

AMENDED IN SENATE AUGUST 10, 1998

AMENDED IN ASSEMBLY MAY 26, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2797**

Introduced by ~~Committee on Budget (Ducheny (Chair), Aroner, Brown, Cardenas, Cedillo, Davis, Gallegos, Keeley, Papan, Scott, Strom-Martin, Torlakson, and Wright)~~  
*Assembly Member Cardoza*

(*Coauthors: Assembly Members Aguiar, Alquist, Baca, Battin, Baugh, Bordonaro, Bowler, Brewer, Bustamante, Cunneen, Davis, Goldsmith, Granlund, Havice, Honda, Knox, Kuykendall, Leach, Leonard, Machado, Margett, Mazzoni, Morrissey, Napolitano, Olberg, Oller, Ortiz, Pacheco, Prenter, Pringle, Richter, Runner, Scott, Strom-Martin, Takasugi, Thompson, Vincent, Washington, Wayne, and Wildman*)

(*Coauthors: Senators Brulte, Haynes, Hurtt, Johnson, Knight, Lockyer, McPherson, Monteith, Rainey, Schiff, and Sher*)

March 2, 1998

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An act ~~relating to taxation~~ to amend Section 13340 of the Government Code, to amend Sections 10759, 10901, 10902, 17024.5, 17052.25, 17053.5, 17054, 17062, 17073.5, 17088.5, 17088.6, 17132.6, 17152, 17276, 17279.5, 17507.6, 17559, 17564, 17570, 17760.5, 17856, 18037.3, 18042, 18178, 18505, 18510, 18572, 18641, 18645, 19057, 19132, 19133.5, 19136, 19141.2, 19141.5, 19182, 19184, 19521, 19524, 20514, 20543, 20544, 23456, 23701t, 23704, 23712, 23771, 23800.5, 23801, 24349, 24357.7, 24357.8, 24402, 24416, 24424, 24611, 24652.5, 24661.5, 24673.2, 24710,



24871.5, 24872.4, 24872.5, 24872.7, 24875.5, 24949.1, and 24994 of, to amend and renumber Section 19721.6 of, to add Sections 10754, 11000, 17062.5, 17140.3, 17279.4, 17751, 17752, 17865, 18038.4, 19066.5, 19136.6, 23455.5, 23704.3, 23711, 24309.5, 24355.4, 24357.9, 24369.4, and 24954.1 to, to add and repeal Sections 11000.1, 17053.36, 17053.37, 17273.1, 23636, and 23637 of, to repeal Sections 17085.8, 17210.6, 17507.4, and 18037.6 of, to repeal and amend Section 24954 of, and to repeal and add Section 23806 of, the Revenue and Taxation Code, and to add Sections 9551.2 and 9554.1 to, and to add and repeal Section 9551.1 of, the Vehicle Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2797, as amended, ~~Committee on Budget~~ Cardoza.  
~~Taxation: budget implementation~~ Taxes: fees.

*The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a refundable credit for qualified renters. If the credit allowed to a qualified renter exceeds the renter's tax liability under the Personal Income Tax Law, the excess is credited against other amounts due, if any, from the qualified renter and the balance is refunded to the qualified renter.*

*This bill would provide that the credit is nonrefundable and would limit the credit to persons whose taxable income is less than specified amounts that would be revised annually, based on an inflation adjustment factor.*

*The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.*

*This bill would authorize a credit against those taxes for each taxable and income year beginning on or after January 1, 2001, and before January 1, 2006, in an amount equal to a specified percentage of the qualified wages, as defined, paid or incurred during the taxable or income year or in connection with an initial contract or subcontract to manufacture property for ultimate use in a Joint Strike Fighter, as specified. This bill would also authorize a credit*



*against those taxes for each taxable and income year beginning on or after January 1, 2001, and before January 1, 2006, in an amount equal to 10% of the qualified cost, as provided, of property for use in the manufacture of a product for ultimate use in a Joint Strike Fighter, as specified, that is placed in service in this state.*

*The Personal Income Tax Law authorizes a credit of \$120 against those taxes for each taxable year beginning on or after January 1, 1998, and before January 1, 1999, and a credit of \$222 for each taxable year beginning on or after January 1, 1999, adjusted for inflation thereafter, as specified, for each dependent.*

*This bill would instead authorize a credit of \$253 against those taxes for each taxable year beginning on or after January 1, 1998, and before January 1, 1999, \$227 for taxable years beginning on or after January 1, 1999, and adjusted for inflation, as specified, for each dependent.*

*Under the Personal Income Tax Law and the Bank and Corporation Tax Law, various provisions of the federal Internal Revenue Code as enacted as of a specified date are referenced in various sections of the Revenue and Taxation Code. That law provides that for taxable years beginning on or after January 1, 1997, the specified date of those referenced Internal Revenue Code sections is January 1, 1997, unless otherwise specifically provided.*

*Existing law provides that for any introduced bill which proposes changes in any of those dates, the Franchise Tax Board shall prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis to be made available to the public and to be submitted to the Legislature for publication in the daily journal of each house of the Legislature.*

*This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 1998, for taxable years beginning on or after January 1, 1998, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Bank and Corporation*



*Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 1997, and that have not been or are not being excepted or modified.*

*This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes, for purposes of the Personal Income Tax Law or the Bank and Corporation Tax Law, or both, with respect to, among other things, the following subjects: controlled foreign partnerships; transfers of property to foreign partnerships; extension of statute of limitations for foreign transfers; basic standard deduction and minimum tax exemption amount for certain dependents; increase in estimated tax de minimus threshold; modifications to look-back method; qualified lessee construction allowances; electing large partnerships; maximum number of shareholders of REIT's; tenant services income; attribution rules applicable to stock ownership; earnings and profits of REIT's; treatment of foreclosure property; treatment under hedging instruments; excess noncash income; prohibited transaction safe harbor; shared appreciation mortgages; wholly owned subsidiaries; regulated investment companies; penalties; statute of limitations; awarding of administrative costs; certain revocable trusts treated as part of estate; distributions of an estate; separate share rules for estates; treatment of funeral trusts; survivor benefits for public safety officers killed in the line of duty; the Small Business Job Protection Act of 1996; tax treatment of hospitals; ACE adjustment for AMT; association of holders of timeshare interests; certain receivables purchased by cooperative hospital service organizations; mark to market election; pooled debt obligations subject to acceleration; holding period for dividends received deduction; reporting of certain payments made to attorneys; returns of beneficiaries of estates and trusts; confidential corporate tax shelters; sale or exchange of partnership interest; termination of suspense accounts for certain family corporations; net operating loss carryovers; denial of deduction for certain amounts paid in connection with insurance; limitation on property for which*



*an income forecast method may be used; waiver of estimated tax penalties; education credits; deduction for interest on education loans; penalty-free withdrawals from IRAs for higher education; qualified state tuition programs; education IRAs; deduction for corporate contributions of computer technology and equipment for elementary or secondary school purposes; treatment of cancellation of certain student loans; restoration of IRA deductions for certain taxpayers; establishment of nondeductible, tax-free IRAs; distributions from certain plans for use without penalty to purchase a first home; certain bullion not treated as collectibles; exemption from tax for gain on sale of a principal residence; rollover of gain from sale of qualified stock; repeal of separate depreciation lives for AMT purposes; AMT not to apply to farmers' installment sales; carryover basis for inherited property; treatment of livestock sold on account of weather-related conditions; expensing of environmental remediation costs; workers' compensation; UBTI exclusion for sponsorship payments; large corporate underpayments; and gain on certain sales of agricultural refiners and processors.*

*The Personal Income Tax Law, by reference to specified federal statutes, allows a deduction for 25% of the amount paid or incurred during the taxable year by a self-employed individual for insurance that constitutes medical care for the taxpayer and his or her spouse and dependents. Existing federal law incrementally increases that deduction to specified percentage rates. Under federal law, a 45% deduction is allowed for taxable years beginning in calendar year 1998; when fully increased, a 100% deduction is allowed for taxable years beginning in calendar year 2007 or thereafter.*

*This bill would increase the deduction allowed under the Personal Income Tax Law to 40% of the amount paid or incurred for each taxable year beginning on or after January 1, 1999.*

*This bill would also make specified changes relating to subchapter "S" elections, as provided.*

*The Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law provides for payment of assistance by the Franchise Tax Board to claimants, whether*



*those claimants own or rent their residence, in accordance with schedules that reduce the amount of assistance provided as the amount of a claimant's household income increases along a specified scale of household income amounts. It prohibits the Franchise Tax Board from paying any assistance if the gross household income of a claimant, after certain allowances, exceeds \$24,000.*

*This bill would apply inflation adjustment factors, as provided, to the household income amounts that are set forth in the schedule that determines the amount of assistance in the case in which a claimant owns or rents his or her residence, and would apply similar inflation adjustments to the \$24,000 gross household income figure.*

*The Vehicle License Fee Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. It generally requires that vehicle license fee revenues be deposited in the Motor Vehicle License Fee Account in the Transportation Tax Fund and appropriates those revenues for, among other things, allocation to the Local Revenue Fund, a continuously appropriated fund established by a specified statute, and for allocation on a monthly basis among cities and counties in accordance with certain formulas.*

*This bill would permanently offset the amount of the vehicle license fee for each subject vehicle by 25%, and would, subject to specified contingencies with respect to fiscal year projections of State General Fund revenues, provide for the implementation of similar, superseding offsets of 35%, 46.5%, 55%, and 67.5% to apply to specified future calendar years. This bill would also make a continuous appropriation by requiring the transfer from the General Fund to the Motor Vehicle License Fee Account and the Local Revenue Fund of those sums that would offset the vehicle license fee revenue reductions resulting from this bill. This bill would, as provided, condition the amount of the reductions specified by this bill upon the availability of moneys for transfer from the General Fund to fully fund the offsets. This bill would also make other conforming changes.*



*This bill would make additional technical, nonsubstantive changes to various provisions.*

*This bill would take effect immediately as a tax levy.*

~~Existing law provides for various forms of taxation.~~

~~This bill would state the intent of the Legislature to make the necessary statutory changes to implement the Budget Act of 1998 relative to taxation.~~

Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

~~1 SECTION 1. It is the intent of the Legislature in  
2 enacting this act to make the necessary statutory changes  
3 to implement the Budget Act of 1998 relative to taxation.~~

4 SECTION 1. Section 13340 of the Government Code  
5 is amended to read:

6 13340. (a) Except as provided in subdivision (b), on  
7 and after July 1, 1998, no moneys in that fund that, by any  
8 statute other than a Budget Act, is continuously  
9 appropriated without regard to fiscal years, may be  
10 encumbered unless the Legislature, by statute, specifies  
11 that the moneys in the fund are appropriated for  
12 encumbrance.

13 (b) Subdivision (a) does not apply to any of the  
14 following:

15 (1) The scheduled disbursement of any local sales and  
16 use tax proceeds to an entity of local government  
17 pursuant to Part 1.5 (commencing with Section 7200) of  
18 Division 2 of the Revenue and Taxation Code.

19 (2) The scheduled disbursement of any transactions  
20 and use tax proceeds to an entity of local government  
21 pursuant to Part 1.6 (commencing with Section 7251) of  
22 Division 2 of the Revenue and Taxation Code.

23 (3) The scheduled disbursement of any funds by a  
24 state or local agency or department that issues bonds and  
25 administers related programs for which funds are  
26 continuously appropriated as of June 30, 1998.

27 (4) Moneys that are deposited in proprietary or  
28 fiduciary funds of the California State University and that



1 are continuously appropriated without regard to fiscal  
2 years.

3 (5) *The scheduled disbursement of any motor vehicle*  
4 *license fee revenues, including the General Fund*  
5 *appropriations made pursuant to Sections 11000 and*  
6 *11000.1 of the Revenue and Taxation Code, to an entity*  
7 *of local government pursuant to the Vehicle License Fee*  
8 *Law (Part 5 (commencing with Section 10701) of*  
9 *Division 2 of the Revenue and Taxation Code).*

10 SEC. 2. *Section 10754 is added to the Revenue and*  
11 *Taxation Code, to read:*

12 10754. (a) *Notwithstanding any other provision of*  
13 *law, the total amount of the vehicle license fee otherwise*  
14 *required with respect to a vehicle shall be offset in*  
15 *accordance with those provisions set forth below that are*  
16 *operative pursuant to subdivision (b):*

17 (1) (A) *For any initial or original registration of any*  
18 *vehicle, never before registered in this state, for which*  
19 *the final due date for the license fee is on or after January*  
20 *1 of any calendar year for which this paragraph is*  
21 *operative, and for any renewal of registration with an*  
22 *expiration date on or after January 1 of any calendar year*  
23 *for which this paragraph is operative, the department*  
24 *shall offset the total amount of fees otherwise due at the*  
25 *time of registration of that vehicle by an amount equal to*  
26 *25 percent of the amount computed pursuant to Section*  
27 *10752 or 10752.1, or Section 18115 of the Health and Safety*  
28 *Code.*

29 (B) *Upon proper payment of license fees to the*  
30 *Department of Motor Vehicles, the amount of the offset*  
31 *for each vehicle shall be transferred into the Motor*  
32 *Vehicle License Fee Account in the Transportation Tax*  
33 *Fund, and into the Local Revenue Fund, pursuant to*  
34 *Section 11000 or Section 11000.1, as applicable.*

35 (C) *During any period in which insufficient moneys*  
36 *are available to be transferred from the General Fund to*  
37 *fully fund the offsets required by subparagraph (A),*  
38 *within 90 days of a reduction of funding, the department*  
39 *shall reduce the amount of each offset computed*  
40 *pursuant to that subparagraph by multiplying that*



1 amount by the ratio of the amount of moneys actually  
2 available to be transferred from the General Fund to pay  
3 for those offsets to the amount of moneys that is necessary  
4 to fully fund those offsets.

5 (2) (A) For any initial or original registration of any  
6 vehicle, never before registered in this state, for which  
7 the final due date for the license fee is on or after January  
8 1 of any calendar year for which this paragraph is  
9 operative, and for any renewal of registration with an  
10 expiration date on or after January 1 of any calendar year  
11 for which this paragraph is operative, the department  
12 shall offset the total amount of fees otherwise due at the  
13 time of registration of that vehicle by an amount equal to  
14 35 percent of the amount computed pursuant to Section  
15 10752 or 10752.1, or Section 18115 of the Health and Safety  
16 Code.

17 (B) Upon proper payment of license fees to the  
18 Department of Motor Vehicles, the amount of the offset  
19 for each vehicle shall be transferred into the Motor  
20 Vehicle License Fee Account in the Transportation Tax  
21 Fund, and into the Local Revenue Fund, pursuant to  
22 Section 11000 or Section 11000.1, as applicable.

23 (C) During any period in which insufficient moneys  
24 are available to be transferred from the General Fund to  
25 fully fund the offsets required by subparagraph (A),  
26 within 90 days of a reduction of funding, the department  
27 shall reduce the amount of each offset computed  
28 pursuant to that subparagraph by multiplying that  
29 amount by the ratio of the amount of moneys actually  
30 available to be transferred from the General Fund to pay  
31 for those offsets to the amount of moneys that is necessary  
32 to fully fund those offsets.

33 (3) (A) For any initial or original registration of any  
34 vehicle, never before registered in this state, for which  
35 the final due date for the license fee is on or after January  
36 1 of any calendar year for which this paragraph is  
37 operative, and for any renewal of registration with an  
38 expiration date on or after January 1 of any calendar year  
39 for which this paragraph is operative, the department  
40 shall offset the total amount of fees otherwise due at the



1 time of registration of that vehicle by an amount equal to  
2 46<sup>1</sup>/<sub>2</sub> percent of the amount computed pursuant to  
3 Section 10752 or 10752.1, or Section 18115 of the Health  
4 and Safety Code.

5 (B) Upon proper payment of license fees to the  
6 Department of Motor Vehicles, the amount of the offset  
7 for each vehicle shall be transferred into the Motor  
8 Vehicle License Fee Account in the Transportation Tax  
9 Fund, and into the Local Revenue Fund, pursuant to  
10 Section 11000 or Section 11000.1, as applicable.

