

ASSEMBLY BILL

No. 2625

Introduced by Assembly Member Lopez

February 19, 2016

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 2625, as introduced, Lopez. Corporation taxes: minimum franchise tax: annual tax: microbusiness.

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 that is doing business in this state or that has filed or registered with the Secretary of State.

The minimum franchise tax imposed on a corporation, and the annual tax imposed on a limited liability company, must be paid by the 15th day of the 4th month of the taxable year. The annual tax imposed on a limited partnership or on a limited liability partnership, must be paid by the original due date of the partnership return.

This bill, for taxable years beginning on or after January 1, 2016, would reduce that minimum franchise tax to specified amounts, in the 2nd, 3rd, 4th, and 5th taxable years, for a corporation that is a new

microbusiness, or that annual tax, in the first 5 taxable years, for a limited liability company, limited partnership, or limited liability partnership that is a new microbusiness, as defined.

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 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
22 of State pursuant to Section ~~15623, 15696, 15902.03, 15902.03~~ or
23 15909.07 of the Corporations Code.

24 (2) If a taxpayer files a return with the Franchise Tax Board that
25 is designated its final return, that board shall notify the taxpayer
26 that the tax imposed by this chapter is due annually until a
27 certificate of cancellation is filed with the Secretary of State
28 pursuant to Section ~~15623, 15696, 15902.03, 15902.03~~ or 15909.07
29 of the Corporations Code.

1 (c) The tax imposed by this chapter shall be due and payable
2 on the date the return is required to be filed under former Section
3 18432 or 18633.

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

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

24 (f) (1) *Notwithstanding subdivision (a) or (b), for taxable years*
25 *beginning on or after January 1, 2016, every limited partnership*
26 *that is a new microbusiness shall, for its first five taxable years,*
27 *pay to the state an annual tax of:*

28 (A) *Two hundred dollars (\$200) for a new microbusiness that*
29 *has gross receipts, less returns and allowances, reportable to this*
30 *state for the taxable year of one hundred thousand dollars*
31 *(\$100,000) or less.*

32 (B) *Four hundred dollars (\$400) for a new microbusiness that*
33 *has gross receipts, less returns and allowances, reportable to this*
34 *state for the taxable year of two hundred thousand dollars*
35 *(\$200,000) or less, but more than one hundred thousand dollars*
36 *(\$100,000).*

37 (C) *Six hundred dollars (\$600) for a new microbusiness that*
38 *has gross receipts, less returns and allowances, reportable to this*
39 *state for the taxable year of three hundred thousand dollars*

1 (\$300,000) or less, but more than two hundred thousand dollars
2 (\$200,000).

3 (2) For purposes of this subdivision, the following definitions
4 shall apply:

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

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

20 (3) This subdivision shall not apply to a new microbusiness that
21 is owned directly or indirectly by a limited partnership, limited
22 liability company, limited liability partnership, or corporation
23 subject to this part or Part 11 (commencing with Section 23101).

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. 2. Section 17941 of the Revenue and Taxation Code is
27 amended to read:

28 17941. (a) For each taxable year beginning on or after January
29 1, 1997, a limited liability company doing business in this state
30 (~~as state, as defined in Section 23101~~) 23101, shall pay annually
31 to this state a tax for the privilege of doing business in this state
32 in an amount equal to the applicable amount specified in *paragraph*
33 *(1)* of subdivision (d) of Section 23153 for the taxable year.

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

1 taxable year, or part thereof, until a certificate of cancellation of
2 registration or of articles of organization is filed on behalf of the
3 limited liability company with the office of the Secretary of State.

4 (2) If a taxpayer files a return with the Franchise Tax Board that
5 is designated as its final return, the Franchise Tax Board shall
6 notify the taxpayer that the annual tax shall continue to be due
7 annually until a certificate of dissolution is filed with the Secretary
8 of State pursuant to Section 17707.08 of the Corporations Code
9 or a certificate of cancellation is filed with the Secretary of State
10 pursuant to Section 17708.06 of the Corporations Code.

