

AMENDED IN ASSEMBLY MARCH 12, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 612**

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**Introduced by Assembly Member Patterson**

February 24, 2015

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~~An act to amend Section 23453 of the Revenue and Taxation Code, relating to taxation. An act to amend Sections 17935, 17941, 17948, and 23153 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 612, as amended, Patterson. ~~Alternative minimum tax. Minimum franchise tax: annual tax: small business.~~

*Existing law imposes an annual minimum franchise tax, except as provided, on every corporation incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state. Existing law exempts a corporation that incorporates or qualifies to do business in this state from the payment of the minimum franchise tax in its first taxable year.*

*Existing law imposes an annual tax in an amount equal to the minimum franchise tax on every limited partnership, limited liability company, and limited liability partnership doing business in this state. In addition, existing law requires every limited partnership that has filed a certificate with the Secretary of State and every foreign limited partnership that has registered with the Secretary of State, every limited liability company if the articles of organization have been accepted by, or a certificate of registration has been issued by, the Secretary of State, and every registered limited liability partnership and every foreign limited liability partnership that has registered with the Secretary of*

State, to pay an annual tax in an amount equal to the minimum franchise tax.

This bill would reduce that minimum franchise in the 2nd taxable year for a new corporation, and that annual tax in the first taxable year for a new limited partnership, new limited liability partnership, and new limited liability company that is a small business, which is defined as a business entity with gross receipts of \$5,000 or less, as specified.

This bill would take effect immediately as a tax levy.

~~The Corporation Tax Law imposes an alternative minimum tax in substantial conformity to the alternative minimum tax imposed by the federal income tax laws, but provides an exception so that certain credits may reduce the regular tax, as defined, below the tentative minimum tax, as provided.~~

~~This bill would make nonsubstantive changes to this 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 17935 of the Revenue and Taxation Code  
2 is amended to read:

3     17935. (a) For each taxable year beginning on or after January  
4 1, 1997, every limited partnership doing business in this state (as  
5 state, as defined by Section ~~23101~~) 23101, and required to file a  
6 return under Section 18633 shall pay annually to this state a tax  
7 for the privilege of doing business in this state in an amount equal  
8 to the applicable amount specified in *paragraph (1) of subdivision*  
9 *(d)* of Section 23153.

10    (b) (1) In addition to any limited partnership that is doing  
11 business in this state and therefore is subject to the tax imposed  
12 by subdivision (a), for each taxable year beginning on or after  
13 January 1, 1997, every limited partnership that has executed,  
14 acknowledged, and filed a certificate of limited partnership with  
15 the Secretary of State pursuant to Section 15621 or 15902.01 of  
16 the Corporations Code, and every foreign limited partnership that  
17 has registered with the Secretary of State pursuant to Section 15692  
18 or 15909.01 of the Corporations Code, shall pay annually the tax  
19 prescribed in subdivision (a). The tax shall be paid for each taxable  
20 year, or part thereof, until a certificate of cancellation is filed on  
21 behalf of the limited partnership with the office of the Secretary

1 of State pursuant to Section 15623, 15696, 15902.03, or 15909.07  
2 of the Corporations Code.

3 (2) If a taxpayer files a return with the Franchise Tax Board that  
4 is designated its final return, that board shall notify the taxpayer  
5 that the tax imposed by this chapter is due annually until a  
6 certificate of cancellation is filed with the Secretary of State  
7 pursuant to Section 15623, 15696, 15902.03, or 15909.07 of the  
8 Corporations Code.

9 (c) The tax imposed by this chapter shall be due and payable  
10 on the date the return is required to be filed under former Section  
11 18432 or 18633.

12 (d) For purposes of this section, “limited partnership” means  
13 any partnership formed by two or more persons under the laws of  
14 this state or any other jurisdiction and having one or more general  
15 partners and one or more limited partners.

