

Assembly Bill No. 122

CHAPTER 607

An act to amend Sections 53, 17250, and 24349 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 1, 1997. Filed
with Secretary of State October 3, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 122, Brown. Tax relief: vineyards: Pierce's Disease.

The California Constitution specifies that grapevines are exempt from property taxation until 3 years after the season in which they were planted in vineyard form. Existing statutory provisions authorize a county board of supervisors to provide by ordinance that, thereafter, the property tax base year value of substantially equivalent grapevines that are planted to replace certain grapevines that were removed solely as a result of a phylloxera infestation, shall be the property tax base year value of the removed grapevines factored to the lien date of the first taxable year of the replacement grapevines.

This bill would expand this valuation authorization to apply to substantially equivalent grapevines that are planted to replace grapevines removed solely as a result of Pierce's Disease.

The Personal Income Tax Law and Bank and Corporation Tax Law each specify a 5-year period for purposes of accelerated cost recovery or depreciation provisions, and a 10-year period or class life for purposes of alternative depreciation, with respect to grapevines replaced in a vineyard in California in a taxable or income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard.

This bill would expand these provisions to also apply to any grapevine replaced in a vineyard in California in a taxable or income year beginning on or after January 1, 1997, as a direct result of Pierce's Disease in that vineyard.

This bill would incorporate additional changes in Sections 17250 and 24349 of the Revenue and Taxation Code proposed by AB 1155 or SB 455, or both, to be operative if this bill and one or both of the other bills are enacted and become effective on or before January 1, 1998, and this bill is enacted last.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 53 of the Revenue and Taxation Code is amended to read:

53. (a) Except as provided in subdivision (b), the initial base year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.

(b) A county board of supervisors may, after consulting with affected local agencies within the county's boundaries, provide by ordinance that the initial base year value for replacement grapevines that are planted to replace grapevines less than 15 years of age that were removed solely as a result of phylloxera infestation or Pierce's Disease, as certified in writing by the county agricultural commissioner, shall be the base year value of the removed vines factored to the lien date of the first taxable year of the replacement vines. The assignment of base year replacement value is limited to replacement grapevines that are substantially equivalent to the vines that were replaced, and are planted on the same parcel as the replaced vines. For purposes of this subdivision, replacement vines are substantially equivalent to the vines they replace if the replacement vines are of a similar type and are planted at a similar density.

SEC. 2. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:

(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property



as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), any reference to “tax imposed by this chapter” in Section 168 of the Internal Revenue Code means “net tax,” as defined in Section 17039.

(c) For purposes of paragraph (1) of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Section 168(e)(3) shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall be “five-year property,” rather than “10-year property.”

(2) Section 168(g)(3) of the Internal Revenue Code shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a class life of 10 years.

(d) Every taxpayer claiming a depreciation deduction with respect to grapevines as described in subdivision (c) shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce’s Disease. The taxpayer shall retain the certification for future audit purposes.

(e) (1) Section 169 of the Internal Revenue Code, relating to amortization of pollution control facilities, shall apply, except as otherwise provided.

(2) The deduction allowed by this section shall be available only with respect to facilities located in this state.

(3) The “state certifying authority,” as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(g) Section 7622(c)[e] of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.



(h) Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

(i) The amendments to Section 168(c)(1) of the Internal Revenue Code made by Section 13151 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to increase in recovery period for nonresidential real property, shall apply to property placed in service on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

SEC. 2.1. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:

(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), any reference to “tax imposed by this chapter” in Section 168 of the Internal Revenue Code means “net tax,” as defined in Section 17039.

(c) For purposes of paragraph (1) of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Section 168(e)(3) shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall be “five-year property,” rather than “10-year property.”



(2) Section 168(g)(3) of the Internal Revenue Code shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce's Disease in that vineyard, shall have a class life of 10 years.

(d) Every taxpayer claiming a depreciation deduction with respect to grapevines as described in subdivision (c) shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce's Disease. The taxpayer shall retain the certification for future audit purposes.

(e) (1) Section 169 of the Internal Revenue Code, relating to amortization of pollution control facilities, shall apply, except as otherwise provided.

(2) The deduction allowed by this section shall be available only with respect to facilities located in this state.

(3) The "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(g) Section 7622(c)[e] of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(h) Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

(i) The amendments to Section 168(c)(1) of the Internal Revenue Code made by Section 13151 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to increase in recovery period for nonresidential real property, shall apply to property placed in service on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

(j) Section 168(i)(8) of the Internal Revenue Code, relating to leasehold improvements, is modified to provide that an improvement shall be treated for purposes of determining gain or loss under this part as disposed of by the lessor when so disposed of or abandoned if both of the following occur:

(1) The improvement is made by the lessor of leased property for the lessee of that property.



(2) The improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee.