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

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

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

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

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

39 (3) For the purposes of this subdivision, all of the following
40 definitions apply:

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

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

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

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

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

14 (g) (1) *Notwithstanding any provision of this section to the*
15 *contrary, for taxable years beginning on or after January 1, 2016,*
16 *every limited liability company that is a new microbusiness shall,*
17 *for its first five taxable years, pay to the state an annual tax of:*

18 (A) *Two hundred dollars (\$200) for a new microbusiness that*
19 *will have gross receipts, less returns and allowances, reportable*
20 *to this state for the taxable year of one hundred thousand dollars*
21 *(\$100,000) or less.*

22 (B) *Four hundred dollars (\$400) for a new microbusiness that*
23 *will have gross receipts, less returns and allowances, reportable*
24 *to this state for the taxable year of two hundred thousand dollars*
25 *(\$200,000) or less, but more than one hundred thousand dollars*
26 *(\$100,000).*

27 (C) *Six hundred dollars (\$600) for a new microbusiness that*
28 *will have gross receipts, less returns and allowances, reportable*
29 *to this state for the taxable year of three hundred thousand dollars*
30 *(\$300,000) or less, but more than two hundred thousand dollars*
31 *(\$200,000).*

32 (2) *For purposes of this subdivision, the following definitions*
33 *shall apply:*

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

39 (B) *“New microbusiness” means a limited liability company*
40 *that on or after January 1, 2016, is organized under the laws of*

1 *this state or has qualified to transact intrastate business in this*
2 *state that begins business operations at or after the time of its*
3 *organization. “New microbusiness” does not include any limited*
4 *liability company that began business operations as, or acquired*
5 *its business operations from, a sole proprietorship, a partnership,*
6 *a limited liability company, a corporation, or any other form of*
7 *business entity prior to its organization or that acquired its*
8 *business operations from a limited liability corporation.*

9 (3) *This subdivision shall not apply to a new microbusiness that*
10 *is owned directly or indirectly by a limited liability company,*
11 *limited partnership, limited liability partnership, or corporation*
12 *subject to this part or Part 11 (commencing with Section 23101).*

13 (4) *This subdivision shall not apply to any limited liability*
14 *company that reorganizes solely for the purpose of reducing its*
15 *annual tax.*

16 SEC. 3. Section 17948 of the Revenue and Taxation Code is
17 amended to read:

18 17948. (a) For each taxable year beginning on or after January
19 1, 1997, every limited liability partnership doing business in this
20 state ~~(as state, as defined in Section 23101)~~ 23101, and required
21 to file a return under Section 18633 shall pay annually to the
22 Franchise Tax Board a tax for the privilege of doing business in
23 this state in an amount equal to the applicable amount specified
24 in paragraph (1) of subdivision (d) of Section 23153 for the taxable
25 year.

26 (b) In addition to any limited liability partnership that is doing
27 business in this state and therefore is subject to the tax imposed
28 by subdivision (a), for each taxable year beginning on or after
29 January 1, 1997, every registered limited liability partnership that
30 has registered with the Secretary of State pursuant to Section 16953
31 of the Corporations Code and every foreign limited liability
32 partnership that has registered with the Secretary of State pursuant
33 to Section 16959 of the Corporations Code shall pay annually the
34 tax prescribed in subdivision (a). The tax shall be paid for each
35 taxable year, or part thereof, until any of the following occurs:

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

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

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

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

8 (d) If a taxpayer files a return with the Franchise Tax Board that
 9 is designated as its final return, the Franchise Tax Board shall
 10 notify the taxpayer that the annual tax shall continue to be due
 11 annually until a certificate of cancellation is filed with the Secretary
 12 of State pursuant to Section 16954 or 16960 of the Corporations
 13 Code.