11 (C) During any period in which insufficient moneys  
12 are available to be transferred from the General Fund to  
13 fully fund the offsets required by subparagraph (A),  
14 within 90 days of a reduction of funding, the department  
15 shall reduce the amount of each offset computed  
16 pursuant to that subparagraph by multiplying that  
17 amount by the ratio of the amount of moneys actually  
18 available to be transferred from the General Fund to pay  
19 for those offsets to the amount of moneys that is necessary  
20 to fully fund those offsets.

21 (4) (A) For any initial or original registration of any  
22 vehicle, never before registered in this state, for which  
23 the final due date for the license fee is on or after January  
24 1 of any calendar year for which this paragraph is  
25 operative, and for any renewal of registration with an  
26 expiration date on or after January 1 of any calendar year  
27 for which this paragraph is operative, the department  
28 shall offset the total amount of fees otherwise due at the  
29 time of registration of that vehicle by an amount equal to  
30 55 percent of the amount computed pursuant to Section  
31 10752 or 10752.1, or Section 18115 of the Health and Safety  
32 Code.

33 (B) Upon proper payment of license fees to the  
34 Department of Motor Vehicles, the amount of the offset  
35 for each vehicle shall be transferred into the Motor  
36 Vehicle License Fee Account in the Transportation Tax  
37 Fund, and into the Local Revenue Fund, pursuant to  
38 Section 11000 or Section 11000.1, as applicable.

39 (C) During any period in which insufficient moneys  
40 are available to be transferred from the General Fund to



1 fully fund the offsets required by subparagraph (A),  
2 within 90 days of a reduction of funding, the department  
3 shall reduce the amount of each offset computed  
4 pursuant to that subparagraph by multiplying that  
5 amount by the ratio of the amount of moneys actually  
6 available to be transferred from the General Fund to pay  
7 for those offsets to the amount of moneys that is necessary  
8 to fully fund those offsets.

9 (5) (A) For any initial or original registration of any  
10 vehicle, never before registered in this state, for which  
11 the final due date for the license fee is on or after January  
12 1 of any calendar year for which this paragraph is  
13 operative, and for any renewal of registration with an  
14 expiration date on or after January 1 of any calendar year  
15 for which this paragraph is operative, the department  
16 shall offset the total amount of fees otherwise due at the  
17 time of registration of that vehicle by an amount equal to  
18 67<sup>1</sup>/<sub>2</sub> percent of the amount computed pursuant to  
19 Section 10752 or 10752.1, or Section 18115 of the Health  
20 and Safety Code.

21 (B) Upon proper payment of license fees to the  
22 Department of Motor Vehicles, the amount of the offset  
23 for each vehicle shall be transferred into the Motor  
24 Vehicle License Fee Account in the Transportation Tax  
25 Fund, and into the Local Revenue Fund, pursuant to  
26 Section 11000 or Section 11000.1, as applicable.

27 (C) During any period in which insufficient moneys  
28 are available to be transferred from the General Fund to  
29 fully fund the offsets required by subparagraph (A),  
30 within 90 days of a reduction in funding, the department  
31 shall reduce the amount of each offset computed  
32 pursuant to that subparagraph by multiplying that  
33 amount by the ratio of the amount of moneys actually  
34 available to be transferred from the General Fund to pay  
35 for those offsets to the amount of moneys that is necessary  
36 to fully fund those offsets.

37 (b) The offset provisions set forth in subdivision (a)  
38 shall be operative as provided by the following:

39 (1) Paragraph (1) of subdivision (a) shall be operative  
40 for vehicle license fees with a final due date in each



1 calendar year beginning on or after January 1, 1999, unless  
2 paragraph (2), (3), (4), or (5) of subdivision (a) becomes  
3 operative. In that event, paragraph (1) of subdivision (a)  
4 will be inoperative only for that period during which one  
5 of those paragraphs is operative.

6 (2) Paragraph (2) of subdivision (a) shall be operative  
7 for vehicle license fees with a final due date in the  
8 calendar year beginning on January 1, 2001, if the forecast  
9 of General Fund revenue, excluding transfers, for the  
10 2000–01 fiscal year, is at least sixty-five billion five  
11 hundred twenty-six million dollars (\$65,526,000,000). On  
12 September 1, 2000, the Director of Finance shall certify  
13 to the Governor, the Legislature, and the department  
14 whether this condition has been met.

15 Five days before certification, the Director of Finance  
16 shall submit to the Chair of the Joint Legislative Budget  
17 Committee a forecast of General Fund revenues with  
18 sufficient detail to document the basis of the certification.

19 (3) Paragraph (2) of subdivision (a) shall be operative  
20 for vehicle license fees with a final due date in each  
21 calendar year beginning on or after January 1, 2002, if  
22 both of the following occur:

23 (A) The forecast of General Fund revenue, excluding  
24 transfers, for the 2001–02 fiscal year, is at least sixty-eight  
25 billion six hundred forty million dollars (\$68,640,000,000).  
26 On September 1, 2001, the Director of Finance shall  
27 certify to the Governor, the Legislature, and the  
28 department whether this condition has been met.

29 (B) Paragraph (2) of subdivision (a) became  
30 operative pursuant to paragraph (2) of this subdivision.

31 If paragraph (3), (4), or (5) of subdivision (a) becomes  
32 operative for any calendar year beginning on or after  
33 January 1, 2002, paragraph (2) of subdivision (a) shall be  
34 inoperative during the period in which any of those  
35 paragraphs is so operative.

36 Five days before certification, the Director of Finance  
37 shall submit to the Chair of the Joint Legislative Budget  
38 Committee a forecast of General Fund revenues with  
39 sufficient detail to document the basis of the certification.



1 (4) If paragraph (2) of subdivision (a) does not  
2 become operative pursuant to paragraph (2) of this  
3 subdivision, paragraph (2) of subdivision (a) shall be  
4 operative for vehicle license fees with a final due date in  
5 the calendar year beginning on January 1, 2002, if the  
6 forecast of General Fund revenue, excluding transfers,  
7 for the 2001–02 fiscal year, is at least sixty-eight billion six  
8 hundred forty million dollars (\$68,640,000,000), but is less  
9 than sixty-nine billion one hundred forty million dollars  
10 (\$69,140,000,000). If paragraph (2) of subdivision (a) does  
11 not become operative pursuant to paragraph (2) of this  
12 subdivision, the Director of Finance shall, on September  
13 1, 2001, certify to the Governor, the Legislature, and the  
14 department whether the condition set forth in the  
15 preceding sentence has been met.

16 Five days before certification, the Director of Finance  
17 shall submit to the Chair of the Joint Legislative Budget  
18 Committee a forecast of General Fund revenues with  
19 sufficient detail to document the basis of the certification.

20 (5) Paragraph (3) of subdivision (a) shall be operative  
21 for vehicle license fees with a final due date in the  
22 calendar year beginning on January 1, 2002, if the forecast  
23 of General Fund revenue, excluding transfers, for the  
24 2001–02 fiscal year, is at least sixty-nine billion one  
25 hundred forty million dollars (\$69,140,000,000). On  
26 September 1, 2001, the Director of Finance shall certify  
27 to the Governor, the Legislature, and the department  
28 whether this condition has been met.

29 Five days before certification, the Director of Finance  
30 shall submit to the Chair of the Joint Legislative Budget  
31 Committee a forecast of General Fund revenues with  
32 sufficient detail to document the basis of the certification.

33 (6) Paragraph (2) of subdivision (a) shall be operative  
34 for vehicle license fees with a final due date in each  
35 calendar year beginning on or after January 1, 2003, if  
36 both of the following occur:

37 (A) The forecast of General Fund revenue, excluding  
38 transfers, for the 2002–03 fiscal year, is at least seventy-two  
39 billion one hundred sixty million dollars  
40 (\$72,160,000,000). On September 1, 2002, the Director of



1 Finance shall certify to the Governor, the Legislature,  
2 and the department whether this condition has been met.

3 (B) Paragraph (2) of subdivision (a) became  
4 operative pursuant to paragraph (4) of this subdivision,  
5 or paragraph (3) of subdivision (a) became operative  
6 pursuant to paragraph (5) of this subdivision.

7 If paragraph (3), (4), or (5) of subdivision (a) becomes  
8 operative for any calendar year beginning on or after  
9 January 1, 2003, paragraph (2) of subdivision (a) shall be  
10 inoperative during the period in which any of those  
11 paragraphs is so operative.

12 Five days before certification, the Director of Finance  
13 shall submit to the Chair of the Joint Legislative Budget  
14 Committee a forecast of General Fund revenues with  
15 sufficient detail to document the basis of the certification.

16 (7) If paragraph (2) of subdivision (a) does not  
17 become operative pursuant to paragraph (6) of this  
18 subdivision, paragraph (2) of subdivision (a) shall be  
19 operative for vehicle license fees with final due date in  
20 the calendar year beginning on January 1, 2003, if the  
21 forecast of General Fund revenue, excluding transfers,  
22 for the 2002–03 fiscal year, is at least seventy-two billion  
23 one hundred sixty million dollars (\$72,160,000,000), but is  
24 less than seventy-two billion six hundred sixty million  
25 dollars (\$72,660,000,000). If paragraph (2) of subdivision  
26 (a) does not become operative pursuant to paragraph (6)  
27 of this subdivision, the Director of Finance shall, on  
28 September 1, 2002, certify to the Governor, the  
29 Legislature, and the department whether the condition  
30 set forth in the preceding sentence has been met.

31 Five days before certification, the Director of Finance  
32 shall submit to the Chair of the Joint Legislative Budget  
33 Committee a forecast of General Fund revenues with  
34 sufficient detail to document the basis of the certification.

35 (8) Paragraph (3) of subdivision (a) shall be operative  
36 for vehicle license fees with a final due date in each  
37 calendar year beginning on or after January 1, 2003, if  
38 both of the following occur:

39 (A) The forecast of General Fund revenue, excluding  
40 transfers, for the 2002–03 fiscal year, is at least seventy-two



1 billion one hundred sixty million dollars  
2 (\$72,160,000,000). On September 1, 2002, the Director of  
3 Finance shall certify to the Governor, the Legislature,  
4 and the department whether this condition has been met.

5 (B) Paragraph (3) of subdivision (a) became  
6 operative pursuant to paragraph (5) of this subdivision.

7 If paragraph (4) or (5) of subdivision (a) becomes  
8 operative for any calendar year beginning on or after  
9 January 1, 2003, paragraph (3) of subdivision (a) shall be  
10 inoperative during the period in which either of those  
11 paragraphs is so operative.

12 Five days before certification, the Director of Finance  
13 shall submit to the Chair of the Joint Legislative Budget  
14 Committee a forecast of General Fund revenues with  
15 sufficient detail to document the basis of the certification.

16 (9) If paragraph (3) of subdivision (a) does not  
17 become operative pursuant to paragraph (8) of this  
18 subdivision, paragraph (3) of subdivision (a) shall be  
19 operative for vehicle license fees with final due date in  
20 the calendar year beginning on January 1, 2003, if the  
21 forecast of General Fund revenue, excluding transfers,  
22 for the 2002–03 fiscal year, is at least seventy-two billion  
23 six hundred sixty million dollars (\$72,660,000,000), but is  
24 less than seventy-three billion one hundred sixty million  
25 dollars (\$73,160,000,000). If paragraph (3) of subdivision  
26 (a) does not become operative pursuant to paragraph (8)  
27 of this subdivision, the Director of Finance shall, on  
28 September 1, 2002, certify to the Governor, the  
29 Legislature, and the department whether the condition  
30 set forth in the preceding sentence has been met.

31 Five days before certification, the Director of Finance  
32 shall submit to the Chair of the Joint Legislative Budget  
33 Committee a forecast of General Fund revenues with  
34 sufficient detail to document the basis of the certification.

35 (10) Paragraph (4) of subdivision (a) shall be  
36 operative for vehicle license fees with a final due date in  
37 the calendar year beginning on January 1, 2003, if the  
38 forecast of General Fund revenue, excluding transfers,  
39 for the 2002–03 fiscal year, is at least seventy-three billion  
40 one hundred sixty million dollars (\$73,160,000,000) but is



1 less than seventy-four billion three hundred sixty million  
2 dollars (\$74,360,000,000). On September 1, 2002, the  
3 Director of Finance shall certify to the Governor, the  
4 Legislature, and the department whether this condition  
5 has been met.

6 Five days before certification, the Director of Finance  
7 shall submit to the Chair of the Joint Legislative Budget  
8 Committee a forecast of General Fund revenues with  
9 sufficient detail to document the basis of the certification.

10 (11) Paragraph (5) of subdivision (a) shall be  
11 operative for vehicle license fees with a final due date in  
12 the calendar year beginning on January 1, 2003, if the  
13 forecast of General Fund revenue, excluding transfers,  
14 for the 2002–03 fiscal year, is at least seventy-four billion  
15 three hundred sixty million dollars (\$74,360,000,000). On  
16 September 1, 2002, the Director of Finance shall certify  
17 to the Governor, the Legislature, and the department  
18 whether this condition has been met.

19 Five days before certification, the Director of Finance  
20 shall submit to the Chair of the Joint Legislative Budget  
21 Committee a forecast of General Fund revenues with  
22 sufficient detail to document the basis of the certification.

23 (12) Paragraph (2) of subdivision (a) shall be  
24 operative for vehicle license fees with a final due date in  
25 each calendar year beginning on or after January 1, 2004,  
26 if both of the following occur:

27 (A) The forecast of General Fund revenue, excluding  
28 transfers, for the 2003–04 fiscal year, is at least seventy-six  
29 billion one hundred eight million dollars  
30 (\$76,108,000,000). On September 1, 2003, the Director of  
31 Finance shall certify to the Governor, the Legislature,  
32 and the department whether this condition has been met.

33 (B) Paragraph (2) of subdivision (a) became  
34 operative pursuant to paragraph (7) of this subdivision,  
35 paragraph (3) of subdivision (a) became operative  
36 pursuant to paragraph (9) of this subdivision, paragraph  
37 (4) of subdivision (a) became operative pursuant to  
38 paragraph (10) of this subdivision, or paragraph (5) of  
39 subdivision (a) became operative pursuant to paragraph  
40 (11) of this subdivision.



1 If paragraph (3), (4), or (5) of subdivision (a) becomes  
2 operative for any calendar year beginning on or after  
3 January 1, 2004, paragraph (2) of subdivision (a) shall  
4 become inoperative.

5 Five days before certification, the Director of Finance  
6 shall submit to the Chair of the Joint Legislative Budget  
7 Committee a forecast of General Fund revenues with  
8 sufficient detail to document the basis of the certification.

9 (13) Paragraph (3) of subdivision (a) shall be  
10 operative for vehicle license fees with a final due date in  
11 each calendar year beginning on or after January 1, 2004,  
12 if both of the following occur:

13 (A) The forecast of General Fund revenue, excluding  
14 transfers, for the 2003–04 fiscal year, is at least seventy-six  
15 billion one hundred eight million dollars  
16 (\$76,108,000,000). On September 1, 2003, the Director of  
17 Finance shall certify to the Governor, the Legislature,  
18 and the department whether this condition has been met.

19 (B) Paragraph (3) of subdivision (a) became  
20 operative pursuant to paragraph (9) of this subdivision,  
21 paragraph (4) of subdivision (a) became operative  
22 pursuant to paragraph (10) of this subdivision, or  
23 paragraph (5) of subdivision (a) became operative  
24 pursuant to paragraph (11) of this subdivision.

25 If paragraph (4) or (5) of subdivision (a) becomes  
26 operative for the calendar year beginning on or after  
27 January 1, 2004, paragraph (3) of subdivision (a) shall  
28 become inoperative.

29 Five days before certification, the Director of Finance  
30 shall submit to the Chair of the Joint Legislative Budget  
31 Committee a forecast of General Fund revenues with  
32 sufficient detail to document the basis of the certification.