The amendments to this section by the act adding this subdivision shall apply to property disposed of or abandoned on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

SEC. 2.2. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:

(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), any reference to “tax imposed by this chapter” in Section 168 of the Internal Revenue Code means “net tax,” as defined in Section 17039.

(c) For purposes of paragraph (1) of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Section 168(e)(3) shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall be “five-year property,” rather than “10-year property.”

(2) Section 168(g)(3) of the Internal Revenue Code shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on



or after January 1, 1997, as a direct result of Pierce's Disease in that vineyard, shall have a class life of 10 years.

(d) Every taxpayer claiming a depreciation deduction with respect to grapevines as described in subdivision (c) shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce's Disease. The taxpayer shall retain the certification for future audit purposes.

(e) (1) Section 169 of the Internal Revenue Code, relating to amortization of pollution control facilities, shall apply, except as otherwise provided.

(2) The deduction allowed by this section shall be available only with respect to facilities located in this state.

(3) The "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(g) Section 7622(c)[e] of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(h) Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

(i) The amendments to Section 168(c)(1) of the Internal Revenue Code made by Section 13151 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to increase in recovery period for nonresidential real property, shall apply to property placed in service on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

(j) Section 168(j) of the Internal Revenue Code, relating to property on Indian reservations, shall not apply.

SEC. 2.3. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) (1) Section 168 of the Internal Revenue Code, relating to the accelerated cost recovery system, shall apply to assets placed in service on or after January 1, 1987, in taxable years beginning on or after January 1, 1987.

(2) In the case of assets placed in service on or after January 1, 1987, in taxable years beginning prior to January 1, 1987, a taxpayer may elect to have Sections 168 and 179 of the Internal Revenue Code apply by doing all of the following:



(A) Making an election on the return for the first taxable year beginning on or after January 1, 1987.

(B) Establishing a depreciation adjustment account for each asset (or group of assets) in an amount equal to the difference between the depreciation allowed on the federal return for each asset (or group of assets) and the depreciation allowed under this part.

(C) The depreciation adjustment account (or accounts) established under subparagraph (B) shall be amortized over 60 months beginning with the first taxable year beginning on or after January 1, 1987.

(3) In the case of assets placed in service prior to January 1, 1987, in taxable years beginning prior to January 1, 1987, Section 168 of the Internal Revenue Code shall apply only to residential rental property as provided by former Section 17250.5 (as amended by Chapter 1461 of the Statutes of 1985).

(b) For purposes of subdivision (a), any reference to “tax imposed by this chapter” in Section 168 of the Internal Revenue Code means “net tax,” as defined in Section 17039.

(c) For purposes of paragraph (1) of subdivision (a), Section 168 of the Internal Revenue Code shall be modified as follows:

(1) Section 168(e)(3) shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall be “five-year property,” rather than “10-year property.”

(2) Section 168(g)(3) of the Internal Revenue Code shall be modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a class life of 10 years.

(d) Every taxpayer claiming a depreciation deduction with respect to grapevines as described in subdivision (c) shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce’s Disease. The taxpayer shall retain the certification for future audit purposes.

(e) (1) Section 169 of the Internal Revenue Code, relating to amortization of pollution control facilities, shall apply, except as otherwise provided.

(2) The deduction allowed by this section shall be available only with respect to facilities located in this state.



(3) The “state certifying authority,” as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

(f) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

(g) Section 7622(c)[e] of Public Law 101-239, relating to the effective date of changes in treatment of transfers of franchises, trademarks, and trade names, shall apply.

(h) Section 7645(b) of Public Law 101-239, relating to the effective date of disallowance of depreciation for certain term interests, shall apply.

(i) The amendments to Section 168(c)(1) of the Internal Revenue Code made by Section 13151 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to increase in recovery period for nonresidential real property, shall apply to property placed in service on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

(j) Section 168(i)(8) of the Internal Revenue Code, relating to leasehold improvements, is modified to provide that an improvement shall be treated for purposes of determining gain or loss under this part as disposed of by the lessor when so disposed of or abandoned if both of the following occur:

(1) The improvement is made by the lessor of leased property for the lessee of that property.

(2) The improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee.

The amendments to this section by the act adding this subdivision shall apply to property disposed of or abandoned on or after January 1, 1997, in taxable years beginning on or after January 1, 1997.

(k) Section 168(j) of the Internal Revenue Code, relating to property on Indian reservations, shall not apply.