14 (e) (1) *Notwithstanding subdivision (a) or (b), for taxable years*
 15 *beginning on or after January 1, 2016, every limited liability*
 16 *partnership that is a new microbusiness shall, for its first five*
 17 *taxable years, pay annually to the state an annual tax of:*

18 (A) *Two hundred dollars (\$200) for a new microbusiness that*
 19 *has gross receipts, less returns and allowances, reportable to this*
 20 *state for the taxable year of one hundred thousand dollars*
 21 *(\$100,000) or less.*

22 (B) *Four hundred dollars (\$400) for a new microbusiness that*
 23 *has gross receipts, less returns and allowances, reportable to this*
 24 *state for the taxable year of two hundred thousand dollars*
 25 *(\$200,000) or less, but more than one hundred thousand dollars*
 26 *(\$100,000).*

27 (C) *Six hundred dollars (\$600) for a new microbusiness that*
 28 *has gross receipts, less returns and allowances, reportable to this*
 29 *state for the taxable year of three hundred thousand dollars*
 30 *(\$300,000) or less, but more than two hundred thousand dollars*
 31 *(\$200,000).*

32 (2) *For purposes of this subdivision, the following definitions*
 33 *shall apply:*

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

39 (B) *“New microbusiness” means a limited liability partnership*
 40 *that on or after January 1, 2016, is organized under the laws of*

1 *this state or has qualified to transact intrastate business in this*
2 *state that begins business operations at or after the time of its*
3 *organization. “New microbusiness” does not include any limited*
4 *liability partnership that began business operations as, or acquired*
5 *its business operations from, a sole proprietorship, a limited*
6 *liability company, a partnership, a corporation, or any other form*
7 *of business entity prior to its organization or that acquired its*
8 *business operations from a limited partnership.*

9 (3) *This subdivision shall not apply to a new microbusiness that*
10 *is owned directly or indirectly by a corporation subject to Part 11*
11 *(commencing with Section 23101).*

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

15 SEC. 4. Section 23153 of the Revenue and Taxation Code is
16 amended to read:

17 23153. (a) Every corporation described in subdivision (b) shall
18 be subject to the minimum franchise tax specified in subdivision
19 (d) from the earlier of the date of incorporation, qualification, or
20 commencing to do business within this state, until the effective
21 date of dissolution or withdrawal as provided in Section 23331 or,
22 if later, the date the corporation ceases to do business within the
23 limits of this state.

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

26 (1) Every corporation that is incorporated under the laws of this
27 state.

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

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

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

34 (1) Credit unions.

35 (2) Nonprofit cooperative associations organized pursuant to
36 Chapter 1 (commencing with Section 54001) of Division 20 of the
37 Food and Agricultural Code that have been issued the certificate
38 of the board of supervisors prepared pursuant to Section 54042 of
39 the Food and Agricultural Code. The association shall be exempt
40 from the minimum franchise tax for five consecutive taxable years,

1 commencing with the first taxable year for which the certificate
2 is issued pursuant to subdivision (b) of Section 54042 of the Food
3 and Agricultural Code. This paragraph only applies to nonprofit
4 cooperative associations organized on or after January 1, 1994.

5 (d) (1) Except as provided in paragraph (2), paragraph (1) of
6 subdivision (f) of Section 23151, paragraph (1) of subdivision (f)
7 of Section 23181, and paragraph (1) of subdivision (c) of Section
8 23183, corporations subject to the minimum franchise tax shall
9 pay annually to the state a minimum franchise tax of eight hundred
10 dollars (\$800).

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

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

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

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

24 (e) Notwithstanding subdivision (a), for taxable years beginning
25 on or after January 1, 1999, and before January 1, 2000, every
26 “qualified new corporation” shall pay annually to the state a
27 minimum franchise tax of five hundred dollars (\$500) for the
28 second taxable year. This subdivision shall apply to any corporation
29 that is a qualified new corporation and is incorporated on or after
30 January 1, 1999, and before January 1, 2000.

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

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

1 (3) “Qualified new corporation” means a corporation that is
2 incorporated under the laws of this state or has qualified to transact
3 intrastate business in this state, that begins business operations at
4 or after the time of its incorporation and that reasonably estimates
5 that it will have gross receipts, less returns and allowances,
6 reportable to this state for the taxable year of one million dollars
7 (\$1,000,000) or less. “Qualified new corporation” does not include
8 any corporation that began business operations as a sole
9 proprietorship, a partnership, or any other form of business entity
10 prior to its incorporation. This subdivision shall not apply to any
11 corporation that reorganizes solely for the purpose of reducing its
12 minimum franchise tax.