33 (14) Paragraph (4) of subdivision (a) shall be  
34 operative for vehicle license fees with a final due date in  
35 each calendar year beginning on or after January 1, 2004,  
36 if both of the following occur:

37 (A) The forecast of General Fund revenue, excluding  
38 transfers, for the 2003–04 fiscal year, is at least  
39 seventy-seven billion one hundred eight million dollars  
40 (\$77,108,000,000). On September 1, 2003, the Director of



1 Finance shall certify to the Governor, the Legislature,  
2 and the department whether this condition has been met.

3 (B) Paragraph (4) of subdivision (a) became  
4 operative pursuant to paragraph (10) of this subdivision,  
5 or paragraph (5) of subdivision (a) became operative  
6 pursuant to paragraph (11) of this subdivision.

7 If paragraph (5) of subdivision (a) becomes operative  
8 for the calendar year beginning on or after January 1,  
9 2004, paragraph (4) of subdivision (a) shall become  
10 inoperative.

11 Five days before certification, the Director of Finance  
12 shall submit to the Chair of the Joint Legislative Budget  
13 Committee a forecast of General Fund revenues with  
14 sufficient detail to document the basis of the certification.

15 (15) Paragraph (5) of subdivision (a) shall be  
16 operative for vehicle license fees with a final due date in  
17 each calendar year beginning on or after January 1, 2004,  
18 if both of the following occur:

19 (A) The forecast of General Fund revenue, excluding  
20 transfers, for the 2003–04 fiscal year, is at least  
21 seventy-eight billion three hundred eight million dollars  
22 (\$78,308,000,000). On September 1, 2003, the Director of  
23 Finance shall certify to the Governor, the Legislature,  
24 and the department whether this condition has been met.

25 (B) Paragraph (5) of subdivision (a) became  
26 operative pursuant to paragraph (11) of this subdivision.

27 Five days before certification, the Director of Finance  
28 shall submit to the Chair of the Joint Legislative Budget  
29 Committee a forecast of General Fund revenues with  
30 sufficient detail to document the basis of the certification.

31 (c) (1) For purposes of this section, “department”  
32 means the Department of Motor Vehicles and the  
33 Department of Housing and Community Development.

34 (2) For purposes of this section, the “final due date”  
35 for a license fee is the last date upon which that fee may  
36 be paid without being delinquent.

37 (3) For purposes of certifications specified in  
38 paragraphs (2) to (15), inclusive, of subdivision (b), the  
39 General Fund revenue forecast, excluding transfers, that  
40 is used for the enactment of the relevant budget act shall



1 *be calculated in a manner that is consistent with the*  
2 *definition of General Fund revenues, excluding transfers,*  
3 *that was used by the Department of Finance in the 1998*  
4 *May Revision revenue forecast as reflected on Schedule*  
5 *8 of that revision.*

6 (4) *For purposes of making the certifications specified*  
7 *in paragraphs (2) to (15), inclusive, of subdivision (b),*  
8 *the Department of Finance shall, for each of the 2000–01*  
9 *to 2003–04 fiscal years, inclusive, estimate the combined*  
10 *fiscal impact of all state tax law changes, including any*  
11 *changes with respect to interest or penalties, that were*  
12 *enacted by the Legislature and signed by the Governor*  
13 *on or after January 1, 1999. If for any fiscal year, the*  
14 *Department of Finance estimates a cumulative reduction*  
15 *in General Fund revenues in excess of one hundred*  
16 *million dollars (\$100,000,000), the Department of*  
17 *Finance shall subtract the amount of that estimated*  
18 *reduction from each of the General Fund revenue target*  
19 *amounts, specified in paragraphs (2) to (15), inclusive, of*  
20 *subdivision (b), and shall apply each resulting difference*  
21 *in lieu of each corresponding target amount. For each*  
22 *fiscal year for which the preceding sentence applies, the*  
23 *Department of Finance shall also do all of the following:*

24 (A) *Subtract the amount of the estimated General*  
25 *Fund revenue loss from the estimated amount of the*  
26 *fiscal impact of each offset specified in paragraphs (2) to*  
27 *(5), inclusive, of subdivision (a).*

28 (B) *Divide each annual amount calculated pursuant to*  
29 *subparagraph (A) by the corresponding estimate by the*  
30 *Department of Finance of annual vehicle license fee*  
31 *revenues.*

32 (C) *Calculate percentages by multiplying each*  
33 *quotient determined pursuant to subparagraph (B) by*  
34 *100 and rounding each result to the nearest 10th.*

35 (D) *Provide the percentages calculated in*  
36 *subparagraph (C) to the department, which shall apply*  
37 *those percentages in lieu of those corresponding offsets*  
38 *set forth in paragraphs (2) to (5), inclusive, of subdivision*  
39 *(a).*



1 (5) For purposes of making the certifications specified  
2 in paragraphs (2) to (15), inclusive, of subdivision (b),  
3 the Department of Finance shall do all of the following:

4 (A) Estimate for each of the 2000–01 to 2003–04 fiscal  
5 years, inclusive, the total fiscal impact of all settlements  
6 that result in an annual revenue increase of more than  
7 one hundred million dollars (\$100,000,000) per year for  
8 five fiscal years or less.

9 (B) Subtract each total fiscal impact estimated  
10 pursuant to subparagraph (A) from the amounts of the  
11 revenue forecasts referred to in paragraphs (2) to (15),  
12 inclusive, of subdivision (b).

13 (C) Use each difference calculated pursuant to  
14 subparagraph (B) in lieu of each corresponding revenue  
15 forecast.

16 SEC. 3. Section 10759 of the Revenue and Taxation  
17 Code is amended to read:

18 10759. In computing any fee, offset, or penalty  
19 imposed by this chapter, whether on a proration or  
20 otherwise, a fraction of a dollar is disregarded, unless it  
21 equals or exceeds fifty cents (\$0.50), in which case it is  
22 treated as one full dollar (\$1). Computation of any  
23 penalty shall be made from the fee after the same has  
24 been computed as provided in this section.

25 Any fee, offset, or penalty in an amount of forty-nine  
26 cents (\$0.49) or less shall be deemed to be one dollar (\$1).

27 SEC. 4. Section 10901 of the Revenue and Taxation  
28 Code is amended to read:

29 10901. Whenever the department or the Department  
30 of Housing and Community Development erroneously  
31 collects any license fee or portion of a fee not required to  
32 be paid under this part, or erroneously applies any offset  
33 provided under this part, the erroneously collected  
34 amount shall be refunded to the person paying it upon  
35 application therefor made within three years after the  
36 date of the payment. If the department or the  
37 Department of Housing and Community Development  
38 discovers an error, it may make a refund in the absence  
39 of an application therefor.



1 SEC. 5. Section 10902 of the Revenue and Taxation  
2 Code is amended to read:

3 10902. (a) In the event of a constructive total loss, in  
4 which the repair value exceeds the market value of the  
5 vehicle less the anticipated salvage value, or a  
6 nonrepairable vehicle, or an unrecovered total loss, due  
7 to a theft, of a vehicle, the in-lieu fee portion of the vehicle  
8 license fee that has been paid, *less any offset provided in*  
9 *Section 10754*, shall be refunded to the current registered  
10 owner (the owner of the salvage value of the vehicle), or  
11 credited against the vehicle license fee owed on the  
12 owner's replacement vehicle. The amount refunded or  
13 credited shall be based upon one-twelfth of the annual  
14 in-lieu fee, *less any offset provided by Section 10754*, for  
15 each full month that remains until the registration  
16 expires.

17 (b) No refund or credit shall be made pursuant to this  
18 section unless the vehicle owner has signed a declaration  
19 under penalty of perjury that he or she has not been cited  
20 or convicted of violating Section 23152 or 23153 of the  
21 Vehicle Code (relating to driving under the influence of  
22 alcohol or drugs) or Section 23103 as specified in Section  
23 23103.5 of that code (which involves a substitute for an  
24 original citation of driving under the influence) in  
25 connection with the owner's vehicle loss. If the owner has  
26 been cited under any of these code sections, the owner  
27 shall be entitled to the refund or credit upon presentation  
28 of either proof of dismissal of the citation or a finding of  
29 not guilty.

30 (c) The Department of Motor Vehicles may charge to  
31 vehicle owners requesting a refund or credit pursuant to  
32 this section a fee in an amount sufficient to cover the  
33 administrative costs of processing the request.

34 (d) In the case of a request for refund or credit with  
35 respect to a stolen vehicle, the vehicle owner shall not be  
36 entitled to a refund or credit prior to 60 days from the date  
37 the theft of the vehicle is reported to the police. If a  
38 refund is received or a credit is applied to another vehicle  
39 and the stolen vehicle is subsequently recovered, the  
40 owner shall return the amount refunded or credited. If



1 the owner receives a refund or credit, and the destroyed  
2 or stolen vehicle is scrapped and subsequently repaired  
3 by another person, the new owner shall pay the full  
4 vehicle license fee.

5 (e) The Department of Motor Vehicles shall adopt  
6 regulations for the administration of the refunds and  
7 credits provided by this section.

8 *SEC. 6. Section 11000 is added to the Revenue and*  
9 *Taxation Code, immediately following the heading of*  
10 *Chapter 5 (commencing with Section 11001) of Part 5 of*  
11 *Division 2, to read:*

12 *11000. (a) Beginning on the operative date of*  
13 *Section 9551.2 of the Vehicle Code, the Controller shall do*  
14 *both of the following:*

15 *(1) Transfer from the General Fund to the Motor*  
16 *Vehicle License Fee Account in the Transportation Tax*  
17 *Fund an amount equal to 75.67 percent of the amount of*  
18 *offsets that are applied by the department pursuant to*  
19 *Sections 9551.2 and 9554.1 of the Vehicle Code.*

20 *(2) Transfer from the General Fund to the Local*  
21 *Revenue Fund, established pursuant to Section 17600 of*  
22 *the Welfare and Institutions Code, in the Transportation*  
23 *Tax Fund an amount equal to 24.33 percent of the amount*  
24 *of offsets that are applied by the department pursuant to*  
25 *Sections 9551.2 and 9554.1 of the Vehicle Code.*

26 *(b) The department shall notify the Controller of the*  
27 *total amount of the offsets applied by the department*  
28 *pursuant to Section 9551.2 of the Vehicle Code*  
29 *concurrently with the department's transfer for deposit*  
30 *of vehicle license fee revenues as required by law.*

31 *(c) For purposes of Section 15 of Article XI of the*  
32 *California Constitution, the General Fund revenues that*  
33 *are transferred as required by paragraph (1) of*  
34 *subdivision (a) shall constitute successor tax revenues to*  
35 *the vehicle license fees offset in this part and shall be*  
36 *allocated in the same manner as revenue derived from*  
37 *taxes imposed pursuant to this part.*

38 *(d) For purposes of Article 1 (commencing with*  
39 *Section 25350) of Chapter 5 of Part 2 of Division 2 of Title*  
40 *3 of the Government Code, Section 11003, and Chapter*



1 6 (commencing with Section 17600) of Part 5 of Division  
2 9 of the Welfare and Institutions Code, the General Fund  
3 transfer amounts specified in paragraphs (1) and (2) of  
4 subdivision (a) are hereby deemed to be vehicle license  
5 fee proceeds and vehicle license fee revenues. These  
6 General Fund transfer amounts are subject to the same  
7 pledges, liens and encumbrances, and priorities set forth  
8 in Section 25350 and following of, Section 53584 and  
9 following of, and Section 5450 and following of, the  
10 Government Code.

11 (e) Nothing in this section amends or intends to  
12 amend or impair Section 25350 and following of, Section  
13 53584 and following of, the Government Code, or any  
14 other statute dealing with the interception of funds.

15 SEC. 7. Section 11000.1 is added to the Revenue and  
16 Taxation Code, to read:

17 11000.1. (a) The Controller shall do both of the  
18 following:

19 (1) Transfer from the General Fund to the Motor  
20 Vehicle License Fee Account in the Transportation Tax  
21 Fund, in accordance with the information received from  
22 the department pursuant to subdivision (b), an amount  
23 that is equal to 75.67 percent of the offsets that are  
24 determined by the department to be subject to Sections  
25 9551.1 and 9554.1 of the Vehicle Code.

26 (2) Transfer from the General Fund to the Local  
27 Revenue Fund, in accordance with the information  
28 received from the department pursuant to subdivision  
29 (b), an amount that is equal to 24.33 percent of the offsets  
30 that are determined by the department to be subject to  
31 Sections 9551.1 and 9554.1 of the Vehicle Code.

32 (b) For purposes of transfers by the Controller  
33 pursuant to paragraphs (1) and (2) of subdivision (a), the  
34 department shall provide the Controller with daily  
35 estimates of the amounts required to be transferred  
36 pursuant to each of those paragraphs, and shall, no less  
37 frequently than monthly, notify the Controller of  
38 amounts of adjustments to those estimates that reflect  
39 completed registrations. On or before June 30, 1999, the  
40 department shall notify the Controller of the amounts of



1 any additional adjustments to General Fund transfers  
2 required by each of those paragraphs that are required to  
3 accurately reflect the total amount of offsets that are  
4 subject to Section 9551.1 of the Vehicle Code.

5 (c) For purposes of Section 15 of Article XI of the  
6 California Constitution, the General Fund revenues that  
7 are transferred as required by paragraph (1) of  
8 subdivision (a) shall be allocated in the same manner as  
9 revenue derived from taxes imposed pursuant to this  
10 part.

11 (d) For purposes of Article 1 (commencing with  
12 Section 25350) of Chapter 5 of Part 2 of Division 2 of Title  
13 3 of the Government Code, Section 11003, and Chapter  
14 6 (commencing with Section 17600) of Part 5 of Division  
15 9 of the Welfare and Institutions Code, the General Fund  
16 transfer amounts specified in paragraphs (1) and (2) of  
17 subdivision (a) are hereby deemed to be vehicle license  
18 fee proceeds and vehicle license fee revenues. These  
19 General Fund transfer amounts are subject to the same  
20 pledges, liens and encumbrances, and priorities set forth  
21 in Section 25350 and following of, Section 53584 and  
22 following of, and Section 5450 and following of, the  
23 Government Code.

24 (e) (1) This section does not apply to transfers from  
25 the General Fund with respect to any offsets that are  
26 subject to Section 9551.2 of the Vehicle Code.

27 (2) Nothing in the act adding this section amends or  
28 intends to amend or impair Section 25350 and following  
29 of, or Section 53584 and following of, the Government  
30 Code, or any other statute dealing with the interception  
31 of funds.

32 (f) This section is repealed on January 1, 2000.

33 SEC. 8. Section 17024.5 of the Revenue and Taxation  
34 Code is amended to read:

35 17024.5. (a) (1) Unless otherwise specifically  
36 provided, the terms "Internal Revenue Code," "Internal  
37 Revenue Code of 1954," or "Internal Revenue Code of  
38 1986," for purposes of this part, mean Title 26 of the  
39 United States Code, including all amendments thereto as



1 enacted on the specified date for the applicable taxable  
2 year as follows:

3	4	5	6	Specified Date of
7	8	9	Taxable Year	Internal Revenue
10	11	12	13	Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983 .....	January 15, 1983			
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984 .....	January 1, 1984			
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985 .....	January 1, 1985			
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986 .....	January 1, 1986			
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988 .....	January 1, 1987			
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989 .....	January 1, 1989			
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990 .....	January 1, 1990			
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991 .....	January 1, 1991			
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992 .....	January 1, 1992			
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996 .....	January 1, 1993			



- 1 (K) For taxable years beginning on or after
- 2 January 1, 1997, and on or before December
- 3 31, 1997 ..... January 1, 1997
- 4 (L) For taxable years beginning on or after
- 5 January 1, 1998 ..... January 1, 1998

6

7 (2) Unless otherwise specifically provided, for federal

8 laws enacted on or after January 1, 1987, and on or before

9 the specified date for the taxable year, uncodified

10 provisions that relate to provisions of the Internal

11 Revenue Code that are incorporated for purposes of this

12 part shall be applicable to the same taxable years as the

13 incorporated provisions.

14 (3) Subtitle G (Tax Technical Corrections) and Part I

15 of Subtitle H (Repeal of Expired or Obsolete Provisions)

16 of the Revenue Reconciliation Act of 1990 (Public Law

17 101-508) modified numerous provisions of the Internal

18 Revenue Code and provisions of prior federal acts, some

19 of which are incorporated by reference into this part.