16 (e) Notwithstanding subdivision (b), any limited partnership  
17 that ceased doing business prior to January 1, 1997, filed a final  
18 return with the Franchise Tax Board for a taxable year ending  
19 before January 1, 1997, and filed a certificate of dissolution with  
20 the Secretary of State pursuant to Section 15623 of the  
21 Corporations Code prior to January 1, 1997, shall not be subject  
22 to the tax imposed by this chapter for any period following the  
23 date the certificate of dissolution was filed with the Secretary of  
24 State, but only if the limited partnership files a certificate of  
25 cancellation with the Secretary of State pursuant to Section 15623  
26 of the Corporations Code. In the case where a notice of proposed  
27 deficiency assessment of tax or a notice of tax due (whichever is  
28 applicable) is mailed after January 1, 2001, the first sentence of  
29 this subdivision shall not apply unless the certificate of cancellation  
30 is filed with the Secretary of State not later than 60 days after the  
31 date of the mailing of the notice.

32 (f) (1) *Notwithstanding subdivisions (a) and (b), for taxable*  
33 *years beginning on or after January 1, 2016, every new limited*  
34 *partnership that is a small business shall pay to the state an annual*  
35 *tax of four hundred dollars (\$400) for its first taxable year.*

36 (2) *For purposes of this subdivision:*

37 (A) *“Gross receipts, less returns and allowances reportable to*  
38 *this state,” means the sum of the gross receipts from the production*  
39 *of business income, as defined in subdivision (a) of Section 25120,*

1 *and the gross receipts from the production of nonbusiness income,*  
2 *as defined in subdivision (d) of Section 25120.*

3 (B) *“New limited partnership” means a limited partnership that*  
4 *on or after January 1, 2016, is organized under the laws of this*  
5 *state or has qualified to transact intrastate business in this state*  
6 *that begins business operations at or after the time of its*  
7 *organization. “New limited partnership” does not include any*  
8 *limited partnership that began business operations as, or acquired*  
9 *its business operations from, a sole proprietorship, a limited*  
10 *liability partnership, or any other form of business entity prior to*  
11 *its organization.*

12 (C) *“Small business” means a limited partnership that has gross*  
13 *receipts, less returns and allowances, reportable to this state for*  
14 *the taxable year of five thousand dollars (\$5,000) or less.*

15 (3) *This subdivision shall not apply to a limited partnership that*  
16 *does not file a return on the due date of its return, without regard*  
17 *to extension, for that year.*

18 (4) *This subdivision shall not apply to any limited partnership*  
19 *that reorganizes solely for the purpose of reducing its annual tax.*

20 SEC. 2. *Section 17941 of the Revenue and Taxation Code is*  
21 *amended to read:*

22 17941. (a) For each taxable year beginning on or after January  
23 1, 1997, a limited liability company doing business in this state  
24 (as defined in Section 23101) shall pay annually to this state a tax  
25 for the privilege of doing business in this state in an amount equal  
26 to the applicable amount specified in *paragraph (1) of subdivision*  
27 *(d) of Section 23153 for the taxable year.*

28 (b) (1) In addition to any limited liability company that is doing  
29 business in this state and is therefore subject to the tax imposed  
30 by subdivision (a), for each taxable year beginning on or after  
31 January 1, 1997, a limited liability company shall pay annually  
32 the tax prescribed in subdivision (a) if articles of organization have  
33 been accepted, or a certificate of registration has been issued, by  
34 the office of the Secretary of State. The tax shall be paid for each  
35 taxable year, or part thereof, until a certificate of cancellation of  
36 registration or of articles of organization is filed on behalf of the  
37 limited liability company with the office of the Secretary of State.

38 (2) If a taxpayer files a return with the Franchise Tax Board that  
39 is designated as its final return, the Franchise Tax Board shall  
40 notify the taxpayer that the annual tax shall continue to be due

1 annually until a certificate of dissolution is filed with the Secretary  
2 of State pursuant to Section 17707.08 of the Corporations Code  
3 or a certificate of cancellation is filed with the Secretary of State  
4 pursuant to Section 17708.06 of the Corporations Code.