13 (4) This subdivision shall not apply to limited partnerships, as
14 defined in Section 17935, limited liability companies, as defined
15 in Section 17941, limited liability partnerships, as described in
16 Section 17948, charitable organizations, corporations, as described
17 in Section 23703, regulated investment companies, as defined in
18 Section 851 of the Internal Revenue Code, real estate investment
19 trusts, as defined in Section 856 of the Internal Revenue Code,
20 real estate mortgage investment conduits, as defined in Section
21 860D of the Internal Revenue Code, qualified Subchapter S
22 subsidiaries, as defined in Section ~~1361(b)(3)~~ 1361(b)(3)(B) of the
23 Internal Revenue Code, or to the formation of any subsidiary
24 corporation, to the extent applicable.

25 (5) For any taxable year beginning on or after January 1, 1999,
26 and before January 1, 2000, if a corporation has qualified to pay
27 five hundred dollars (\$500) for the second taxable year under this
28 subdivision, but in its second taxable year, the corporation’s gross
29 receipts, as determined under paragraphs (1) and (2), exceed one
30 million dollars (\$1,000,000), an additional tax in the amount equal
31 to three hundred dollars (\$300) for the second taxable year shall
32 be due and payable by the corporation on the due date of its return,
33 without regard to extension, for that year.

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

38 (B) *Notwithstanding subdivision (a), for taxable years beginning*
39 *on or after January 1, 2016, every corporation that is a new*
40 *microbusiness in its first five taxable years shall annually pay to*

1 *the state a minimum franchise tax in an amount specified in clause*
2 *(i) for its second, third, fourth, and fifth taxable years.*

3 *(i) (I) Two hundred dollars (\$200) for a new microbusiness*
4 *that reasonably estimates that it will have gross receipts, less*
5 *returns and allowances, reportable to this state for the taxable*
6 *year of one hundred thousand dollars (\$100,000) or less.*

7 *(II) Four hundred dollars (\$400) for a new microbusiness that*
8 *reasonably estimates that it will have gross receipts, less returns*
9 *and allowances, reportable to this state for the taxable year of two*
10 *hundred thousand dollars (\$200,000) or less, but more than one*
11 *hundred thousand dollars (\$100,000).*

12 *(III) Six hundred dollars (\$600) for a new microbusiness that*
13 *reasonably estimates that it will have gross receipts, less returns*
14 *and allowances, reportable to this state for the taxable year of*
15 *three hundred thousand dollars (\$300,000) or less, but more than*
16 *two hundred thousand dollars (\$200,000).*

17 *(ii) For purposes of this subdivision, the following definitions*
18 *shall apply:*

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

24 *(II) “New microbusiness” means a corporation that on or after*
25 *January 1, 2016, is organized under the laws of this state or has*
26 *qualified to transact intrastate business in this state that begins*
27 *business operations at or after the time of its organization. “New*
28 *microbusiness” does not include any corporation that began*
29 *business operations as, or acquired its business operations from,*
30 *a sole proprietorship, a limited liability company, a partnership,*
31 *or any other form of business entity prior to its organization or*
32 *that acquired its business operations from a corporation.*

33 *(iii) This subdivision shall not apply to a corporation that is*
34 *owned directly or indirectly by another corporation.*

35 *(2) ~~This subdivision~~ Subparagraph (1) of paragraph (A) shall*
36 *not apply to limited partnerships, as defined in Section 17935,*
37 *limited liability companies, as defined in Section 17941, limited*
38 *liability partnerships, as described in Section 17948, charitable*
39 *organizations, corporations, as described in Section 23703,*
40 *regulated investment companies, as defined in Section 851 of the*

1 Internal Revenue Code, real estate investment trusts, as defined
2 in Section 856 of the Internal Revenue Code, real estate mortgage
3 investment conduits, as defined in Section 860D of the Internal
4 Revenue Code, and qualified Subchapter S subsidiaries, as defined
5 in Section ~~1361(b)(3)~~ 1361(b)(3)(B) of the Internal Revenue Code,
6 to the extent applicable.

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

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

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

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

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

29 (3) For the purposes of this subdivision, all of the following
30 definitions apply:

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

35 (i) Temporary duty for the sole purpose of training or processing.

36 (ii) A permanent change of station.

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

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

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

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