20 Unless otherwise provided, the provisions described in

21 the preceding sentence, to the extent that they modify

22 provisions that are incorporated into this part, are

23 declaratory of existing law and shall be applied in the

24 same manner and for the same periods as specified in the

25 Revenue Reconciliation Act of 1990.

26 (b) Unless otherwise specifically provided, when

27 applying any provision of the Internal Revenue Code for

28 purposes of this part, a reference to any of the following

29 shall not be applicable for purposes of this part:

30 (1) Except as provided in Chapter 4.5 (commencing

31 with Section 23800) of Part 11 of Division 2, an electing

32 small business corporation, as defined in Section 1361(b)

33 of the Internal Revenue Code.

34 (2) Domestic international sales corporations (DISC),

35 as defined in Section 992(a) of the Internal Revenue

36 Code.

37 (3) A personal holding company, as defined in Section

38 542 of the Internal Revenue Code.

39 (4) A foreign personal holding company, as defined in

40 Section 552 of the Internal Revenue Code.



1 (5) A foreign investment company, as defined in  
2 Section 1246(b) of the Internal Revenue Code.

3 (6) A foreign trust, as defined in Section 679 of the  
4 Internal Revenue Code.

5 (7) Foreign income taxes and foreign income tax  
6 credits.

7 (8) Section 911 of the Internal Revenue Code, relating  
8 to United States citizens living abroad.

9 (9) A foreign corporation, except that Section 367 of  
10 the Internal Revenue Code shall be applicable.

11 (10) Federal tax credits and carryovers of federal tax  
12 credits.

13 (11) Nonresident aliens.

14 (12) Deduction for personal exemptions, as provided  
15 in Section 151 of the Internal Revenue Code.

16 (13) The tax on generation-skipping transfers imposed  
17 by Section 2601 of the Internal Revenue Code.

18 (14) The tax, relating to estates, imposed by Section  
19 2001 or 2101 of the Internal Revenue Code.

20 (c) (1) The provisions contained in Sections 41 to 44,  
21 inclusive, and 172 of the Tax Reform Act of 1984 (Public  
22 Law 98-369), relating to treatment of debt instruments,  
23 shall not be applicable for taxable years beginning before  
24 January 1, 1987.

25 (2) The provisions contained in Public Law 99-121,  
26 relating to the treatment of debt instruments, shall not be  
27 applicable for taxable years beginning before January 1,  
28 1987.

29 (3) For each taxable year beginning on or after  
30 January 1, 1987, the provisions referred to by paragraphs  
31 (1) and (2) shall be applicable for purposes of this part in  
32 the same manner and with respect to the same obligations  
33 as the federal provisions, except as otherwise provided in  
34 this part.

35 (d) When applying the Internal Revenue Code for  
36 purposes of this part, regulations promulgated in final  
37 form or issued as temporary regulations by “the  
38 secretary” shall be applicable as regulations under this  
39 part to the extent that they do not conflict with this part  
40 or with regulations issued by the Franchise Tax Board.



1 (e) Whenever this part allows a taxpayer to make an  
2 election, the following rules shall apply:

3 (1) A proper election filed with the Internal Revenue  
4 Service in accordance with the Internal Revenue Code or  
5 regulations issued by “the secretary” shall be deemed to  
6 be a proper election for purposes of this part, unless  
7 otherwise provided in this part or in regulations issued by  
8 the Franchise Tax Board.

9 (2) A copy of that election shall be furnished to the  
10 Franchise Tax Board upon request.

11 (3) To obtain treatment other than that elected for  
12 federal purposes, a separate election shall be filed at the  
13 time and in the manner required by the Franchise Tax  
14 Board.

15 (f) Whenever this part allows or requires a taxpayer to  
16 file an application or seek consent, the rules set forth in  
17 subdivision (e) shall be applicable with respect to that  
18 application or consent.

19 (g) When applying the Internal Revenue Code for  
20 purposes of determining the statute of limitations under  
21 this part, any reference to a period of three years shall be  
22 modified to read four years for purposes of this part.

23 (h) When applying, for purposes of this part, any  
24 section of the Internal Revenue Code or any applicable  
25 regulation thereunder, all of the following shall apply:

26 (1) References to “adjusted gross income” shall mean  
27 the amount computed in accordance with Section 17072,  
28 except as provided in paragraph (2).

29 (2) References to “adjusted gross income” for  
30 purposes of computing limitations based upon adjusted  
31 gross income, shall mean the amount required to be  
32 shown as adjusted gross income on the federal tax return  
33 for the same taxable year.

34 (3) Any reference to “subtitle” or “chapter” shall  
35 mean this part.

36 (4) The provisions of Section 7806 of the Internal  
37 Revenue Code, relating to construction of title, shall  
38 apply.

39 (5) Any provision of the Internal Revenue Code that  
40 becomes operative on or after the specified date for that



1 taxable year shall become operative on the same date for  
2 purposes of this part.

3 (6) Any provision of the Internal Revenue Code that  
4 becomes inoperative on or after the specified date for  
5 that taxable year shall become inoperative on the same  
6 date for purposes of this part.

7 (7) Due account shall be made for differences in  
8 federal and state terminology, effective dates,  
9 substitution of “Franchise Tax Board” for “secretary”  
10 when appropriate, and other obvious differences.

11 (i) Any reference to a specific provision of the Internal  
12 Revenue Code shall include modifications of that  
13 provision, if any, in this part.

14 *SEC. 9. Section 17052.25 of the Revenue and Taxation*  
15 *Code is amended to read:*

16 17052.25. (a) For each taxable year beginning on or  
17 after January 1, 1994, there shall be allowed as a credit  
18 against the “net tax,” as defined in Section 17039, an  
19 amount equal to 50 percent of the costs paid or incurred  
20 by a taxpayer for the adoption of any minor child who is  
21 a citizen or legal resident of the United States and was in  
22 the custody of a public agency of either this state or a  
23 political subdivision of this state. The credit shall not  
24 exceed two thousand five hundred dollars (\$2,500) per  
25 minor child.

26 (b) “Costs” eligible for the credit pursuant to  
27 subdivision (a) shall include the following:

28 (1) Fees for required services of either the  
29 Department of Social Services or a licensed adoption  
30 agency.

31 (2) Travel and related expenses for the adoptive  
32 family that are directly related to the adoption process.

33 (3) Medical fees and expenses that are not reimbursed  
34 by insurance and are directly related to the adoption  
35 process.

36 (c) The credit authorized by this section shall ~~only~~ be  
37 claimed for the taxable year in which the decree or order  
38 of adoption is entered pursuant to Section 8612 of the  
39 Family Code. However, the allowable credit claimed may



1 include any costs of that adoption paid or incurred in any  
2 prior taxable year.

3 (d) In the case where the credit allowed by this section  
4 exceeds the “net tax,” the excess may be carried over to  
5 reduce the “net tax” in the following year, and  
6 succeeding years if necessary, until the total credit of two  
7 thousand five hundred dollars (\$2,500) per minor child is  
8 exhausted.

9 (e) Any deduction otherwise allowed under this part  
10 for any amount paid or incurred by the taxpayer upon  
11 which the credit is based shall be reduced by the amount  
12 of the credit allowed under this section.

13 *SEC. 10. Section 17053.36 is added to the Revenue and  
14 Taxation Code, to read:*

15 *17053.36. (a) For each taxable year beginning on or  
16 after January 1, 2001, and before January 1, 2006, a  
17 qualified taxpayer shall be allowed as a credit against the  
18 “net tax,” as defined in Section 17039, an amount equal to  
19 the following:*

20 *(1) Fifty percent of qualified wages paid or incurred  
21 during any taxable year beginning on or after January 1,  
22 2001, and before January 1, 2002.*

23 *(2) Forty percent of qualified wages paid or incurred  
24 during any taxable year beginning on or after January 1,  
25 2002, and before January 1, 2003.*

26 *(3) Thirty percent of the qualified wages paid or  
27 incurred during any taxable year beginning on or after  
28 January 1, 2003, and before January 1, 2004.*

29 *(4) Twenty percent of the qualified wages paid or  
30 incurred during any taxable year beginning on or after  
31 January 1, 2004, and before January 1, 2005.*

32 *(5) Ten percent of the qualified wages paid or  
33 incurred during any taxable year beginning on or after  
34 January 1, 2005, and before January 1, 2006.*

35 *(b) For purposes of this section:*

36 *(1) (A) “Qualified taxpayer” means any taxpayer  
37 under an initial contract or subcontract to manufacture  
38 property for ultimate use in a Joint Strike Fighter.*

39 *(B) In the case of any pass-through entity, the  
40 determination of whether a taxpayer is a qualified*



1 taxpayer under this section shall be made at the entity  
2 level and any credit under this section or Section 23636  
3 shall be allowed to the pass-through entity and passed  
4 through to the partners or shareholders in accordance  
5 with applicable provisions of this part or Part 11  
6 (commencing with Section 23001). For purposes of this  
7 paragraph, “pass-through entity” means any partnership  
8 or S corporation.

9 (2) “Qualified wages” means that portion of wages  
10 paid or incurred by the qualified taxpayer during the  
11 taxable year with respect to qualified employees that are  
12 direct costs as defined in Section 263A of the Internal  
13 Revenue Code allocable to property manufactured in this  
14 state by the qualified taxpayer for ultimate use in a Joint  
15 Strike Fighter.

16 (3) “Qualified employee” means an individual whose  
17 services for the qualified taxpayer are performed in this  
18 state and are at least 90 percent directly related to the  
19 qualified taxpayer’s contract or subcontract to  
20 manufacture property for ultimate use in a Joint Strike  
21 Fighter.

22 (4) “Joint Strike Fighter” means the next generation  
23 air combat strike aircraft developed and produced under  
24 the Joint Strike Fighter program.

25 (5) “Joint Strike Fighter program” means the  
26 multiservice, multinational project conducted by the  
27 United States government to develop and produce the  
28 next generation of air combat strike aircraft.

29 (c) The credit allowed by this section shall not exceed  
30 ten thousand dollars (\$10,000) per year, per qualified  
31 employee. For employees that are qualified employees  
32 for part of a taxable year, the credit shall not exceed ten  
33 thousand dollars (\$10,000) multiplied by a fraction, the  
34 numerator of which is the number of months of the  
35 taxable year that the employee is a qualified employee  
36 and the denominator of which is 12.

37 (d) In the case where the credit allowed by this section  
38 exceeds the “net tax,” the excess may be carried over to  
39 reduce the “net tax” in the following year, and the seven



1 *succeeding years if necessary, until the credit is*  
2 *exhausted.*

3 *(e) No credit shall be allowed unless the credit is*  
4 *reflected within the bid upon which the qualified*  
5 *taxpayer's contract or subcontract to manufacture*  
6 *property for ultimate use in a Joint Strike Fighter is based*  
7 *by reducing the amount of the bid by the amount of the*  
8 *credit allowable.*

9 *(f) All references to the credit and ultimate cost*  
10 *reductions incorporated into any successful bid that was*  
11 *awarded a contract or subcontract and for which a*  
12 *qualified taxpayer is making a claim shall be made*  
13 *available to the Franchise Tax Board upon request.*

14 *(g) This section shall remain in effect only until*  
15 *December 1, 2006, and as of that date is repealed.*

16 *SEC. 11. Section 17053.37 is added to the Revenue and*  
17 *Taxation Code, to read:*

18 *17053.37. (a) For each taxable year beginning on or*  
19 *after January 1, 2001, and before January 1, 2006, a*  
20 *qualified taxpayer shall be allowed as a credit against the*  
21 *"net tax," as defined in Section 17039, an amount equal to*  
22 *10 percent of the qualified cost of qualified property that*  
23 *is placed in service in this state.*

24 *(b) (1) For purposes of this section, "qualified cost"*  
25 *means any costs that satisfy each of the following*  
26 *conditions:*

27 *(A) Except as otherwise provided in this*  
28 *subparagraph, is a cost paid or incurred by the qualified*  
29 *taxpayer for the construction, reconstruction, or*  
30 *acquisition of qualified property on or after January 1,*  
31 *2001, and before January 1, 2006. In the case of any*  
32 *qualified property constructed, reconstructed, or*  
33 *acquired by the qualified taxpayer (or any person related*  
34 *to the qualified taxpayer within the meaning of Section*  
35 *267 or 707 of the Internal Revenue Code) pursuant to a*  
36 *binding contract in existence on or before January 1, 2001,*  
37 *costs paid pursuant to that contract shall be subject to*  
38 *allocation as follows. Contract costs shall be allocated to*  
39 *qualified property based on a ratio of costs actually paid*  
40 *prior to January 1, 2001, and total contract costs actually*



1 paid. “Cost paid” shall include, without limitation,  
2 contractual deposits and option payments. To the extent  
3 of costs allocated, whether or not currently deductible or  
4 depreciable for tax purposes, to a period prior to January  
5 1, 2001, the cost shall be deemed allocated to property  
6 acquired before January 1, 2001, and is thus not a  
7 “qualified cost.”

8 (B) Except as provided in paragraph (2) of subdivision  
9 (d), is an amount upon which the qualified taxpayer has  
10 paid, directly or indirectly, as a separately stated contract  
11 amount or as determined from the records of the  
12 qualified taxpayer, sales or use tax under Part 1  
13 (commencing with Section 6001).

14 (C) Is an amount properly chargeable to the capital  
15 account of the qualified taxpayer.

16 (2) (A) For purposes of this subdivision, any contract  
17 entered into on or after January 1, 2001, that is a successor  
18 or replacement contract to a contract that was binding  
19 before January 1, 2001, shall be treated as a binding  
20 contract in existence before January 1, 2001.

21 (B) If a successor or replacement contract is entered  
22 into on or after January 1, 2001, and the subject of the  
23 successor or replacement contract relates both to  
24 amounts for the construction, reconstruction, or  
25 acquisition of qualified property described in the original  
26 binding contract and to costs for the construction,  
27 reconstruction, or acquisition of qualified property not  
28 described in the original binding contract, then the  
29 portion of those amounts described in the successor or  
30 replacement contract that were not described in the  
31 original binding contract shall not be treated as costs paid  
32 or incurred pursuant to a binding contract in existence on  
33 or prior to January 1, 2001, under subparagraph (A) of  
34 paragraph (1).

35 (3) (A) For purposes of this section, an option  
36 contract in existence before January 1, 2001, under which  
37 a qualified taxpayer (or any other person related to the  
38 qualified taxpayer within the meaning of Section 267 or  
39 707 of the Internal Revenue Code) had an option to  
40 acquire qualified property, shall be treated as a binding



1 contract under the rules in paragraph (2). For purposes  
2 of this subparagraph, an option contract shall not include  
3 an option under which the optionholder will forfeit an  
4 amount less than 10 percent of the fixed option price in  
5 the event the option is not exercised.

6 (B) For purposes of this section, a contract shall be  
7 treated as binding even if the contract is subject to a  
8 condition.

9 (c) (1) For purposes of this section, “qualified  
10 taxpayer” means any taxpayer under an initial contract or  
11 subcontract to manufacture property for ultimate use in  
12 a Joint Strike Fighter.

13 (2) In the case of any pass-through entity, the  
14 determination of whether a taxpayer is a qualified  
15 taxpayer under this section shall be made at the entity  
16 level and any credit under this section or Section 23637  
17 shall be allowed to the pass-through entity and passed  
18 through to the partners or shareholders in accordance  
19 with applicable provisions of Part 10 (commencing with  
20 Section 17001) or Part 11 (commencing with Section  
21 23001). For purposes of this paragraph, the term  
22 “pass-through entity” means any partnership or S  
23 corporation.

24 (3) The Franchise Tax Board may prescribe  
25 regulations to carry out the purposes of this section,  
26 including any regulations necessary to prevent the  
27 avoidance of the effect of this section through splitups,  
28 shell corporations, partnerships, tiered ownership  
29 structures, sale-leaseback transactions, or otherwise.

30 (d) (1) For purposes of this section, “qualified  
31 property” means property that is described as either of  
32 the following:

33 (A) Tangible personal property that is defined in  
34 Section 1245(a)(3)(A) of the Internal Revenue Code for  
35 use by a qualified taxpayer primarily in qualified activities  
36 to manufacture a product for ultimate use in a Joint Strike  
37 Fighter.