5 (c) The tax assessed under this section shall be due and payable  
6 on or before the 15th day of the fourth month of the taxable year.

7 (d) For purposes of this section, “limited liability company”  
8 means an organization, other than a limited liability company that  
9 is exempt from the tax and fees imposed under this chapter  
10 pursuant to Section 23701h or ~~Section 23701x~~, that is formed by  
11 one or more persons under the law of this state, any other country,  
12 or any other state, as a “limited liability company” and that is not  
13 taxable as a corporation for California tax purposes.

14 (e) Notwithstanding anything in this section to the contrary, if  
15 the office of the Secretary of State files a certificate of cancellation  
16 pursuant to Section 17707.02 of the Corporations Code for any  
17 limited liability company, then paragraph (1) of subdivision (f) of  
18 Section 23153 shall apply to that limited liability company as if  
19 the limited liability company were properly treated as a corporation  
20 for that limited purpose only, and paragraph (2) of subdivision (f)  
21 of Section 23153 shall not apply. Nothing in this subdivision  
22 entitles a limited liability company to receive a reimbursement for  
23 any annual taxes or fees already paid.

24 (f) (1) Notwithstanding any provision of this section to the  
25 contrary, a limited liability company that is a small business solely  
26 owned by a deployed member of the United States Armed Forces  
27 shall not be subject to the tax imposed under this section for any  
28 taxable year the owner is deployed and the limited liability  
29 company operates at a loss or ceases operation.

30 (2) The Franchise Tax Board may promulgate regulations as  
31 necessary or appropriate to carry out the purposes of this  
32 subdivision, including a definition for “ceases operation.”

33 (3) For the purposes of this subdivision, all of the following  
34 definitions apply:

35 (A) “Deployed” means being called to active duty or active  
36 service during a period when a Presidential Executive order  
37 specifies that the United States is engaged in combat or homeland  
38 defense. “Deployed” does not include either of the following:

- 39 (i) Temporary duty for the sole purpose of training or processing.  
40 (ii) A permanent change of station.

1 (B) “Operates at a loss” means a limited liability company’s  
2 expenses exceed its receipts.

3 (C) “Small business” means a limited liability company with  
4 total income from all sources derived from, or attributable, to the  
5 state of two hundred fifty thousand dollars (\$250,000) or less.

6 (4) This subdivision shall become inoperative for taxable years  
7 beginning on or after January 1, 2018.

8 (g) *(1) Notwithstanding any provision of this section to the*  
9 *contrary, for taxable years beginning on or after January 1, 2016,*  
10 *every new limited liability company that is a small business shall*  
11 *pay to the state an annual tax of four hundred dollars (\$400) for*  
12 *its first taxable year.*

13 (2) *For purposes of this subdivision:*

14 (A) *“Gross receipts, less returns and allowances reportable to*  
15 *this state,” means the sum of the gross receipts from the production*  
16 *of business income, as defined in subdivision (a) of Section 25120,*  
17 *and the gross receipts from the production of nonbusiness income,*  
18 *as defined in subdivision (d) of Section 25120.*

19 (B) *“New limited liability company” means a limited liability*  
20 *company that on or after January 1, 2016, is organized under the*  
21 *laws of this state or has qualified to transact intrastate business*  
22 *in this state that begins business operations at or after the time of*  
23 *its organization. “New limited liability company” does not include*  
24 *any limited liability company that began business operations as,*  
25 *or acquired its business operations from, a sole proprietorship, a*  
26 *limited liability company or any other form of business entity prior*  
27 *to its organization.*

28 (C) *“Small business” means a limited liability company that*  
29 *reasonably estimates that it will have gross receipts, less returns*  
30 *and allowances, reportable to this state for the taxable year of five*  
31 *thousand dollars (\$5,000) or less.*

32 (3) *This subdivision shall not apply to a limited liability company*  
33 *that does not file a return on the due date of its return, without*  
34 *regard to extension, for that year.*

