2 2010, Section 1040 of the Internal Revenue Code, relating to
3 transfer of certain real property shall not apply.

4 SEC. 25. Section 24953 is added to the Revenue and Taxation
5 Code, to read:

6 24953. For taxable years beginning on or after January 1, 2010,
7 Section 1043 of the Internal Revenue Code, relating to sale of
8 property to comply with conflict-of-interest requirements shall not
9 apply.

10 SEC. 26. Section 24954 of the Revenue and Taxation Code is
11 amended to read:

12 24954. (a) For taxable years beginning on or after January 1,
13 1995, and before January 1, 2010, Section 1042 of the Internal
14 Revenue Code, relating to sales of stock to employee stock
15 ownership plans or certain cooperatives, shall apply, except as
16 otherwise provided.

17 (b) or taxable years beginning on or after January 1, 2010,
18 Section 1042 of the Internal Revenue Code, relating to sales of
19 stock to employee stock ownership plans or certain cooperatives,
20 shall not apply.

21 SEC. 27. Section 24954.1 of the Revenue and Taxation Code
22 is amended to read:

23 24954.1. For taxable years beginning before January 1, 2010,
24 Section 1042(g) of the Internal Revenue Code, relating to
25 application of section to sales of stock in agricultural refiners and
26 processors to eligible farm cooperatives, shall not apply.

27 SEC. 28. Section 24955 of the Revenue and Taxation Code is
28 amended to read:

29 24955. (a) No gain shall be recognized with respect to a sale
30 of an assisted housing development to a tenant association,
31 nonprofit organization, profit-motivated organization or individual,
32 or public agency which obligates itself and any successors in
33 interest to maintain the assisted housing development affordable
34 to persons or families of lower income or very low income for
35 either a period of 30 years from the date of sale or the remaining
36 term of existing federal government assistance as listed in
37 subdivision (a) of Section 65863.10 of the Government Code,
38 whichever is greater, provided that all of the proceeds from the
39 sale are reinvested in residential real property, other than a personal
40 residence, in this state within two years after the sale. This

1 obligation shall be recorded at the time of sale in the office of the
2 county recorder of the county in which the development is located.

3 (b) No gain shall be recognized with respect to a sale of a
4 majority or more of units in an assisted housing development
5 converted to condominium interests, to a tenant association,
6 nonprofit organization, profit-motivated organization or individual,
7 or public agency which obligates itself and any successors in
8 interest to maintain the condominiums affordable to persons or
9 families of lower income or very low income for either a period
10 of 30 years from the date of sale or the remaining term of existing
11 federal government assistance as listed in subdivision (a) of Section
12 65863.10 of the Government Code, provided that all of the
13 proceeds from the sale are reinvested in residential real property,
14 other than a personal residence, in this state within two years after
15 the sale. This obligation shall be recorded at the time of sale in the
16 office of the county recorder of the county in which the
17 development is located.

18 (c) No gain shall be recognized with respect to a sale of real
19 property to a majority or more of existing lower income and very
20 low income residents of that property, provided that all of the
21 proceeds from the sale are reinvested in residential real property,
22 other than a personal residence, in this state within two years after
23 the sale.

24 (d) No gain shall be recognized with respect to a sale of a
25 majority or more of units converted to condominium interests to
26 the existing lower income or very low income residents of that
27 property, provided that all of the proceeds from the sale are
28 reinvested in residential real property, other than a personal
29 residence, in this state within two years after the sale.

30 (e) For purposes of this section:

31 (1) "Assisted housing development" means a multifamily rental
32 housing development that receives federal government assistance,
33 appearing of record and containing a legal description of the
34 property, as defined in subdivision (a) of Section 65863.10 of the
35 Government Code.

36 (2) "Tenant association" means a group of tenants who have
37 formed a nonprofit corporation, cooperative corporation, or other
38 entity or organization; or a local nonprofit, regional, or national
39 organization whose purpose includes the acquisition of an assisted
40 housing development, real property, or condominium and which

1 represents the interests of at least a majority of the tenants in the
2 assisted housing development, real property, or condominium.

3 (3) “Nonprofit organization” means a not-for-profit corporation
4 organized pursuant to Division 2 (commencing with Section 5000)
5 of Title 1 of the Corporations Code, which has as its principal
6 purpose the ownership, development, or management of housing
7 or community development projects for persons and families of
8 lower income and very low income, and which has a broadly
9 representative board, a majority of whose members are
10 community-based and has a proven track record of community
11 service.

12 (4) “Public agency” means a housing authority, redevelopment
13 agency, or any other agency of a city, county, or city and county,
14 whether general law or chartered, which is authorized to own,
15 develop, or manage housing or community development projects
16 for persons and families of lower income and very low income.

17 (5) “Regional or national organization” means a not-for-profit,
18 charitable corporation organized on a multicounty, state, or
19 multistate basis which has as its principal purpose the ownership,
20 development, or management of housing or community
21 development projects for persons and families of lower income
22 and very low income.

23 (6) “Regional or national agency” means a multicounty, state,
24 or multistate agency which is authorized to own, develop, or
25 manage housing or community development projects for persons
26 and families of lower income and very low income.

27 (7) “Profit-motivated organization or individual” means an
28 individual or two or more persons organized pursuant to Division
29 1 (commencing with Section 100) of Title 1 of, Division 3
30 (commencing with Section 1200) of Title 1 of, or Division 1
31 (commencing with Section 15001) of Title 2 of, the Corporations
32 Code, which carries on as a business for profit.