38 (B) The value of any capitalized labor costs that are  
39 direct costs as defined in Section 263A of the Internal



1 Revenue Code allocable to the construction or  
2 modification of property described in subparagraph (A).

3 (2) Qualified property does not include any of the  
4 following:

5 (A) Furniture.

6 (B) Inventory.

7 (C) Equipment used to store finished products that  
8 have completed the manufacturing process.

9 (D) Any tangible personal property that is used in  
10 administration, general management, or marketing.

11 (e) For purposes of this section:

12 (1) "Fabricating" means to make, build, create,  
13 produce, or assemble components or property to work in  
14 a new or different manner.

15 (2) "Joint Strike Fighter" means the next generation  
16 air combat strike aircraft developed and produced under  
17 the Joint Strike Fighter program.

18 (3) "Joint Strike Fighter program" means the  
19 multiservice, multinational project conducted by the  
20 United States government to develop and produce the  
21 next generation of air combat strike aircraft.

22 (4) "Manufacturing" means the activity of converting  
23 or conditioning property by changing the form,  
24 composition, quality, or character of the property for  
25 ultimate use in a Joint Strike Fighter. Manufacturing  
26 includes any improvements to tangible personal property  
27 that result in a greater service life or greater functionality  
28 than that of the original property.

29 (5) "Primarily" means tangible personal property  
30 used 50 percent or more of the time in an activity  
31 described in subparagraph (A) of paragraph (1) of  
32 subdivision (d).

33 (6) "Process" means the period beginning at the point  
34 at which any raw materials are received by the qualified  
35 taxpayer and introduced into the manufacturing,  
36 processing, or fabricating activity of the qualified  
37 taxpayer and ending at the point at which the  
38 manufacturing, processing, or fabricating activity of the  
39 qualified taxpayer has altered tangible personal property  
40 to its completed form, including packaging, if required.

1 Raw materials shall be considered to have been  
2 introduced into the process when the raw materials are  
3 stored on the same premises where the qualified  
4 taxpayer's manufacturing, processing, or fabricating  
5 activity is conducted. Raw materials that are stored on  
6 premises other than where the qualified taxpayer's  
7 manufacturing, processing, or fabricating activity is  
8 conducted, shall not be considered to have been  
9 introduced into the manufacturing, processing, or  
10 fabricating process.

11 (7) "Processing" means the physical application of the  
12 materials and labor necessary to modify or change the  
13 characteristics of property.

14 (8) "Qualified activities" means manufacturing,  
15 processing, or fabricating of property, beginning at the  
16 point at which any raw materials are received by the  
17 qualified taxpayer and introduced into the process and  
18 ending at the point at which the manufacturing,  
19 processing, or fabricating has altered tangible personal  
20 property to its completed form, including packaging, if  
21 required.

22 (f) The credit allowed under subdivision (a) shall  
23 apply to qualified property that is acquired by or subject  
24 to lease by a qualified taxpayer, subject to the following  
25 special rules:

26 (1) A lessor of qualified property, irrespective of  
27 whether the lessor is a qualified taxpayer, shall not be  
28 allowed the credit provided under subdivision (a) with  
29 respect to any qualified property leased to another  
30 qualified taxpayer.

31 (2) For purposes of paragraphs (2) and (3) of  
32 subdivision (b), "binding contract" includes any lease  
33 agreement with respect to the qualified property.

34 (3) (A) For purposes of determining the qualified  
35 cost paid or incurred by a lessee in any leasing transaction  
36 that is not treated as a sale under Part 1 (commencing  
37 with Section 6001), the following rules shall apply:

38 (i) Except as provided by subparagraph (C) of this  
39 paragraph, subparagraphs (A) and (C) of paragraph (1)  
40 of subdivision (b) shall not apply.



1 (ii) Except as provided in subparagraph (B) and  
2 clause (iii), the “qualified cost” upon which the lessee  
3 shall compute the credit provided under this section shall  
4 be equal to the original cost to the lessor (within the  
5 meaning of Section 18031) of the qualified property that  
6 is the subject of the lease.

7 (iii) The requirement of subparagraph (B) of  
8 paragraph (1) of subdivision (b) shall be treated as  
9 satisfied only if the lessor has made a timely election  
10 under either Section 6094.1 or subdivision (d) of Section  
11 6244 and has paid sales tax reimbursement or use tax  
12 measured by the purchase price of the qualified property  
13 (within the meaning of paragraph (5) of subdivision (g)  
14 of Section 6006). For purposes of this subdivision, the  
15 amount of original cost to the lessor which may be taken  
16 into account under clause (ii) shall not exceed the  
17 purchase price upon which sales tax reimbursement or  
18 use tax has been paid under the preceding sentence.

19 (B) For purposes of applying subparagraph (A) only,  
20 the following special rules shall apply:

21 (i) The original cost to the lessor of the qualified  
22 property shall be reduced by the amount of any original  
23 cost of that property that was taken into account by a  
24 predecessor lessee in computing the credit allowable  
25 under this section.

26 (ii) Clause (i) shall not apply in any case where the  
27 predecessor lessee was required to recapture the credit  
28 provided under this section pursuant to the provisions of  
29 subdivision (g).

30 (iii) For purposes of this section only, in any case  
31 where a successor lessor has acquired qualified property  
32 from a predecessor lessor in a transaction not treated as  
33 a sale under Part 1 (commencing with Section 6001), the  
34 original cost to the successor lessor of the qualified  
35 property shall be reduced by the amount of the original  
36 cost of the qualified property that was taken into account  
37 by any lessee of the predecessor lessor in computing the  
38 credit allowable under this section.

39 (C) In determining the original cost of any qualified  
40 property under this paragraph, only amounts paid or



1 incurred by the lessor on or after January 1, 2001, and  
2 before January 1, 2006, shall be taken into account. In the  
3 case of any qualified property constructed,  
4 reconstructed, or acquired by a lessor pursuant to a  
5 binding contract in existence on or prior to January 1,  
6 2001, the allocation rule specified in subparagraph (A) of  
7 paragraph (1) of subdivision (b) shall apply in  
8 determining the original cost to the lessor of qualified  
9 property.

10 (D) Notwithstanding subparagraph (A), in the case of  
11 any leasing transaction for which the lessee is allowed the  
12 credit under this section and thereafter the lessee (or any  
13 party related to the lessee within the meaning of Section  
14 267 or 318 of the Internal Revenue Code) acquires the  
15 qualified property from the lessor (or any successor  
16 lessor) within one year from the date the qualified  
17 property is first used by the lessee under the terms of the  
18 lease, the lessee's (or related party's) acquisition of the  
19 qualified property from the lessor (or successor lessor)  
20 shall be treated as a disposition by the lessee of the  
21 qualified property that was subject to the lease under  
22 subdivision (g).

23 (4) For purposes of determining the qualified cost  
24 paid or incurred by a lessee in any leasing transaction that  
25 is treated as a sale under Part 1 (commencing with  
26 Section 6001), the following rules shall apply:

27 (A) Subparagraph (A) of paragraph (1) of subdivision  
28 (b) shall be applied by substituting the term "purchase"  
29 for the term "construction, reconstruction, or  
30 acquisition."

31 (B) Subparagraph (C) of paragraph (1) of subdivision  
32 (b) shall apply.

33 (C) The requirement of subparagraph (B) of  
34 paragraph (1) of subdivision (b) shall be treated as  
35 satisfied at the time that either the lessor or the qualified  
36 taxpayer pays sales or use tax under Part 1 (commencing  
37 with Section 6001).

38 (5) (A) In the case of any leasing transaction  
39 described in paragraph (3), the lessor shall provide a  
40 statement to the lessee specifying the amount of the



1 lessor's original cost of the qualified property and the  
2 amount of that cost upon which a sales or use tax was paid  
3 within 45 days after the close of the lessee's taxable year  
4 in which the credit is allowable to the lessee under this  
5 section.

6 (B) The statement required under subparagraph (A)  
7 shall be made available to the Franchise Tax Board upon  
8 request.

9 (g) No credit shall be allowed if the qualified property  
10 is removed from the state, is disposed of to an unrelated  
11 party, or is used for any purpose not qualifying for the  
12 credit provided in this section in the same taxable year in  
13 which the taxpayer first places the qualified property in  
14 service in this state. If any qualified property for which a  
15 credit is allowed pursuant to this section is thereafter  
16 removed from this state, disposed of to an unrelated  
17 party, or used for any purpose not qualifying for the credit  
18 provided in this section within one year from the date the  
19 taxpayer first places the qualified property in service in  
20 this state, the amount of the credit allowed by this section  
21 for that qualified property shall be recaptured by adding  
22 that credit amount to the net tax of the qualified taxpayer  
23 for the taxable year in which the qualified property is  
24 disposed of, removed, or put to an ineligible use.

25 (h) In the case where the credit allowed by this section  
26 exceeds the "net tax," the excess may be carried over to  
27 reduce the "net tax" in the following year, and the seven  
28 succeeding years if necessary, until the credit is  
29 exhausted.

30 (i) (1) No credit shall be allowed under this section if  
31 a credit is claimed under Section 17053.49 in connection  
32 with the same property.

33 (2) No credit shall be allowed unless the credit is  
34 reflected within the bid upon which the qualified  
35 taxpayer's contract or subcontract to manufacture  
36 property for ultimate use in a Joint Strike Fighter is based  
37 by reducing the amount of the bid by the amount of the  
38 credit allowable.

39 (j) All references to the credit and ultimate cost  
40 reductions incorporated into any successful bid that was



1 awarded a contract or subcontract and for which a  
 2 qualified taxpayer is making a claim shall be made  
 3 available to the Franchise Tax Board upon request.

4 (k) This section shall remain in effect only until  
 5 December 1, 2006, and as of that date is repealed.

6 SEC. 12. Section 17053.5 of the Revenue and Taxation  
 7 Code is amended to read:

8 17053.5. (a) ~~In the case of (1) For a~~ qualified renters  
 9 renter, there shall be allowed ~~credits~~ a credit against ~~their~~  
 10 his or her “net tax” (as defined in Section 17039). ~~The~~  
 11 credit shall be in the amount of one hundred twenty  
 12 dollars (\$120) for married couples filing joint returns,  
 13 heads of household and surviving spouses (as defined in  
 14 Section 17046), and sixty dollars (\$60) for other  
 15 individuals. The amount of the credit shall be as follows:

16 (A) For married couples filing joint returns, heads of  
 17 household and surviving spouses (as defined in Section  
 18 17046) the credit shall be equal to one hundred twenty  
 19 dollars (\$120) if adjusted gross income is fifty thousand  
 20 dollars (\$50,000) or less.

21 (B) For other individuals, the credit shall be equal to  
 22 sixty dollars (\$60) if adjusted gross income is twenty-five  
 23 thousand dollars (\$25,000) or less.

24 ~~Except~~

25 (2) ~~Except~~ as provided in subdivision (b), a husband  
 26 and wife shall receive but one credit under this section.  
 27 If the husband and wife file separate returns, the credit  
 28 may be taken by either or equally divided between them,  
 29 except as follows:

30 ~~(1)~~

31 (A) If one spouse was a resident for the entire taxable  
 32 year and the other spouse was a nonresident for part or  
 33 all of the taxable year, the resident spouse shall be allowed  
 34 one-half the credit allowed to married persons and the  
 35 nonresident spouse shall be permitted one-half the credit  
 36 allowed to married persons, prorated as provided in  
 37 subdivision (e).

38 ~~(2)~~

39 (B) If both spouses were nonresidents for part of the  
 40 taxable year, the credit allowed to married persons shall



1 be divided equally between them subject to the proration  
2 provided in subdivision (e).

3 (b) ~~In the case of~~ For a husband and wife, if each  
4 spouse maintained a separate place of residence and  
5 resided in this state during the entire taxable year, each  
6 spouse will be allowed one-half the full credit allowed to  
7 married persons provided in subdivision (a).

8 (c) For purposes of this section, a “qualified renter”  
9 means an individual who:

10 (1) Was a resident of this state, as defined in Section  
11 17014, and

12 (2) Rented and occupied premises in this state which  
13 constituted his or her principal place of residence during  
14 at least 50 percent of the taxable year.

15 (d) The term “qualified renter” does not include any  
16 of the following:

17 (1) An individual who for more than 50 percent of the  
18 taxable year rented and occupied premises ~~which that~~  
19 were exempt from property taxes, except that an  
20 individual, otherwise qualified, ~~shall be~~ is deemed a  
21 qualified renter if he or she or his or her landlord pays  
22 possessory interest taxes, or the owner of those premises  
23 makes payments in lieu of property taxes ~~which that~~ are  
24 substantially equivalent to property taxes paid on  
25 properties of comparable market value.

26 (2) An individual whose principal place of residence  
27 for more than 50 percent of the taxable year is with any  
28 other person who claimed such individual as a dependent  
29 for income tax purposes.

30 (3) An individual who has been granted or whose  
31 spouse has been granted the homeowners’ property tax  
32 exemption during the taxable year. This paragraph ~~shall~~  
33 ~~does not apply in the case of~~ to an individual whose spouse  
34 has been granted the homeowners’ property tax  
35 exemption if each spouse maintained a separate  
36 residence for the entire taxable year.

37 (e) Any otherwise qualified renter who is a  
38 nonresident for any portion of the taxable year shall claim  
39 the credits set forth in subdivision (a) at the rate of  
40 one-twelfth of those credits for each full month that



1 individual resided within this state during the taxable  
2 year.

3 (f) Every person claiming the credit provided in this  
4 section shall, as part of that claim, and under penalty of  
5 perjury, furnish that information as the Franchise Tax  
6 Board prescribes on a form supplied by the board.

7 (g) The credit provided in this section shall be claimed  
8 on returns in the form as the Franchise Tax Board may  
9 from time to time prescribe.

10 (h) For the purposes of this section, the term  
11 “premises” means a house or a dwelling unit used to  
12 provide living accommodations in a building or structure  
13 and the land incidental thereto, but does not include land  
14 only, ~~except in the case where~~ *unless* the dwelling unit is  
15 a mobilehome. The credit ~~shall~~ *is* not ~~be~~ allowed for any  
16 taxable year for the rental of land upon which a  
17 mobilehome is located if the mobilehome has been  
18 granted a homeowners’ exemption under Section 218 in  
19 that year.

20 (i) ~~In the case of~~ *For* qualified renters whose credits  
21 provided in this section exceed their tax liability  
22 computed under this part the excess shall be credited  
23 against other amounts due, if any, from the qualified  
24 renter ~~and the balance, if any, shall be refunded to the~~  
25 ~~qualified renter.~~

26 (j) This section shall become operative on January 1,  
27 1998, and ~~shall apply~~ *applies* to any taxable year beginning  
28 on or after January 1, 1998.