35 (4) *If the limited liability company’s gross receipts, as*  
36 *determined by subparagraph (A) of paragraph (2), are not five*  
37 *thousand dollars (\$5,000) or less, an additional tax in the amount*  
38 *equal to four hundred dollars (\$400) for the taxable year shall be*  
39 *due and payable by the corporation on the due date of its return,*  
40 *without regard to extension, for that year.*

1 (5) *This subdivision shall not apply to any limited liability*  
2 *company that reorganizes solely for the purpose of reducing its*  
3 *annual tax.*

4 SEC. 3. *Section 17948 of the Revenue and Taxation Code is*  
5 *amended to read:*

6 17948. (a) For each taxable year beginning on or after January  
7 1, 1997, every limited liability partnership doing business in this  
8 state (as defined in Section 23101) and required to file a return  
9 under Section 18633 shall pay annually to the Franchise Tax Board  
10 a tax for the privilege of doing business in this state in an amount  
11 equal to the applicable amount specified in paragraph (1) of  
12 subdivision (d) of Section 23153 for the taxable year.

13 (b) In addition to any limited liability partnership that is doing  
14 business in this state and therefore is subject to the tax imposed  
15 by subdivision (a), for each taxable year beginning on or after  
16 January 1, 1997, every registered limited liability partnership that  
17 has registered with the Secretary of State pursuant to Section 16953  
18 of the Corporations Code and every foreign limited liability  
19 partnership that has registered with the Secretary of State pursuant  
20 to Section 16959 of the Corporations Code shall pay annually the  
21 tax prescribed in subdivision (a). The tax shall be paid for each  
22 taxable year, or part thereof, until any of the following occurs:

23 (1) A notice of cessation is filed with the Secretary of State  
24 pursuant to subdivision (b) of Section 16954 or 16960 of the  
25 Corporations Code.

26 (2) A foreign limited liability partnership withdraws its  
27 registration pursuant to subdivision (a) of Section 16960 of the  
28 Corporations Code.

29 (3) The registered limited liability partnership or foreign limited  
30 liability partnership has been dissolved and finally wound up.

31 (c) The tax assessed under this section shall be due and payable  
32 on the date the return is required to be filed under Section 18633.

33 (d) If a taxpayer files a return with the Franchise Tax Board that  
34 is designated as its final return, the Franchise Tax Board shall  
35 notify the taxpayer that the annual tax shall continue to be due  
36 annually until a certificate of cancellation is filed with the Secretary  
37 of State pursuant to Section 16954 or 16960 of the Corporations  
38 Code.

39 (e) (1) *Notwithstanding subdivisions (a) and (b), for taxable*  
40 *years beginning on or after January 1, 2016, a new limited liability*

1 *partnership that is a small business shall pay to the state an annual*  
2 *tax of four hundred dollars (\$400) for its first taxable year.*

3 *(2) For purposes of this subdivision:*

4 *(A) “Gross receipts, less returns and allowances reportable to*  
5 *this state,” means the sum of the gross receipts from the production*  
6 *of business income, as defined in subdivision (a) of Section 25120,*  
7 *and the gross receipts from the production of nonbusiness income,*  
8 *as defined in subdivision (d) of Section 25120.*

9 *(B) “New limited liability partnership” means a limited liability*  
10 *partnership that on or after January 1, 2016, is organized under*  
11 *the laws of this state or has qualified to transact intrastate business*  
12 *in this state that begins business operations at or after the time of*  
13 *its organization. “New limited liability partnership” does not*  
14 *include any limited liability partnership that began business*  
15 *operations as, or acquired its business operations from, a sole*  
16 *proprietorship, a limited liability partnership, or any other form*  
17 *of business entity prior to its organization.*

18 *(C) “Small business” means a limited partnership that has gross*  
19 *receipts, less returns and allowances, reportable to this state for*  
20 *the taxable year of five thousand dollars (\$5,000) or less.*

21 *(3) This subdivision shall not apply to a limited liability*  
22 *partnership that does not file a return on the due date of its return,*  
23 *without regard to extension, for that year.*