33 (8) “Lower income” means those residents having an income
34 as defined by Section 50079.5 of the Health and Safety Code.

35 (9) “Very low income” means those residents having an income
36 as defined by Section 50105 of the Health and Safety Code.

37 (10) “Resident” means a tenant or other person who lawfully
38 occupies a unit located in a qualified low-income housing project
39 as defined under Section 23610.5, and whose income qualifies as
40 lower income or very low income.

1 (11) “Condominium” means the interest in real property defined
2 in Section 783 of the Civil Code.

3 (f) If the purchase of residential real property results in the
4 nonrecognition of gain on the sale of an assisted housing
5 development, real property, or condominium under subdivision
6 (a), (b), (c), or (d), in determining the adjusted basis of the
7 purchased residential real property as of any time following the
8 sale of the assisted housing development, real property, or
9 condominium, the adjustments to the basis shall include a reduction
10 by an amount equal to the amount of the gain not so recognized
11 on the sale of the assisted housing development, real property, or
12 condominium. If more than one parcel of residential real property
13 has been purchased, the nonrecognized gain from the sale of the
14 assisted housing development, real property, or condominium shall
15 be attributed to the parcels of residential real property on a pro
16 rata basis based upon the purchase prices of those parcels.

17 (g) In accordance with subdivision (a), (b), (c), or (d), if the sale
18 of an assisted housing development, real property, or condominium
19 results in a gain during the taxable year, then all of the following
20 shall apply:

21 (1) The statutory period for the assessment of any deficiency
22 attributable to any part of the gain shall not expire before the
23 expiration of four years from the date the Franchise Tax Board is
24 notified (on the form as the Franchise Tax Board may provide) of
25 one of the following:

26 (A) The cost of purchasing the residential real property which
27 satisfies the requirement of subdivision (a), (b), (c), or (d), and
28 results in the nonrecognition of gain.

29 (B) The intention not to reinvest all of the proceeds from the
30 sale in residential real property within the period specified in
31 subdivision (a), (b), (c), or (d).

32 (C) The failure to reinvest all of the proceeds from the sale in
33 residential real property within the period specified in subdivision
34 (a), (b), (c), or (d).

35 (2) The deficiency may be assessed before the expiration of the
36 period specified in paragraph (1), notwithstanding the provisions
37 of any other law or rule of law which would otherwise prevent the
38 assessment.

39 (3) All information regarding the sale of an assisted housing
40 development, real property, or condominium, at a gain in

1 accordance with subdivision (a), (b), (c), or (d), shall be disclosed
2 in the return for the taxable year in which the sale took place in
3 order to determine if the sale qualifies and the amount of
4 nonrecognition of gain qualifies under subdivision (a), (b), (c), or
5 (d).

6 (h) The Department of Housing and Community Development
7 shall do all of the following:

8 (1) Certify that the lower income or very low income resident
9 meets the definitions provided in paragraphs (8) and (9) of
10 subdivision (e).

11 (2) Provide an annual listing to the Franchise Tax Board, in a
12 form and manner agreed upon by the Franchise Tax Board and the
13 Department of Housing and Community Development, of the
14 names and identification numbers of the persons who are members
15 of the group of purchasers who are lower income or very low
16 income residents that were issued a certification, and the names
17 and identification numbers of the sellers of the property.

18 (3) Provide the group of purchasers who are lower income or
19 very low income residents a copy of the certification.

20 (i) The group of purchasers who are lower income or very low
21 income residents shall do all of the following:

22 (1) Provide the Department of Housing and Community
23 Development with documents, as deemed necessary by the
24 department, verifying the income of each member of the group.

25 (2) Provide a copy of the certification to the seller of the assisted
26 housing development, real property, or condominium.

27 (3) Retain a copy of the certification.

28 (j) The seller of the assisted housing development, real property,
29 or condominium shall do all of the following:

30 (1) Obtain a copy of the certification from the group of
31 purchasers who are lower income or very low income residents of
32 the assisted housing development, real property, or condominium.

33 (2) Retain a copy of the group's lower income or very low
34 income certification for tax purposes.

35 (k) *This section shall cease to be operative for taxable years*
36 *beginning on or after January 1, 2010.*

37 SEC. 29. Section 24955.5 is added to the Revenue and Taxation
38 Code, to read:

39 24955.5. For taxable years beginning on or after January 1,
40 2010, Section 1043 of the Internal Revenue Code, relating to sale

1 of property to comply with conflict-of-interest requirements shall
2 not apply.

3 SEC. 30. Section 24957 is added to the Revenue and Taxation
4 Code, to read:

5 24957. For taxable years beginning on or after January 1, 2010,
6 Section 1045 of the Internal Revenue Code, relating to rollover
7 gain from qualified small business stock to another qualified small
8 business stock shall not apply.

9 SEC. 31. Section 24958 is added to the Revenue and Taxation
10 Code, to read:

11 24958. For taxable years beginning on or after January 1, 2010,
12 Section 1058 of the Internal Revenue Code, relating to special
13 rules for transfers of securities under certain agreements shall not
14 apply.

15 SEC. 32. This act provides for a tax levy within the meaning
16 of Article IV of the Constitution and shall go into immediate effect.

O