29 (k) *For each taxable year beginning on or after*  
30 *January 1, 1999, the Franchise Tax Board shall recompute*  
31 *the adjusted gross income amounts set forth in*  
32 *subdivision (a). That computation shall be made as*  
33 *follows:*

34 (1) *The California Department of Industrial Relations*  
35 *shall transmit annually to the Franchise Tax Board the*  
36 *percentage change in the California Consumer Price*  
37 *Index for all items from June of the prior calendar year to*  
38 *June of the current year, no later than August 1 of the*  
39 *current calendar year.*



1 (2) *The Franchise Tax Board shall compute an*  
2 *inflation adjustment factor by adding 100 percent to that*  
3 *portion of the percentage change figure which is*  
4 *furnished pursuant to paragraph (1) and dividing the*  
5 *result by 100.*

6 (3) *The Franchise Tax Board shall multiply the*  
7 *amount in subparagraph (B) of paragraph (1) of*  
8 *subdivision (d) for the preceding taxable year by the*  
9 *inflation adjustment factor determined in paragraph (2),*  
10 *and round off the resulting products to the nearest one*  
11 *dollar (\$1).*

12 (4) *In computing the amounts pursuant to this*  
13 *subdivision, the amounts provided in subparagraph (A)*  
14 *of paragraph (1) of subdivision (a) shall be twice the*  
15 *amount provided in subparagraph (B) of paragraph (1)*  
16 *of subdivision (a).*

17 *SEC. 13. Section 17054 of the Revenue and Taxation*  
18 *Code is amended to read:*

19 17054. *In the case of individuals, the following credits*  
20 *for personal exemption may be deducted from the tax*  
21 *imposed under Section 17041 or 17048, less any increases*  
22 *imposed under paragraph (1) of subdivision (d) or*  
23 *paragraph (1) of subdivision (e), or both, of Section*  
24 *17560.*

25 (a) *In the case of a single individual, a head of*  
26 *household, or a married individual making a separate*  
27 *return, a credit of fifty-one dollars (\$51) for taxable years*  
28 *beginning on or after January 1, 1987, and before January*  
29 *1, 1988, and fifty-two dollars (\$52) for taxable years*  
30 *beginning on or after January 1, 1988.*

31 (b) *In the case of a surviving spouse (as defined in*  
32 *Section 17046), or a husband and wife making a joint*  
33 *return, a credit of one hundred two dollars (\$102) for*  
34 *taxable years beginning on or after January 1, 1987, and*  
35 *before January 1, 1988, and one hundred four dollars*  
36 *(\$104) for taxable years beginning on or after January 1,*  
37 *1988. If one spouse was a resident for the entire taxable*  
38 *year and the other spouse was a nonresident for all or any*  
39 *portion of the taxable year, the personal exemption shall*  
40 *be divided equally.*



1 (c) In addition to any other credit provided in this  
2 section, in the case of an individual who is 65 years of age  
3 or over by the end of the taxable year, a credit of fifty-one  
4 dollars (\$51) for taxable years beginning on or after  
5 January 1, 1987, and before January 1, 1988, and fifty-two  
6 dollars (\$52) for taxable years beginning on or after  
7 January 1, 1988.

8 (d) (1) A credit of fifty-one dollars (\$51) for taxable  
9 years beginning on or after January 1, 1987, and before  
10 January 1, 1988, fifty-two dollars (\$52) for taxable years  
11 beginning on or after January 1, 1988, and before January  
12 1, 1998, ~~one hundred twenty dollars (\$120)~~ *two hundred*  
13 *fifty-three dollars (\$253)* for taxable years beginning on  
14 or after January 1, 1998, and before January 1, 1999, and  
15 two hundred ~~twenty-two~~ *twenty-seven* dollars (~~\$222~~)  
16 (\$227) for taxable years beginning on or after January 1,  
17 1999, for each dependent (as defined in Section 17056) for  
18 whom an exemption is allowable under Section 151(c) of  
19 the Internal Revenue Code, relating to additional  
20 exemption for dependents. The ~~increased~~ credit allowed  
21 under this subdivision for taxable years beginning on or  
22 after January 1, 1999, shall not be adjusted pursuant to  
23 subdivision (i) for any taxable year beginning before  
24 January 1, 2000.

25 (2) The credit allowed under paragraph (1) shall not  
26 be denied on the basis that the identification number of  
27 the dependent, as defined in Section 17056, for whom an  
28 exemption is allowable under Section 151(c) of the  
29 Internal Revenue Code, relating to additional exemption  
30 for dependents, is not included on the return claiming the  
31 credit.

32 (e) A credit for personal exemption of fifty-one dollars  
33 (\$51) for taxable years beginning on or after January 1,  
34 1987, and before January 1, 1988, and fifty-two dollars  
35 (\$52) for taxable years beginning on or after January 1,  
36 1988, for the taxpayer if he or she is blind at the end of his  
37 or her taxable year.

38 (f) A credit for personal exemption of fifty-one dollars  
39 (\$51) for taxable years beginning on or after January 1,  
40 1987, and before January 1, 1988, and fifty-two dollars



1 (\$52) for taxable years beginning on or after January 1,  
2 1988, for the spouse of the taxpayer if a separate return is  
3 made by the taxpayer, and if the spouse is blind and, for  
4 the calendar year in which the taxable year of the  
5 taxpayer begins, has no gross income and is not the  
6 dependent of another taxpayer.

7 (g) For the purposes of this section, an individual is  
8 blind only if either: his or her central visual acuity does  
9 not exceed 20/200 in the better eye with correcting  
10 lenses, or his or her visual acuity is greater than 20/200 but  
11 is accompanied by a limitation in the fields of vision such  
12 that the widest diameter of the visual field subtends an  
13 angle no greater than 20 degrees.

14 (h) In the case of an individual with respect to whom  
15 a credit under this section is allowable to another  
16 taxpayer for a taxable year beginning in the calendar year  
17 in which the individual's taxable year begins, the credit  
18 amount applicable to that individual for that individual's  
19 taxable year shall be zero.

20 (i) For each taxable year beginning on or after January  
21 1, 1989, the Franchise Tax Board shall compute the credits  
22 prescribed in this section. That computation shall be  
23 made as follows:

24 (1) The California Department of Industrial Relations  
25 shall transmit annually to the Franchise Tax Board the  
26 percentage change in the California Consumer Price  
27 Index as modified for rental equivalent homeownership  
28 for all items from June of the prior calendar year to June  
29 of the current calendar year, no later than August 1 of the  
30 current calendar year.

31 (2) The Franchise Tax Board shall add 100 percent to  
32 the percentage change figure which is furnished to them  
33 pursuant to paragraph (1), and divide the result by 100.

34 (3) The Franchise Tax Board shall multiply the  
35 immediately preceding taxable year credits by the  
36 inflation adjustment factor determined in paragraph (2),  
37 and round off the resulting products to the nearest one  
38 dollar (\$1).



1 (4) In computing the credits pursuant to this  
 2 subdivision, the credit provided in subdivision (b) shall  
 3 be twice the credit provided in subdivision (a).

4 (j) The amendments made to this section by the act  
 5 adding this subdivision shall be applied only in the  
 6 computation of taxes for taxable years beginning on or  
 7 after January 1, 1990.

8 *SEC. 14. Section 17062 of the Revenue and Taxation*  
 9 *Code, as amended by Chapter 7 of the Statutes of 1998, is*  
 10 *amended to read:*

11 17062. (a) In addition to the other taxes imposed by  
 12 this part, there is hereby imposed for each taxable year,  
 13 a tax equal to the excess, if any, of—

14 (1) The tentative minimum tax for the taxable year,  
 15 over

16 (2) The regular tax for the taxable year.

17 (b) For purposes of this chapter, each of the following  
 18 shall apply:

19 (1) The tentative minimum tax shall be computed in  
 20 accordance with Sections 55 to 59, inclusive, of the  
 21 Internal Revenue Code, except as otherwise provided in  
 22 this part.

23 (2) The regular tax shall be the amount of tax imposed  
 24 by Section 17041 or 17048, before reduction for any credits  
 25 against the tax, less any amount imposed under  
 26 paragraph (1) of subdivision (d) and paragraph (1) of  
 27 subdivision (e) of Section 17560.

28 (3) (A) The provisions of Section 55(b)(1) of the  
 29 Internal Revenue Code shall be modified to provide that  
 30 the tentative minimum tax for the taxable year shall be  
 31 equal to the following percent of so much of the  
 32 alternative minimum taxable income for the taxable year  
 33 as exceeds the exemption amount, before reduction for  
 34 any credits against the tax:

35 (i) For any taxable year beginning on or after January  
 36 1, 1991, and before January 1, 1996, 8.5 percent.

37 (ii) For any taxable year beginning on or after January  
 38 1, 1996, 7 percent.

39 (B) In the case of a nonresident or part-year resident,  
 40 the tentative minimum tax shall be computed as if the



1 nonresident or part-year resident were a resident for the  
2 entire year multiplied by the ratio of California adjusted  
3 gross income (as modified for purposes of this chapter) to  
4 total adjusted gross income from all sources (as modified  
5 for purposes of this chapter). For purposes of computing  
6 the tax under subparagraph (A) and gross income from  
7 all sources, the net operating loss deduction provided in  
8 Section 56(d) of the Internal Revenue Code shall be  
9 computed as if the taxpayer were a resident for all prior  
10 years.

11 (C) For purposes of this section, the term “California  
12 adjusted gross income” includes each of the following:

13 (i) For any period during which the taxpayer was a  
14 resident of this state (as defined by Section 17014), all  
15 items of adjusted gross income (as modified for purposes  
16 of this chapter), regardless of source.

17 (ii) For any period during which the taxpayer was not  
18 a resident of this state, only those items of adjusted gross  
19 income (as modified for purposes of this chapter) which  
20 were derived from sources within this state, determined  
21 in accordance with Chapter 11 (commencing with  
22 Section 17951).

23 (4) The provisions of Section 55(b)(2) of the Internal  
24 Revenue Code, relating to alternative minimum taxable  
25 income, shall be modified to provide that alternative  
26 minimum taxable income shall not include the income,  
27 adjustments, and items of tax preference attributable to  
28 any trade or business of a qualified taxpayer.

29 (A) For purposes of this paragraph, “qualified  
30 taxpayer” means a taxpayer who meets both of the  
31 following:

32 (i) Is the owner of, or has an ownership interest in, a  
33 trade or business.

34 (ii) Has aggregate gross receipts, less returns and  
35 allowances, of less than one million dollars (\$1,000,000)  
36 during the taxable year from all trades or businesses of  
37 which the taxpayer is the owner or has an ownership  
38 interest, in the amount of that taxpayer’s proportionate  
39 interest in each trade or business.



1 (B) For purposes of this paragraph, “aggregate gross  
2 receipts, less returns and allowances” means the sum of  
3 the gross receipts of the trades or businesses which the  
4 taxpayer owns and the proportionate interest of the gross  
5 receipts of the trades or businesses which the taxpayer  
6 owns and of passthrough entities in which the taxpayer  
7 holds an interest.

8 (C) For purposes of this paragraph, “gross receipts,  
9 less returns and allowances” means the sum of the gross  
10 receipts from the production of business income, as  
11 defined in subdivision (a) of Section 25120, and the gross  
12 receipts from the production of nonbusiness income, as  
13 defined in subdivision (d) of Section 25120.

14 (D) For purposes of this paragraph, “proportionate  
15 interest” means:

16 (i) In the case of a passthrough entity which reports a  
17 profit for the taxable or income year, the taxpayer’s profit  
18 interest in the entity at the end of the taxpayer’s taxable  
19 year.

20 (ii) In the case of a passthrough entity which reports  
21 a loss for the taxable or income year, the taxpayer’s loss  
22 interest in the entity at the end of the taxpayer’s taxable  
23 year.

24 (iii) In the case of a passthrough entity which is sold or  
25 liquidates during the taxable or income year, the  
26 taxpayer’s capital account interest in the entity at the  
27 time of the sale or liquidation.

28 (E) (i) For purposes of this paragraph,  
29 “proportionate interest” includes an interest in a  
30 passthrough entity.

31 (ii) For purposes of this paragraph, “passthrough  
32 entity” means any of the following:

33 (I) A partnership, as defined by Section 17008.

34 (II) An S corporation, as provided in Chapter 4.5  
35 (commencing with Section 23800) of Part 11.

36 (III) A regulated investment company, as provided in  
37 Section 24871.

38 (IV) A real estate investment trust, as provided in  
39 Section 24872.



1 (V) A real estate mortgage investment conduit, as  
2 provided in Section 24874.

3 (5) For taxable years beginning on or after January 1,  
4 1998, Section 55(d)(1) of the Internal Revenue Code,  
5 relating to exemption amount for taxpayers other than  
6 corporations is modified, for purposes of this part, to  
7 provide the following exemption amounts in lieu of those  
8 contained therein:

9 (A) Fifty-seven thousand two hundred sixty dollars  
10 (\$57,260) in the case of either of the following:

11 (i) A joint return.

12 (ii) A surviving spouse.

13 (B) Forty-two thousand nine hundred forty-five  
14 dollars (\$42,945) in the case of an individual who is both  
15 of the following:

16 (i) Not a married individual.

17 (ii) Not a surviving spouse.

18 (C) Twenty-eight thousand six hundred thirty dollars  
19 (\$28,630) in the case of either of the following:

20 (i) A married individual who files a separate return.

21 (ii) An estate or trust.

22 (6) For taxable years beginning on or after January 1,  
23 1998, Section 55(d)(3) of the Internal Revenue Code,  
24 relating to the phaseout of exemption amount for  
25 taxpayers other than corporations is modified, for  
26 purposes of this part, to provide the following phaseout of  
27 exemption amounts in lieu of those contained therein:

28 (A) Two hundred fourteen thousand seven hundred  
29 twenty-five dollars (\$214,725) in the case of a taxpayer  
30 described in subparagraph (A) of paragraph (5).

31 (B) One hundred sixty-one thousand forty-four dollars  
32 (\$161,044) in the case of a taxpayer described in  
33 subparagraph (B) of paragraph (5).

34 (C) One hundred seven thousand three hundred  
35 sixty-two dollars (\$107,362) in the case of a taxpayer  
36 described in subparagraph (C) of paragraph (5).

37 (7) For each taxable year beginning on or after  
38 January 1, 1999, the Franchise Tax Board shall recompute  
39 the exemption amounts prescribed in paragraph (5) and  
40 the phaseout of exemption amounts prescribed in



1 paragraph (6). Those computations shall be made as  
2 follows:

3 (A) The California Department of Industrial Relations  
4 shall transmit annually to the Franchise Tax Board the  
5 percentage change in the California Consumer Price  
6 Index for all items from June of the prior calendar year to  
7 June of the current calendar year, no later than August 1  
8 of the current calendar year.

9 (B) The Franchise Tax Board shall do both of the  
10 following:

11 (i) Compute an inflation adjustment factor by adding  
12 100 percent to the percentage change figure that is  
13 furnished pursuant to subparagraph (A) and dividing the  
14 result by 100.

15 (ii) Multiply the preceding taxable year exemption  
16 amounts and the phaseout of exemption amounts by the  
17 inflation adjustment factor determined in clause (i) and  
18 round off the resulting products to the nearest one dollar  
19 (\$1).

20 (c) (1) (A) Section 56(a)(6) of the Internal Revenue  
21 Code *as in effect on January 1, 1997*, relating to  
22 installment sales of certain property, shall not apply to  
23 ~~dispositions~~ *payments received* in taxable years  
24 beginning on or after January 1, 1997, with respect to  
25 dispositions occurring in taxable years beginning after  
26 December 31, 1987.

27 (B) *This paragraph shall not apply to taxable years*  
28 *beginning on or after January 1, 1998.*

29 (2) Section 56(b)(1)(E) of the Internal Revenue  
30 Code, relating to standard deduction and deduction for  
31 personal exemptions not allowed, is modified, for  
32 purposes of this part, to deny the standard deduction  
33 allowed by Section 17073.5.

34 (3) Section 56(b)(3) of the Internal Revenue Code,  
35 relating to treatment of incentive stock options, shall be  
36 modified to additionally provide the following:

37 (A) Section 421 of the Internal Revenue Code shall not  
38 apply to the transfer of stock acquired pursuant to the  
39 exercise of a California qualified stock option under  
40 Section 17502.



1 (B) Section 422(c)(2) of the Internal Revenue Code  
2 shall apply in any case where the disposition and inclusion  
3 of a California qualified stock option for purposes of this  
4 chapter are within the same taxable year and that section  
5 shall not apply in any other case.

6 (C) The adjusted basis of any stock acquired by the  
7 exercise of a California qualified stock option shall be  
8 determined on the basis of the treatment prescribed by  
9 this paragraph.

10 (d) The provisions of Section 57(a)(5) of the Internal  
11 Revenue Code, relating to tax-exempt interest shall not  
12 apply.

13 (e) (1) Section 57(a) of the Internal Revenue Code,  
14 relating to items of tax preference, is modified to include  
15 as an item of tax preference the amount by which the  
16 deduction allowable under Section 170 of the Internal  
17 Revenue Code, relating to charitable contributions or  
18 gifts, or Section 642(c) of the Internal Revenue Code,  
19 relating to deduction for amounts paid or permanently  
20 set aside for a charitable purpose, would be reduced if all  
21 capital gain property were taken into account at its  
22 adjusted basis.