24 *(4) This subdivision shall not apply to any limited partnership*  
25 *that reorganizes solely for the purpose of reducing its annual tax.*

26 *SEC. 4. Section 23153 of the Revenue and Taxation Code is*  
27 *amended to read:*

28 *23153. (a) Every corporation described in subdivision (b) shall*  
29 *be subject to the minimum franchise tax specified in subdivision*  
30 *(d) from the earlier of the date of incorporation, qualification, or*  
31 *commencing to do business within this state, until the effective*  
32 *date of dissolution or withdrawal as provided in Section 23331 or,*  
33 *if later, the date the corporation ceases to do business within the*  
34 *limits of this state.*

35 *(b) Unless expressly exempted by this part or the California*  
36 *Constitution, subdivision (a) shall apply to each of the following:*

37 *(1) Every corporation that is incorporated under the laws of this*  
38 *state.*

1 (2) Every corporation that is qualified to transact intrastate  
2 business in this state pursuant to Chapter 21 (commencing with  
3 Section 2100) of Division 1 of Title 1 of the Corporations Code.

4 (3) Every corporation that is doing business in this state.

5 (c) The following entities are not subject to the minimum  
6 franchise tax specified in this section:

7 (1) Credit unions.

8 (2) Nonprofit cooperative associations organized pursuant to  
9 Chapter 1 (commencing with Section 54001) of Division 20 of the  
10 Food and Agricultural Code that have been issued the certificate  
11 of the board of supervisors prepared pursuant to Section 54042 of  
12 the Food and Agricultural Code. The association shall be exempt  
13 from the minimum franchise tax for five consecutive taxable years,  
14 commencing with the first taxable year for which the certificate  
15 is issued pursuant to subdivision (b) of Section 54042 of the Food  
16 and Agricultural Code. This paragraph only applies to nonprofit  
17 cooperative associations organized on or after January 1, 1994.

18 (d) (1) Except as provided in paragraph (2), paragraph (1) of  
19 subdivision (f) of Section 23151, paragraph (1) of subdivision (f)  
20 of Section 23181, and paragraph (1) of subdivision (c) of Section  
21 23183, corporations subject to the minimum franchise tax shall  
22 pay annually to the state a minimum franchise tax of eight hundred  
23 dollars (\$800).

24 (2) The minimum franchise tax shall be twenty-five dollars  
25 (\$25) for each of the following:

26 (A) A corporation formed under the laws of this state whose  
27 principal business when formed was gold mining, which is inactive  
28 and has not done business within the limits of the state since 1950.

29 (B) A corporation formed under the laws of this state whose  
30 principal business when formed was quicksilver mining, which is  
31 inactive and has not done business within the limits of the state  
32 since 1971, or has been inactive for a period of 24 consecutive  
33 months or more.

34 (3) For purposes of paragraph (2), a corporation shall not be  
35 considered to have done business if it engages in business other  
36 than mining.

37 (e) Notwithstanding subdivision (a), for taxable years beginning  
38 on or after January 1, 1999, and before January 1, 2000, every  
39 “qualified new corporation” shall pay annually to the state a  
40 minimum franchise tax of five hundred dollars (\$500) for the

1 second taxable year. This subdivision shall apply to any corporation  
2 that is a qualified new corporation and is incorporated on or after  
3 January 1, 1999, and before January 1, 2000.

4 (1) The determination of the gross receipts of a corporation, for  
5 purposes of this subdivision, shall be made by including the gross  
6 receipts of each member of the commonly controlled group, as  
7 defined in Section 25105, of which the corporation is a member.

8 (2) “Gross receipts, less returns and allowances reportable to  
9 this state,” means the sum of the gross receipts from the production  
10 of business income, as defined in subdivision (a) of Section 25120,  
11 and the gross receipts from the production of nonbusiness income,  
12 as defined in subdivision (d) of Section 25120.