SEC. 3. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

- (1) Of property used in the trade or business; or
- (2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for income years ending after December 31, 1958, the term “reasonable allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations



prescribed by the Franchise Tax Board, under any of the following methods:

- (1) The straight line method.
- (2) The declining balance method, using a rate not exceeding twice the rate that would have been used had the annual allowance been computed under the method described in paragraph (1).
- (3) The sum of the years-digits method.
- (4) Any other consistent method productive of an annual allowance that, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been used had those allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, and any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1997, as a direct result of Pierce's Disease in that vineyard, shall have a useful life of five years, except that it shall have a class life of 10 years for purposes of depreciation under Section 168(g)(2) of the Internal Revenue Code where the taxpayer has made an election under Section 263A(d)(3) of the Internal Revenue Code not to capitalize costs of the infested vineyard. Every taxpayer claiming a deduction under this section with respect to a grapevine as described in this subdivision shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce's Disease. The taxpayer shall retain the certification for future audit purposes.

(d) For purposes of this part, the deduction for property leased to governments and other tax-exempt entities, as defined in Section 168(h) of the Internal Revenue Code, shall be limited to the amount determined under Section 168(g) of the Internal Revenue Code, relating to alternative depreciation system for certain property.

SEC. 3.1. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

- (1) Of property used in the trade or business; or
- (2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for income years ending after December 31, 1958, the term "reasonable



allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

- (1) The straight line method.
- (2) The declining balance method, using a rate not exceeding twice the rate that would have been used had the annual allowance been computed under the method described in paragraph (1).
- (3) The sum of the years-digits method.
- (4) Any other consistent method productive of an annual allowance that, when added to all allowances for the period commencing with the taxpayer’s use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been used had those allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, and any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a useful life of five years, except that it shall have a class life of 10 years for purposes of depreciation under Section 168(g)(2) of the Internal Revenue Code where the taxpayer has made an election under Section 263A(d)(3) of the Internal Revenue Code not to capitalize costs of the infested vineyard. Every taxpayer claiming a deduction under this section with respect to a grapevine as described in this subdivision shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce’s Disease. The taxpayer shall retain the certification for future audit purposes.

(d) For purposes of this part, the deduction for property leased to governments and other tax-exempt entities, as defined in Section 168(h) of the Internal Revenue Code, shall be limited to the amount determined under Section 168(g) of the Internal Revenue Code, relating to alternative depreciation system for certain property.

(e) An improvement shall be treated for purposes of determining gain or loss under this part as disposed of by the lessor if both of the following occur:

- (1) The improvement is made by the lessor of leased property for the lessee of that property.
- (2) The improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee.



This subdivision shall not apply to any property to which Section 168 of the Internal Revenue Code does not apply for federal purposes by reason of Section 168(f) of the Internal Revenue Code. Any election made under Section 168(f)(1) of the Internal Revenue Code for federal purposes shall be treated as a binding election for state purposes and no separate election under subdivision (e) of Section 23051.5 shall be allowed.

The amendments to this section by the act adding this subdivision shall apply to property disposed of or abandoned on or after January 1, 1997, in income years beginning on or after January 1, 1997.

SEC. 3.2. Section 24349 of the Revenue and Taxation Code is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

- (1) Of property used in the trade or business; or
- (2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for income years ending after December 31, 1958, the term “reasonable allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

- (1) The straight line method.
- (2) The declining balance method, using a rate not exceeding twice the rate that would have been used had the annual allowance been computed under the method described in paragraph (1).
- (3) The sum of the years-digits method.
- (4) Any other consistent method productive of an annual allowance that, when added to all allowances for the period commencing with the taxpayer’s use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been used had those allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, and any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a useful life of five years, except that it shall have a class life of 10 years for purposes of depreciation under Section 168(g)(2) of the Internal Revenue Code where the taxpayer has made an election under Section 263A(d)(3) of the Internal Revenue Code not to capitalize costs of the infested vineyard. Every taxpayer



claiming a deduction under this section with respect to a grapevine as described in this subdivision shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce's Disease. The taxpayer shall retain the certification for future audit purposes.

(d) For purposes of this part, the deduction for property leased to governments and other tax-exempt entities, as defined in Section 168(h) of the Internal Revenue Code, shall be limited to the amount determined under Section 168(g) of the Internal Revenue Code, relating to alternative depreciation system for certain property.

(e) (1) In the case of any building erected or improvements made on leased property, if the building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

(2) An improvement shall be treated for purposes of determining gain or loss under this part as disposed of by the lessor if both of the following occur:

(A) The improvement is made by the lessor of leased property for the lessee of that property.

(B) The improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee.

(3) This subdivision shall not apply to any property to which Section 168 of the Internal Revenue Code does not apply for federal purposes by reason of Section 168(f) of the Internal Revenue Code. Any election made under Section 168(f)(1) of the Internal Revenue Code for federal purposes shall be treated as a binding election for state purposes and no separate election under subdivision (e) of Section 23051.5 shall be allowed.

(4) This subdivision shall apply to property disposed of or abandoned on or after January 1, 1997, in income years beginning on or after January 1, 1997.

(f) (1) Section 167(g) of the Internal Revenue Code, relating to depreciation under income forecast method, shall apply, except as otherwise provided.