23 (2) For purposes of paragraph (1), the term “capital  
24 gain property” has the meaning given to that term by  
25 Section 170(b)(1)(C)(iv) of the Internal Revenue Code.  
26 That term shall not include any property to which an  
27 election under Section 170(b)(1)(C)(iii) of the Internal  
28 Revenue Code applies.

29 (f) Section 57(a) of the Internal Revenue Code,  
30 relating to items of tax preference, is modified to include  
31 as an item of tax preference an amount equal to one-half  
32 of the amount excluded from gross income for the taxable  
33 year under Section 18152.5.

34 (g) The provisions of Section 59(a) of the Internal  
35 Revenue Code, relating to the alternative minimum tax  
36 foreign tax credit, shall not apply.

37 *SEC. 15. Section 17062.5 is added to the Revenue and*  
38 *Taxation Code, to read:*



1 17062.5. Section 55(b)(3) of the Internal Revenue  
2 Code, relating to maximum rate of tax on net capital gain  
3 of noncorporate taxpayers, shall not apply.

4 SEC. 16. Section 17073.5 of the Revenue and Taxation  
5 Code is amended to read:

6 17073.5. (a) A taxpayer may elect to take a standard  
7 deduction as follows:

8 (1) In the case of a taxpayer, other than a head of a  
9 household or a surviving spouse (as defined in Section  
10 17046) or a married couple filing a joint return, the  
11 standard deduction shall be one thousand eight hundred  
12 eighty dollars (\$1,880).

13 (2) In the case of a head of household or a surviving  
14 spouse (as defined in Section 17046) or a married couple  
15 filing a joint return, the standard deduction shall be three  
16 thousand seven hundred sixty dollars (\$3,760).

17 (b) The standard deduction provided for in  
18 subdivision (a) shall be in lieu of all deductions other than  
19 those which are to be subtracted from gross income in  
20 computing adjusted gross income under Section 17072.

21 (c) (1) The provisions of this section shall be applied  
22 in lieu of the provisions of Sections 63(c) and 63(f) of the  
23 Internal Revenue Code, relating to standard deductions.

24 (2) Notwithstanding paragraph (1), Section 63(c)(5)  
25 of the Internal Revenue Code, relating to limitations on  
26 the standard deduction of certain dependents, and  
27 Section 63(c)(6) of the Internal Revenue Code, relating  
28 to certain individuals not eligible for the standard  
29 deduction, shall apply, *except as otherwise provided*. For  
30 purposes of this paragraph, the amount specified in  
31 Section ~~63(e)(5)(A)~~ 63(c)(5) of the Internal Revenue  
32 Code shall be adjusted for inflation in accordance with  
33 the provisions of Section 63(c)(4) of the Internal  
34 Revenue Code.

35 (d) For each taxable year beginning on or after  
36 January 1, 1988, the Franchise Tax Board shall recompute  
37 the standard deduction amounts prescribed in  
38 subdivision (a). That computation shall be made as  
39 follows:



1 (1) The California Department of Industrial Relations  
2 shall transmit annually to the Franchise Tax Board the  
3 percentage change in the California Consumer Price  
4 Index for all items from June of the prior calendar year to  
5 June of the current calendar year, no later than August 1  
6 of the current calendar year.

7 (2) The Franchise Tax Board shall compute an  
8 inflation adjustment factor by adding 100 percent to that  
9 portion of the percentage change figure which is  
10 furnished pursuant to paragraph (1) and dividing the  
11 result by 100.

12 (3) The Franchise Tax Board shall multiply the  
13 standard deduction amounts in the preceding taxable  
14 year by the inflation adjustment factor determined in  
15 paragraph (2), and round off the resulting products to the  
16 nearest one dollar (\$1).

17 (4) In computing the standard deduction amounts  
18 pursuant to this subdivision, the amount provided in  
19 paragraph (2) of subdivision (a) shall be twice the  
20 amount provided in paragraph (1) of subdivision (a).

21 *SEC. 17. Section 17085.8 of the Revenue and Taxation*  
22 *Code is repealed.*

23 ~~17085.8. (a) Section 72 of the Internal Revenue Code,~~  
24 ~~relating to 10 percent additional tax on early distributions~~  
25 ~~from qualified retirement plans, is modified as follows:~~

26 ~~(1) Section 72(t)(2) of the Internal Revenue Code,~~  
27 ~~relating to subsection not to apply to certain distributions,~~  
28 ~~is modified to additionally provide that distributions to an~~  
29 ~~individual from an individual retirement plan to the~~  
30 ~~extent the distributions do not exceed the qualified~~  
31 ~~higher education expenses, as defined in paragraph (2),~~  
32 ~~of the taxpayer for the taxable year shall not be taken into~~  
33 ~~account if those distributions are described in Section~~  
34 ~~72(t)(2)(A), 72(t)(2)(C), or 72(t)(2)(D) of the Internal~~  
35 ~~Revenue Code or to the extent Section 72(t)(1) of the~~  
36 ~~Internal Revenue Code does not apply to those~~  
37 ~~distributions by reason of Section 72(t)(2)(B) of the~~  
38 ~~Internal Revenue Code.~~

39 ~~(2) For purposes of paragraph (1) “qualified higher~~  
40 ~~education expenses” means qualified higher education~~



1 expenses, as defined in Section 529(e)(3) of the Internal  
2 Revenue Code, for education furnished to any of the  
3 following:

4 (A) The taxpayer.

5 (B) The taxpayer's spouse.

6 (C) Any child, as defined in Section 151(c)(3) of the  
7 Internal Revenue Code, or grandchild of the taxpayer or  
8 the taxpayer's spouse, at an eligible educational  
9 institution, as defined in Section 529(e)(5) of the Internal  
10 Revenue Code, as added by Public Law 105-34.

11 (3) This subdivision shall apply to distributions after  
12 December 31, 1997, with respect to expenses paid after  
13 that date (in taxable years ending after that date), for  
14 education furnished in academic periods beginning after  
15 that date.

16 (b) (1) Section 72(t)(2) of the Internal Revenue  
17 Code, relating to subsection not to apply to certain  
18 distributions, is modified to additionally provide that  
19 distributions to an individual from an individual  
20 retirement plan which are qualified first-time  
21 homebuyer distributions, as defined in paragraph (2)  
22 shall not be taken into account if the distributions are  
23 described in Section 72(t)(2)(A), Section 72(t)(2)(C),  
24 or Section 72(t)(2)(D) of the Internal Revenue Code, or  
25 Section 72(t)(2)(E) of the Internal Revenue Code, as  
26 added by Public Law 105-34, or to the extent Section  
27 72(t)(1) of the Internal Revenue Code does not apply to  
28 those distributions by reason of Section 72(t)(2)(B) of  
29 the Internal Revenue Code.

30 (2) For purposes of this subdivision:

31 (A) (i) "Qualified first-time homebuyer distribution"  
32 means any payment or distribution received by an  
33 individual to the extent the payment or distribution is  
34 used by the individual before the close of the 120th day  
35 after the day on which that payment or distribution is  
36 received to pay qualified acquisition costs with respect to  
37 a principal residence of a first-time homebuyer who is  
38 that individual, the spouse of that individual, or any child,  
39 grandchild, or ancestor of that individual or the spouse of  
40 the child, grandchild, or ancestor.



1 ~~(ii) The aggregate amount of payments or~~  
2 ~~distributions received by an individual which may be~~  
3 ~~treated as qualified first-time homebuyer distributions for~~  
4 ~~any taxable year shall not exceed the excess (if any) of—~~

5 ~~(I) Ten thousand dollars (\$10,000), over~~

6 ~~(II) The aggregate amounts treated as qualified~~  
7 ~~first-time homebuyer distribution with respect to the~~  
8 ~~individual for all prior taxable years.~~

9 ~~(B) “Qualified acquisition costs” means the costs of~~  
10 ~~acquiring, constructing, or reconstructing a residence.~~  
11 ~~“Qualified acquisition costs” includes any usual or~~  
12 ~~reasonable settlement, financing, or other closing costs.~~

13 ~~(C) “First-time homebuyer” means any individual if~~  
14 ~~both of the following apply:~~

15 ~~(i) The individual (and if married, the individual’s~~  
16 ~~spouse) had no present ownership interest in a principal~~  
17 ~~residence during the two-year period ending on the date~~  
18 ~~of acquisition of the principal residence to which this~~  
19 ~~paragraph applies.~~

20 ~~(ii) Section 1034(h) or 1034(k) of the Internal~~  
21 ~~Revenue Code (as in effect on the day before the date of~~  
22 ~~the enactment of this paragraph) did not suspend the~~  
23 ~~running of any period of time specified in Section 1034 of~~  
24 ~~the Internal Revenue Code (as so in effect) with respect~~  
25 ~~to that individual on the day before the date the~~  
26 ~~distribution is applied pursuant to subparagraph (A).~~

27 ~~(D) “Principal residence” has the same meaning as~~  
28 ~~when used in Section 17152.~~

29 ~~(E) “Date of acquisition” means either of the~~  
30 ~~following:~~

31 ~~(i) The date on which a binding contract to acquire~~  
32 ~~the principal residence to which subparagraph (A)~~  
33 ~~applies is entered into.~~

34 ~~(ii) The date on which construction or reconstruction~~  
35 ~~of the principal residence is commenced.~~

36 ~~(F) If any distribution from any individual retirement~~  
37 ~~plan fails to meet the requirements of subparagraph (A)~~  
38 ~~solely by reason of a delay or cancellation of the purchase~~  
39 ~~or construction of the residence, the amount of the~~  
40 ~~distribution may be contributed to an individual~~



1 ~~retirement plan as provided in Section 408(d)(3)(A)(i)~~  
2 ~~of the Internal Revenue Code (determined by~~  
3 ~~substituting “120 days” for “60 days” in that section);~~  
4 ~~except that both of the following shall apply:~~

5 ~~(i) Section 408(d)(3)(B) of the Internal Revenue~~  
6 ~~Code shall not be applied to that contribution.~~

7 ~~(ii) That amount shall not be taken into account in~~  
8 ~~determining whether Section 408(d)(3)(B) of the~~  
9 ~~Internal Revenue Code applies to any other amount.~~

10 ~~(3) This subdivision shall apply to payments and~~  
11 ~~distributions in taxable years beginning on or after~~  
12 ~~January 1, 1998.~~

13 *SEC. 18. Section 17088.5 of the Revenue and Taxation*  
14 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
15 *amended to read:*

16 17088.5. (a) Section 851(b)(3) of the Internal  
17 Revenue Code shall not apply.

18 (b) This section shall apply in determining whether an  
19 entity qualifies as a regulated investment company for  
20 income years of that entity beginning after August 5, 1997.

21 (c) *This section shall not apply to taxable years*  
22 *beginning on or after January 1, 1998.*

23 *SEC. 19. Section 17088.6 of the Revenue and Taxation*  
24 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
25 *amended to read:*

26 17088.6. (a) Section 856(c)(4) of the Internal  
27 Revenue Code shall not apply.

28 (b) (1) Section 856(c)(6)(G) of the Internal  
29 Revenue Code shall not apply and in lieu thereof  
30 paragraph (2) shall apply.

31 (2) Except to the extent provided by regulations of the  
32 Secretary of the Treasury under Section 856(c)(5)(G) of  
33 the Internal Revenue Code (as redesignated and  
34 amended by Public Law 105-34), both of the following  
35 shall be treated as income qualifying under Section  
36 856(c)(2) of the Internal Revenue Code:

37 (A) Any payment to a real estate investment trust  
38 under an interest rate swap or cap agreement, option,  
39 futures contract, forward rate agreement, or any similar  
40 financial instrument, entered into by the trust in a



1 transaction to reduce the interest rate risks with respect  
2 to any indebtedness incurred or to be incurred by the  
3 trust to acquire or carry real estate assets.

4 (B) Any gain from the sale or other disposition of any  
5 such investment.

6 (c) This section shall apply in determining whether an  
7 entity qualifies as a real estate investment trust for  
8 income years of that entity beginning after August 5, 1997.

9 (d) *This section shall not apply to taxable years*  
10 *beginning on or after January 1, 1998.*

11 *SEC. 20. Section 17132.6 of the Revenue and Taxation*  
12 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
13 *amended to read:*

14 17132.6. ~~(a) (1)~~ Section 101 of the Internal Revenue  
15 Code, relating to certain death benefits, is modified to  
16 additionally provide that gross income shall not include  
17 any amount paid as a survivor annuity on account of the  
18 death of a public safety officer (as that term is defined in  
19 Section 1204 of the Omnibus Crime Control and Safe  
20 Streets Act of 1968) killed in the line of duty—

21 (A) If that annuity is provided, under a governmental  
22 plan which meets the requirements of Section 401(a) of  
23 the Internal Revenue Code, to the spouse (or former  
24 spouse) of the public safety officer or to a child of that  
25 officer.

26 (B) To the extent that annuity is attributable to the  
27 officer's service as a public safety officer.

28 (2) Paragraph (1) shall not apply with respect to the  
29 death of any public safety officer if, as determined in  
30 accordance with the Omnibus Crime Control and Safe  
31 Streets Act of 1968—

32 (A) The death was caused by the intentional  
33 misconduct of the officer or by the officer's intention to  
34 bring about the officer's death.

35 (B) The officer was voluntarily intoxicated (as defined  
36 in Section 1204 of the Omnibus Crime Control and Safe  
37 Streets Act of 1968) at the time of death.

38 (C) The officer was performing that officer's duties in  
39 a grossly negligent manner at the time of death.



1 ~~(D) The payment is to an individual whose actions~~  
2 ~~were a substantial contributing factor to the death of the~~  
3 ~~officer.~~

4 ~~(b) This section shall as follows:~~

5 ~~(a) Section 101(h) of the Internal Revenue Code,~~  
6 ~~relating to survivor benefits attributable to service by a~~  
7 ~~public safety officer who is killed in the line of duty, is~~  
8 ~~modified to apply to amounts received in taxable years~~  
9 ~~beginning after December 31, 1996, with respect to~~  
10 ~~individuals dying after December 31, 1996.~~

11 ~~(b) The amendments made by the act adding this~~  
12 ~~subdivision shall apply to taxable years beginning on or~~  
13 ~~after January 1, 1998.~~

14 ~~SEC. 21. Section 17140.3 is added to the Revenue and~~  
15 ~~Taxation Code, to read:~~

16 ~~17140.3. Section 529 of the Internal Revenue Code,~~  
17 ~~relating to qualified state tuition programs, shall apply,~~  
18 ~~except as otherwise provided.~~

19 ~~(a) Section 529 (a) of the Internal Revenue Code is~~  
20 ~~modified as follows:~~

21 ~~(1) By substituting the phrase “under Part II~~  
22 ~~(commencing with Section 23001) in lieu of the phrase~~  
23 ~~“under this subtitle.”~~

24 ~~(2) By substituting “Article 2 (commencing with~~  
25 ~~Section 23731)” in lieu of “Section 511.”~~

26 ~~(b) A copy of the report required to be filed with the~~  
27 ~~Secretary of the Treasury under Section 529(d) of the~~  
28 ~~Internal Revenue Code shall be filed with the Franchise~~  
29 ~~Tax Board at the same time and in the same manner as~~  
30 ~~specified in that section.~~

31 ~~SEC. 22. Section 17152 of the Revenue and Taxation~~  
32 ~~Code is amended to read:~~

33 ~~17152. (a) For sales and exchanges before May 7,~~  
34 ~~1997, Section 121 of the Internal Revenue Code, relating~~  
35 ~~to one-time exclusion of gain from sale of principal~~  
36 ~~residence by individual who has attained age 55, is~~  
37 ~~modified to additionally include both of the following:~~

38 ~~(1) The dollar amount of the exclusion in Section~~  
39 ~~121(b) of the Internal Revenue Code shall be the same as~~  
40 ~~allowed for federal purposes as determined by the~~



1 taxpayer's filing status for federal purposes even though  
2 the taxpayer is prohibited from filing a joint return  
3 pursuant to Section 18521. However, in no instance shall  
4 the total amount excludable for the sale of a principal  
5 residence exceed the maximum amount allowed by  
6 Section 121(b) of the Internal Revenue Code.