13 (3) “Qualified new corporation” means a corporation that is  
14 incorporated under the laws of this state or has qualified to transact  
15 intrastate business in this state, that begins business operations at  
16 or after the time of its incorporation and that reasonably estimates  
17 that it will have gross receipts, less returns and allowances,  
18 reportable to this state for the taxable year of one million dollars  
19 (\$1,000,000) or less. “Qualified new corporation” does not include  
20 any corporation that began business operations as a sole  
21 proprietorship, a partnership, or any other form of business entity  
22 prior to its incorporation. This subdivision shall not apply to any  
23 corporation that reorganizes solely for the purpose of reducing its  
24 minimum franchise tax.

25 (4) This subdivision shall not apply to limited partnerships, as  
26 defined in Section 17935, limited liability companies, as defined  
27 in Section 17941, limited liability partnerships, as described in  
28 Section 17948, charitable organizations, as described in Section  
29 23703, regulated investment companies, as defined in Section 851  
30 of the Internal Revenue Code, real estate investment trusts, as  
31 defined in Section 856 of the Internal Revenue Code, real estate  
32 mortgage investment conduits, as defined in Section 860D of the  
33 Internal Revenue Code, qualified Subchapter S subsidiaries, as  
34 defined in Section 1361(b)(3) of the Internal Revenue Code, or to  
35 the formation of any subsidiary corporation, to the extent  
36 applicable.

37 (5) For any taxable year beginning on or after January 1, 1999,  
38 and before January 1, 2000, if a corporation has qualified to pay  
39 five hundred dollars (\$500) for the second taxable year under this  
40 subdivision, but in its second taxable year, the corporation’s gross

1 receipts, as determined under paragraphs (1) and (2), exceed one  
2 million dollars (\$1,000,000), an additional tax in the amount equal  
3 to three hundred dollars (\$300) for the second taxable year shall  
4 be due and payable by the corporation on the due date of its return,  
5 without regard to extension, for that year.

6 (f) (1) (A) Notwithstanding subdivision (a), every corporation  
7 that incorporates or qualifies to do business in this state on or after  
8 January 1, 2000, shall not be subject to the minimum franchise tax  
9 for its first taxable year.

10 (B) *Notwithstanding subdivision (a), every corporation that is*  
11 *a new corporation in taxable years beginning on or after January*  
12 *1, 2016, and is a small business in its second taxable year shall*  
13 *pay to the state a minimum franchise tax of four hundred dollars*  
14 *(\$400) for its second taxable year.*

15 (i) *For purposes of this subparagraph:*

16 (I) *“Gross receipts, less returns and allowances reportable to*  
17 *this state,” means the sum of the gross receipts from the production*  
18 *of business income, as defined in subdivision (a) of Section 25120,*  
19 *and the gross receipts from the production of nonbusiness income,*  
20 *as defined in subdivision (d) of Section 25120.*

21 (II) *“New corporation” means a corporation that on or after*  
22 *January 1, 2016, is incorporated under the laws of this state or*  
23 *has qualified to transact intrastate business in this state that begins*  
24 *business operations at or after the time of its incorporation. “New*  
25 *corporation” does not include any corporation that began business*  
26 *operations as, or acquired its business operations from, a sole*  
27 *proprietorship, a corporation or any other form of business entity*  
28 *prior to its incorporation.*

29 (III) *“Small business” means a corporation that reasonably*  
30 *estimates that it will have gross receipts, less returns and*  
31 *allowances, reportable to this state for the taxable year of five*  
32 *thousand dollars (\$5,000) or less.*

33 (ii) (I) *This subparagraph shall not apply to a corporation that*  
34 *does not file a return on the due date of its return, without regard*  
35 *to extension, for that year.*

36 (II) *If the corporation’s gross receipts, as determined by*  
37 *subclause (I) of clause (i) of subparagraph (B), are not five*  
38 *thousand dollars (\$5,000) or less, an additional tax in the amount*  
39 *equal to four hundred dollars (\$400) for the taxable year shall be*

1 *due and payable on the due date of its return, without regard to*  
2 *extension, for that year.*