(2) Section 167(g)(2)(C) of the Internal Revenue Code is modified by substituting "Section 19521" in lieu of "Section 460(b)(7)" of the Internal Revenue Code.

(3) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting "Part 10.2 (commencing with Section 18401) (other than Article 2 (commencing with Section 19021) and Sections 19142 to 19150, inclusive)" in lieu of "Subtitle F (other than Sections 6654 and 6655)."

SEC. 3.3. Section 24349 of the Revenue and Taxation Code is amended to read:



24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

- (1) Of property used in the trade or business; or
- (2) Of property held for the production of income.

(b) Except as otherwise provided in subdivision (c), for income years ending after December 31, 1958, the term “reasonable allowance” as used in subdivision (a) shall include, but shall not be limited to, an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the following methods:

- (1) The straight-line method.
- (2) The declining balance method, using a rate not exceeding twice the rate that would have been used had the annual allowance been computed under the method described in paragraph (1).
- (3) The sum of the years-digits method.
- (4) Any other consistent method productive of an annual allowance that, when added to all allowances for the period commencing with the taxpayer’s use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of those allowances that would have been used had those allowances been computed under the method described in paragraph (2).

Nothing in this subdivision shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) Any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, and any grapevine replaced in a vineyard in California in an income year beginning on or after January 1, 1997, as a direct result of Pierce’s Disease in that vineyard, shall have a useful life of five years, except that it shall have a class life of 10 years for purposes of depreciation under Section 168(g)(2) of the Internal Revenue Code where the taxpayer has made an election under Section 263A(d)(3) of the Internal Revenue Code not to capitalize costs of the infested vineyard. Every taxpayer claiming a deduction under this section with respect to a grapevine as described in this subdivision shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce’s Disease. The taxpayer shall retain the certification for future audit purposes.

(d) For purposes of this part, the deduction for property leased to governments and other tax-exempt entities, as defined in Section 168(h) of the Internal Revenue Code, shall be limited to the amount determined under Section 168(g) of the Internal Revenue Code, relating to alternative depreciation system for certain property.



(e) (1) In the case of any building erected or improvements made on leased property, if the building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

(2) An improvement shall be treated for purposes of determining gain or loss under this part as disposed of by the lessor if both of the following occur:

(A) The improvement is made by the lessor of leased property for the lessee of that property.

(B) The improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease by the lessee.

(3) This subdivision shall not apply to any property to which Section 168 of the Internal Revenue Code does not apply for federal purposes by reason of Section 168(f) of the Internal Revenue Code. Any election made under Section 168(f)(1) of the Internal Revenue Code for federal purposes shall be treated as a binding election for state purposes and no separate election under subdivision (e) of Section 23051.5 shall be allowed.

(4) This subdivision shall apply to property disposed of or abandoned on or after January 1, 1997, in income years beginning on or after January 1, 1997.

(f) (1) Section 167(g) of the Internal Revenue Code, relating to depreciation under income forecast method, shall apply, except as otherwise provided.

(2) Section 167(g)(2)(C) of the Internal Revenue Code is modified by substituting “Section 19521” in lieu of “Section 460(b)(7)” of the Internal Revenue Code.

(3) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting “Part 10.2 (commencing with Section 18401) (other than Article 2 (commencing with Section 19021) and Sections 19142 to 19150, inclusive)” in lieu of “Subtitle F (other than Sections 6654 and 6655).”

SEC. 4. (a) Section 2.1 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by both this bill and AB 1155. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 17250 of the Revenue and Taxation Code, (3) SB 455 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1155, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by both this bill and SB 455. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 17250 of the Revenue and Taxation Code, (3) AB 1155 is not enacted or as enacted does not amend that section, and



(4) this bill is enacted after SB 455, in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 17250 of the Revenue and Taxation Code proposed by this bill, AB 1155, and SB 455. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) all three bills amend Section 17250 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1155 and SB 455, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 5. (a) Section 3.1 of this bill incorporates amendments to Section 24349 of the Revenue and Taxation Code proposed by both this bill and AB 1155. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 24349 of the Revenue and Taxation Code, (3) SB 455 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1155, in which case Sections 3, 3.2, and 3.3 of this bill shall not become operative.

(b) Section 3.2 of this bill incorporates amendments to Section 24349 of the Revenue and Taxation Code proposed by both this bill and SB 455. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 24349 of the Revenue and Taxation Code, (3) AB 1155 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 455 in which case Sections 3, 3.1, and 3.3 of this bill shall not become operative.

(c) Section 3.3 of this bill incorporates amendments to Section 24349 of the Revenue and Taxation Code proposed by this bill, AB 1155, and SB 455. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1998, (2) all three bills amend Section 24349 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1155 and SB 455, in which case Sections 3, 3.1, and 3.2 of this bill shall not become operative.

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

