

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1984

Introduced by Assembly Member Harkey

February 19, 2014

An act to amend Section ~~6051~~ of 19362 of, and to add Sections 19022 and 19367 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1984, as amended, Harkey. ~~Sales and use taxes. Income taxes: net operating losses: carrybacks: overpayments: estimated tax.~~

The Personal Income Tax Law and the Corporation Tax Law, in modified conformity to federal law, allow taxpayers to utilize net operating losses and carryovers and carrybacks of those losses for purposes of offsetting their tax liabilities. Existing law allows net operating losses attributable to taxable years beginning on or after January 1, 2013, to be carrybacks to each of the preceding 2 taxable years, as provided. Federal income tax law includes procedures that allow a taxpayer with net operating loss carrybacks to obtain a tentative refund of taxes paid in prior tax years by filing a tentative carryback adjustment application and allow a corporation to apply to extend the time for payment of taxes for the immediately preceding taxable year.

This bill would conform to those federal provisions.

Existing law provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation franchise and income taxes, including an authorization to prescribe regulations providing for the crediting against the estimated tax of the amount determined to be an overpayment of tax for a preceding taxable year.

This bill would require the Franchise Tax Board to prescribe the above-described regulations on or before January 1, 2016.

~~A provision of the Sales and Use Tax Law imposes a state sales tax at a rate of 4¾% of the gross receipts of the retail sale of tangible personal property in the state.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

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 19022 is added to the Revenue and
2 Taxation Code, to read:

3 19022. (a) Section 6164 of the Internal Revenue Code, relating
4 to extension of time for payment of taxes by corporations expecting
5 carrybacks shall apply.

6 (b) (1) Section 6164 of the Internal Revenue Code is modified
7 by substituting the phrase “Secretary or the Franchise Tax Board”
8 for the word “Secretary” in each place it appears.

9 (2) Section 6164(a) of the Internal Revenue Code, relating to
10 in general, is modified by substituting the phrase “Part 11
11 (commencing with Section 23001)” in lieu of the phrase “subtitle
12 A”.

13 (3) Section 6164(b) of the Internal Revenue Code, relating to
14 contents of statement, is modified by substituting the phrase
15 “Section 24416.20” in lieu of the phrase “section 172(b)”.

16 (4) Section 6164(d)(2) of the Internal Revenue Code is modified
17 by substituting the phrase “Section 19367” in lieu of the phrase
18 “section 6411”.

19 (5) Section 6164(h) of the Internal Revenue Code, relating to
20 jeopardy, is modified as follows:

21 (A) By substituting the phrase “he or the Franchise Tax Board”
22 for the word “he” in each place it appears.

23 (B) By substituting the phrase “him or the Franchise Tax
24 Board” for the word “him” in each place it appears.

25 SEC. 2. Section 19362 of the Revenue and Taxation Code is
26 amended to read:

27 19362. (a) ~~The~~ On or before January 1, 2016, the Franchise
28 Tax Board ~~is authorized to~~ shall prescribe regulations providing

1 for the crediting against the estimated tax for any taxable year of
2 the amount determined by the taxpayer or the Franchise Tax Board
3 to be an overpayment of the tax for a preceding taxable year.

4 *SEC. 3. Section 19367 is added to the Revenue and Taxation*
5 *Code, to read:*

6 *19367. (a) Section 6411 of the Internal Revenue Code, relating*
7 *to tentative carryback and refund adjustments, shall apply only to*
8 *an application for a tentative carryback adjustment of the tax for*
9 *a prior taxable years affected by a net operating loss carryback.*

10 *(b) (1) Section 6411 of the Internal Revenue Code is modified*
11 *by substituting the phrase "Secretary or the Franchise Tax Board"*
12 *for the word "Secretary" in each place it appears.*

13 *(2) Section 6411(a) of the Internal Revenue Code, relating to*
14 *application for adjustment, is modified as follows:*

15 *(A) By substituting the phrase "Section 24416.20" in lieu of*
16 *the phrase "section 172(b)".*

17 *(B) By substituting the phrase "Section 18621" in lieu of the*
18 *phrase "section 6065".*

19 *(3) Section 6411(b) of the Internal Revenue Code, relating to*
20 *allowance of adjustments, is modified by substituting the phrase*
21 *"Section 19022" in lieu of the phrase "section 6164".*

22 ~~SECTION 1. Section 6051 of the Revenue and Taxation Code~~
23 ~~is amended to read:~~

24 ~~6051. For the privilege of selling tangible personal property at~~
25 ~~retail a tax is hereby imposed upon all retailers at the rate of 4 ³/₄~~
26 ~~percent of the gross receipts of any retailer from the sale of all~~
27 ~~tangible personal property sold at retail in this state.~~