3 (2) This subdivision shall not apply to limited partnerships, as  
4 defined in Section 17935, limited liability companies, as defined  
5 in Section 17941, limited liability partnerships, as described in  
6 Section 17948, charitable organizations corporations, as described  
7 in Section 23703, regulated investment companies, as defined in  
8 Section 851 of the Internal Revenue Code, real estate investment  
9 trusts, as defined in Section 856 of the Internal Revenue Code,  
10 real estate mortgage investment conduits, as defined in Section  
11 860D of the Internal Revenue Code, and qualified Subchapter S  
12 subsidiaries, as defined in Section 1361(b)(3) of the Internal  
13 Revenue Code, to the extent applicable.

14 (3) This subdivision shall not apply to any corporation that  
15 reorganizes solely for the purpose of avoiding payment of its  
16 minimum franchise tax.

17 (g) Notwithstanding subdivision (a), a domestic corporation, as  
18 defined in Section 167 of the Corporations Code, that files a  
19 certificate of dissolution in the office of the Secretary of State  
20 pursuant to subdivision (b) of Section 1905 of the Corporations  
21 Code, prior to its amendment by the act amending this subdivision,  
22 and that does not thereafter do business shall not be subject to the  
23 minimum franchise tax for taxable years beginning on or after the  
24 date of that filing.

25 (h) The minimum franchise tax imposed by paragraph (1) of  
26 subdivision (d) shall not be increased by the Legislature by more  
27 than 10 percent during any calendar year.

28 (i) (1) Notwithstanding subdivision (a), a corporation that is a  
29 small business solely owned by a deployed member of the United  
30 States Armed Forces shall not be subject to the minimum franchise  
31 tax for any taxable year the owner is deployed and the corporation  
32 operates at a loss or ceases operation.

33 (2) The Franchise Tax Board may promulgate regulations as  
34 necessary or appropriate to carry out the purposes of this  
35 subdivision, including a definition for “ceases operation.”

36 (3) For the purposes of this subdivision, all of the following  
37 definitions apply:

38 (A) “Deployed” means being called to active duty or active  
39 service during a period when a Presidential Executive order

1 specifies that the United States is engaged in combat or homeland  
2 defense. “Deployed” does not include either of the following:

- 3 (i) Temporary duty for the sole purpose of training or processing.
- 4 (ii) A permanent change of station.

5 (B) “Operates at a loss” means negative net income as defined  
6 in Section 24341.

7 (C) “Small business” means a corporation with total income  
8 from all sources derived from, or attributable, to the state of two  
9 hundred fifty thousand dollars (\$250,000) or less.

10 (4) This subdivision shall become inoperative for taxable years  
11 beginning on or after January 1, 2018.

12 *SEC. 5. This act provides for a tax levy within the meaning of*  
13 *Article IV of the Constitution and shall go into immediate effect.*

14 ~~SECTION 1. Section 23453 of the Revenue and Taxation Code~~  
15 ~~is amended to read:~~

16 ~~23453. (a) There shall be allowed as a credit against the regular~~  
17 ~~tax, as defined by subdivision (c) of Section 23455, for any taxable~~  
18 ~~year, an amount equal to the minimum tax credit for that taxable~~  
19 ~~year.~~

20 ~~(b) For purposes of subdivision (a), the minimum tax credit~~  
21 ~~shall be determined in accordance with Section 53 of the Internal~~  
22 ~~Revenue Code, relating to credit for the prior year minimum tax~~  
23 ~~liability, except as otherwise provided in this part.~~

24 ~~(c) For purposes of this chapter, the amount determined under~~  
25 ~~Section 53(c)(1) of the Internal Revenue Code shall be the regular~~  
26 ~~tax, as defined by subdivision (c) of Section 23455, reduced by~~  
27 ~~the sum of the credits allowable under this part other than any~~  
28 ~~credit which reduces the tax below the tentative minimum tax, as~~  
29 ~~defined by Section 23455.~~