

AMENDED IN SENATE AUGUST 14, 2012
AMENDED IN ASSEMBLY JANUARY 4, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 318

Introduced by Assembly Member Skinner

February 9, 2011

An act to add Section 18410 to, *and to repeal and add Section 19135 of*, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 318, as amended, Skinner. Franchise Tax Board: administration: *penalties*: legal holiday.

The Personal Income Tax Law and the Corporation Tax Law establish specified dates for the filing of tax returns, and provide that if the last day for filing a return falls on a Saturday, Sunday, or other legal holiday, returns may be filed and payments made on the following day without penalty.

This bill would conform to federal income tax law regarding the definition of a legal holiday for the purposes of the Personal Income Tax Law and the Corporation Tax Law.

The Corporation Tax Law imposes taxes measured by income at a specified rate. Existing law provides that whenever any foreign corporation that fails to qualify to do business in this state or whose powers, rights, and privileges have been forfeited, or any domestic corporation that has been suspended, and that is doing business in this state, fails to make and file a return, as provided, the Franchise Tax Board shall impose a penalty of \$2,000 per taxable year, as specified.

This bill would also make this penalty applicable to a foreign limited liability company that fails to qualify to do business in this state or whose powers, rights, and privileges have been forfeited and to a domestic limited liability company which has been suspended and that is doing business in this state, as specified.

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 18410 is added to the Revenue and
 2 Taxation Code, to read:

3 18410. For purposes of Part 10 (commencing with Section
 4 17001), Part 11 (commencing with Section 23001), and this part,
 5 a legal holiday includes a federal legal holiday recognized by the
 6 Internal Revenue Service under Section 7503 of the Internal
 7 Revenue Code.

8 *SEC. 2. Section 19135 of the Revenue and Taxation Code is*
 9 *repealed.*

10 ~~19135. Whenever any foreign corporation which fails to qualify~~
 11 ~~to do business in this state or whose powers, rights, and privileges~~
 12 ~~have been forfeited, or any domestic corporation which has been~~
 13 ~~suspended, and which is doing business in this state, within the~~
 14 ~~meaning of Section 23101, fails to make and file a return as~~
 15 ~~required by this part, the Franchise Tax Board shall impose a~~
 16 ~~penalty of two thousand dollars (\$2,000) per taxable year, unless~~
 17 ~~the failure to file is due to reasonable cause and not willful neglect.~~
 18 ~~The penalty shall be in addition to any other penalty which may~~
 19 ~~be due under this part. The penalty shall be imposed if the return~~
 20 ~~is not filed within 60 days after the Franchise Tax Board sends the~~
 21 ~~taxpayer a notice and demand to file the required tax return.~~

22 *SEC. 3. Section 19135 is added to the Revenue and Taxation*
 23 *Code, to read:*

24 19135. (a) (1) *The Franchise Tax Board shall impose a*
 25 *penalty of two thousand dollars (\$2,000) per taxable year whenever*
 26 *an entity described in paragraph (2) is doing business in this state,*
 27 *within the meaning of Section 23101, and fails to make and file a*
 28 *return as required by this part, within 60 days after the Franchise*
 29 *Tax Board sends the taxpayer a notice and demand to file the*

1 *required tax return, unless the failure is due to reasonable cause*
2 *and not willful neglect.*

3 (2) (A) *A foreign corporation or a foreign limited liability*
4 *company that fails to qualify to do business in this state or whose*
5 *powers, rights, and privileges have been forfeited.*

6 (B) *A domestic corporation or a domestic limited liability*
7 *company that has been suspended.*

8 (b) *The penalty shall be in addition to any other penalty that*
9 *may be due under this part.*