

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2512

Introduced by Assembly Member Skinner

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2512, as amended, Skinner. Income taxes: limited liability company: penalties.

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 which 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 which 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 19135 of the Revenue and Taxation Code*
 2 *is repealed.*

3 ~~19135. Whenever any foreign corporation which fails to qualify~~
 4 ~~to do business in this state or whose powers, rights, and privileges~~
 5 ~~have been forfeited, or any domestic corporation which has been~~
 6 ~~suspended, and which is doing business in this state, within the~~
 7 ~~meaning of Section 23101, fails to make and file a return as~~
 8 ~~required by this part, the Franchise Tax Board shall impose a~~
 9 ~~penalty of two thousand dollars (\$2,000) per taxable year, unless~~
 10 ~~the failure to file is due to reasonable cause and not willful neglect.~~
 11 ~~The penalty shall be in addition to any other penalty which may~~
 12 ~~be due under this part. The penalty shall be imposed if the return~~
 13 ~~is not filed within 60 days after the Franchise Tax Board sends the~~
 14 ~~taxpayer a notice and demand to file the required tax return.~~

15 *SEC. 2. Section 19135 is added to the Revenue and Taxation*
 16 *Code, to read:*

17 *19135. (a) (1) The Franchise Tax Board shall impose a*
 18 *penalty of two thousand dollars (\$2,000) per taxable year whenever*
 19 *an entity described in paragraph (2) is doing business in this state,*
 20 *within the meaning of Section 23101, and fails to make and file a*
 21 *return as required by this part, within 60 days after the Franchise*
 22 *Tax Board sends the taxpayer a notice and demand to file the*
 23 *required tax return, unless the failure is due to reasonable cause*
 24 *and not willful neglect.*

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

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

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

32 ~~*SECTION 1. Section 19135 of the Revenue and Taxation Code*~~
 33 ~~*is amended to read:*~~

34 ~~*19135. Whenever any foreign corporation or any foreign*~~
 35 ~~*limited liability company that fails to qualify to do business in this*~~
 36 ~~*state or whose powers, rights, and privileges have been forfeited,*~~
 37 ~~*or any domestic corporation or any domestic limited liability*~~
 38 ~~*company that has been suspended, and which is doing business in*~~

1 this state, within the meaning of Section 23101, fails to make and
2 file a return as required by this part, the Franchise Tax Board shall
3 impose a penalty of two thousand dollars (\$2,000) per taxable
4 year, unless the failure to file is due to reasonable cause and not
5 willful neglect. The penalty shall be in addition to any other penalty
6 which may be due under this part. The penalty shall be imposed
7 if the return is not filed within 60 days after the Franchise Tax
8 Board sends the taxpayer a notice and demand to file the required
9 tax return.

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