7 (2) The three-year period in Section 121(a)(2) of the  
8 Internal Revenue Code shall be reduced by the period of  
9 the taxpayer's service, not to exceed 18 months, in the  
10 Peace Corps during the five-year period ending on the  
11 date of the sale or exchange.

12 (b) For sales and exchanges on and after May 7, 1997,  
13 Section 121 of the Internal Revenue Code, relating to  
14 one-time exclusion of gain from sale of principal  
15 residence by an individual who has attained age 55, shall  
16 not apply and in lieu of that section subdivisions (e) to  
17 (h), inclusive, shall apply. References in the Internal  
18 Revenue Code to Section 121 of the Internal Revenue  
19 Code shall instead be treated as a reference to subdivision  
20 (e) of this section.

21 (c) Gross income shall not include gain from the sale  
22 or exchange of property if, during the five-year period  
23 ending on the date of the sale or exchange, the property  
24 has been owned and used by the taxpayer as the  
25 taxpayer's principal residence for periods aggregating  
26 two years or more. *Section 121 of the Internal Revenue*  
27 *Code, relating to exclusion of gain from sale of principal*  
28 *residence, is modified as follows:*

29 (a) The two-year period in Section 121(a) of the  
30 *Internal Revenue Code* shall be reduced by the period of  
31 the taxpayer's service, not to exceed 18 months, in the  
32 Peace Corps during the five-year period ending on the  
33 date of the sale or exchange.

34 (d) (1) The amount of gain excluded from gross  
35 income under subdivision (c) with respect to any sale or  
36 exchange shall not exceed two hundred fifty thousand  
37 dollars (\$250,000).

38 (2) Paragraph (1) shall be applied by substituting five  
39 hundred thousand dollars (\$500,000) for two hundred



1 ~~fifty thousand dollars (\$250,000) if all of the following~~  
2 ~~conditions are met:~~

3 ~~(A) A husband and wife make a joint return for the~~  
4 ~~taxable year of the sale or exchange of the property.~~

5 ~~(B) Either spouse meets the ownership requirements~~  
6 ~~of subdivision (e) with respect to the property.~~

7 ~~(C) Both spouses meet the use requirements of~~  
8 ~~subdivision (e) with respect to the property.~~

9 ~~(D) Neither spouse is ineligible for the benefits of~~  
10 ~~subdivision (e) with respect to the property by reason of~~  
11 ~~paragraph (3).~~

12 ~~(3) (A) Subdivision (e) shall not apply to any sale or~~  
13 ~~exchange by the taxpayer if, during the two-year period~~  
14 ~~ending on the date of the sale or exchange, there was any~~  
15 ~~other sale or exchange by the taxpayer to which~~  
16 ~~subdivision (e) applied.~~

17 ~~(B) Subparagraph (A) shall be applied without regard~~  
18 ~~to any sale or exchange before May 7, 1997.~~

19 ~~(4)~~

20 ~~(b) If the taxpayer is prohibited from filing a joint~~  
21 ~~return pursuant to Section 18521, subparagraph (A) of~~  
22 ~~paragraph (2) Section 121(b)(2)(A) of the Internal~~  
23 ~~Revenue Code shall nevertheless be treated as being~~  
24 ~~satisfied if the taxpayer files a joint return for federal~~  
25 ~~income tax purposes for the same taxable year. However,~~  
26 ~~in no instance shall the total amount excludable from~~  
27 ~~gross income under subdivision (e) Section 121(a) of the~~  
28 ~~Internal Revenue Code with respect to any sale or~~  
29 ~~exchange exceed five hundred thousand dollars~~  
30 ~~(\$500,000) the maximum amount allowed by Section~~  
31 ~~121(b) of the Internal Revenue Code.~~

32 ~~(e) (1) In the case of a sale or exchange that is subject~~  
33 ~~to this subdivision in accordance with paragraph (2), the~~  
34 ~~ownership and use requirements of subdivision (e) shall~~  
35 ~~not apply and paragraph (3) of subdivision (d) shall not~~  
36 ~~apply, but the amount of gain excluded from gross income~~  
37 ~~under subdivision (e) with respect to the sale or exchange~~  
38 ~~shall not exceed the amount that bears the same ratio to~~  
39 ~~the amount that would be so excluded if those~~



1 requirements had been met, as the shorter of the  
2 following two periods bears to two years:

3 (A) The aggregate periods, during the five-year  
4 period ending on the date of the sale or exchange, during  
5 which the property has been owned and used by the  
6 taxpayer as the taxpayer's principal residence.

7 (B) The period after the date of the most recent prior  
8 sale or exchange by the taxpayer to which subdivision (c)  
9 applied and before the date of the sale or exchange.

10 (2) This subdivision shall apply to any sale or exchange  
11 if:

12 (A) Subdivision (c) would not, but for this subdivision,  
13 apply to the sale or exchange by reason of either of the  
14 following:

15 (i) A failure to meet the ownership and use  
16 requirements of subdivision (c).

17 (ii) Paragraph (3) of subdivision (d).

18 (B) The sale or exchange is by reason of a change in  
19 place of employment, health, or, to the extent provided  
20 in regulations, unforeseen circumstances.

21 (f) (1) For purposes of this section, in the case of an  
22 unmarried individual whose spouse is deceased on the  
23 date of the sale or exchange of property, the period the  
24 unmarried individual owned the property shall include  
25 the period the deceased spouse owned the property  
26 before death.

27 (2) For purposes of this section:

28 (A) In the case of an individual holding property  
29 transferred to that individual in a transaction described  
30 in Section 1041(a) of the Internal Revenue Code, the  
31 period the individual owns the property shall include the  
32 period the transferor owned the property.

33 (B) Solely for purposes of this section, an individual  
34 shall be treated as using property as that individual's  
35 principal residence during any period of ownership while  
36 that individual's spouse or former spouse is granted use of  
37 the property under a divorce or separation instrument, as  
38 defined in Section 71(b)(2) of the Internal Revenue  
39 Code.



1 ~~(3) For purposes of this section, if the taxpayer holds~~  
2 ~~stock as a tenant stockholder, as defined in Section 216 of~~  
3 ~~the Internal Revenue Code, in a cooperative housing~~  
4 ~~corporation, as defined in Section 216 of the Internal~~  
5 ~~Revenue Code:~~

6 ~~(A) The holding requirements of subdivision (e) shall~~  
7 ~~be applied to the holding of that stock.~~

8 ~~(B) The use requirements of subdivision (e) shall be~~  
9 ~~applied to the house or apartment which the taxpayer was~~  
10 ~~entitled to occupy as the stockholder.~~

11 ~~(4) (A) For purposes of this section, the destruction,~~  
12 ~~theft, seizure, requisition, or condemnation of property~~  
13 ~~shall be treated as the sale of the property.~~

14 ~~(B) In applying Section 1033 of the Internal Revenue~~  
15 ~~Code, relating to involuntary conversions, the amount~~  
16 ~~realized from the sale or exchange of property shall be~~  
17 ~~treated as being the amount determined without regard~~  
18 ~~to this section, reduced by the amount of gain not~~  
19 ~~included in gross income pursuant to this section.~~

20 ~~(C) If the basis of the property sold or exchanged is~~  
21 ~~determined, in whole or in part, under Section 1033(b)~~  
22 ~~of the Internal Revenue Code, relating to basis of~~  
23 ~~property acquired through involuntary conversion, then~~  
24 ~~the holding and use by the taxpayer of the converted~~  
25 ~~property shall be treated as holding and use by the~~  
26 ~~taxpayer of the property sold or exchanged.~~

27 ~~(5) Subdivision (e) shall not apply to so much of the~~  
28 ~~gain from the sale of any property as does not exceed the~~  
29 ~~portion of the depreciation adjustments, as defined in~~  
30 ~~Section 1250(b)(3) of the Internal Revenue Code,~~  
31 ~~attributable to periods after May 6, 1997, with respect to~~  
32 ~~that property.~~

33 ~~(6) In the case of a taxpayer who becomes physically~~  
34 ~~or mentally incapable of self-care, and owns property and~~  
35 ~~uses the property as the taxpayer's principal residence~~  
36 ~~during the five-year period described in subdivision (e)~~  
37 ~~for periods aggregating at least one year, the taxpayer~~  
38 ~~shall be treated as using the property as the taxpayer's~~  
39 ~~principal residence during any time during the five-year~~  
40 ~~period in which the taxpayer owns the property and~~



1 ~~resides in any facility, including a nursing home, licensed~~  
2 ~~by a state or political subdivision to care for an individual~~  
3 ~~in the taxpayer's condition.~~

4 ~~(7) In the case of any sale or exchange, for purposes of~~  
5 ~~this section:~~

6 ~~(A) The determination of whether an individual is~~  
7 ~~married shall be made as of the date of the sale or~~  
8 ~~exchange.~~

9 ~~(B) An individual legally separated from his or her~~  
10 ~~spouse under a decree of divorce or of separate~~  
11 ~~maintenance shall not be considered as married.~~

12 ~~(8) For purposes of this section:~~

13 ~~(A) At the election of the taxpayer, this section shall~~  
14 ~~not fail to apply to the sale or exchange of an interest in~~  
15 ~~a principal residence by reason of that interest being a~~  
16 ~~remainder interest in the residence, but this section shall~~  
17 ~~not apply to any other interest in that residence which is~~  
18 ~~sold or exchanged separately.~~

19 ~~(B) Subparagraph (A) shall not apply to any sale to, or~~  
20 ~~exchange with, any person who bears a relationship to the~~  
21 ~~taxpayer which is described in Section 267(b) or 707(b)~~  
22 ~~of the Internal Revenue Code.~~

23 ~~(g)~~

24 ~~(c) (1) If a taxpayer has, at any time, made an election~~  
25 ~~for federal purposes under Section 121(f) of the Internal~~  
26 ~~Revenue Code, as amended by Public Law 105-34, not to~~  
27 ~~have Section 121 of the Internal Revenue Code, as~~  
28 ~~amended by Public Law 105-34, apply to a sale or~~  
29 ~~exchange, subdivision (e) of this section *Section 121 of the*~~  
30 ~~*Internal Revenue Code* shall not apply to that sale or~~  
31 ~~exchange *for state purposes*, a separate election for state~~  
32 ~~purposes shall not be allowed under paragraph (3) of~~  
33 ~~subdivision (e) of Section 17024.5, the federal election~~  
34 ~~shall be binding for purposes of this part, and that election~~  
35 ~~shall be treated as an election to include in gross income~~  
36 ~~for purposes of this part all the gain from the sale or~~  
37 ~~exchange of *that* property, including that amount which,~~  
38 ~~but for that election, would have been excluded from~~  
39 ~~income under subdivision (e) of this section *Section*~~  
40 ~~*121(a) of the Internal Revenue Code for state purposes.*~~



1 ~~(h) For purposes of this section, in the case of property~~  
2 ~~the acquisition of which by the taxpayer resulted under~~  
3 ~~Section 1034 of the Internal Revenue Code, as applicable~~  
4 ~~on the day before the date of enactment of the act adding~~  
5 ~~this subdivision, in the nonrecognition of any part of the~~  
6 ~~gain realized on the sale or exchange of another~~  
7 ~~residence, in determining the period for which the~~  
8 ~~taxpayer has owned and used the property as the~~  
9 ~~taxpayer's principal residence, there shall be included the~~  
10 ~~aggregate periods for which the other residence, and~~  
11 ~~each prior residence taken into account under Section~~  
12 ~~1223(7) of the Internal Revenue Code in determining the~~  
13 ~~holding period of the property, had been so owned and~~  
14 ~~used.~~

15 ~~(i) For sales and exchanges on or after May 7, 1997, the~~  
16 ~~provisions that require a report under Section 18643 are~~  
17 ~~modified to only require a copy of the federal return~~  
18 ~~required to be filed with the Secretary of the Treasury~~  
19 ~~under Section 6045(e) of the Internal Revenue Code, as~~  
20 ~~amended by Public Law 105-34.~~

21 *(2) If a taxpayer fails to make an election for federal*  
22 *purposes under Section 121(f) of the Internal Revenue*  
23 *Code to not have Section 121 of the Internal Revenue*  
24 *Code apply to a sale or exchange, no election under*  
25 *Section 121(f) of the Internal Revenue Code shall be*  
26 *allowed for state purposes, Section 121 of the Internal*  
27 *Revenue Code shall apply to that sale or exchange for*  
28 *state purposes, and a separate election for state purposes*  
29 *shall not be allowed under paragraph (3) of subdivision*  
30 *(e) of Section 17024.5.*

31 *(d) (1) If a taxpayer has, at any time, made an election*  
32 *for federal purposes under Section 312(d)(2) of the*  
33 *Taxpayer Relief Act of 1997 (Public Law 105-34), relating*  
34 *to sales before date of enactment, or Section 312(d)(4) of*  
35 *that act, relating to binding contracts, to not have the*  
36 *amendments made by Section 312 of the Taxpayer Relief*  
37 *Act of 1997 (Public Law 105-34) apply to a sale or*  
38 *exchange, the amendments made by the act adding this*  
39 *subdivision shall not apply to that sale or exchange,*  
40 *Sections 1, 4, and 6 of Chapter 610 of the Statutes of 1997*



1 shall not apply to that sale or exchange, a separate  
2 election for state purposes shall not be allowed under  
3 paragraph (3) of subdivision (e) of Section 17024.5, and  
4 the federal election shall be binding for purposes of this  
5 part.

6 (2) If a taxpayer fails to make an election for federal  
7 purposes under Section 312(d)(2) of the Taxpayer Relief  
8 Act of 1997 (Public Law 105-34), relating to sales before  
9 date of enactment, or Section 312(d)(4) of that act,  
10 relating to binding contracts, to not have the  
11 amendments made by Section 312 of the Taxpayer Relief  
12 Act of 1997 (Public Law 105-34) apply to a sale or  
13 exchange, an election under Section 312(d)(2) of the  
14 Taxpayer Relief Act of 1997 (Public Law 105-34), relating  
15 to sales before date of enactment, or Section 312(d)(4) of  
16 that act, relating to binding contracts, shall not be allowed  
17 for state purposes, the amendments made by the act  
18 adding this subdivision shall apply to that sale or  
19 exchange, Sections 1, 4, and 6 of Chapter 610 of the  
20 Statutes of 1997 shall apply to that sale or exchange, and  
21 a separate election for state purposes shall not be allowed  
22 under paragraph (3) of subdivision (e) of Section 17024.5.

23

24 SEC. 23. Section 17210.6 of the Revenue and Taxation  
25 Code is repealed.

26 ~~17210.6. For taxable years beginning on or after~~  
27 ~~January 1, 1998, Section 219 of the Internal Revenue~~  
28 ~~Code, relating to retirement savings, is modified as~~  
29 ~~follows:~~

30 ~~(a) Section 219(e)(1)(B)(ii) of the Internal Revenue~~  
31 ~~Code is modified to substitute, in lieu of the language in~~  
32 ~~that clause, “the compensation includable in the gross~~  
33 ~~income of that individual’s spouse for the taxable year~~  
34 ~~reduced by both of the following:~~

35 ~~(1) The amount allowed as a deduction under Section~~  
36 ~~219(a) of the Internal Revenue Code to that spouse for~~  
37 ~~that taxable year.~~

38 ~~(2) The amount of any contribution on behalf of that~~  
39 ~~spouse to a Roth IRA under Section 17507.6 of that taxable~~  
40 ~~year.”~~



1 ~~(b) Section 219(g)(1) of the Internal Revenue Code is~~  
2 ~~modified as follows:~~

3 ~~(1) By substituting the phrase “an individual” in lieu~~  
4 ~~of the phrase “an individual or the individual’s spouse.”~~

5 ~~(2) In the case of an individual who is an active~~  
6 ~~participant at no time during any plan year ending with~~  
7 ~~or within the taxable year but whose spouse is an active~~  
8 ~~participant for any part of any of those plan years both of~~  
9 ~~the following shall apply:~~

10 ~~(A) The applicable dollar amount under Section~~  
11 ~~219(g)(3)(B)(i) of the Internal Revenue Code with~~  
12 ~~respect to the taxpayer shall be one hundred fifty~~  
13 ~~thousand dollars (\$150,000).~~

14 ~~(B) The amount applicable under Section~~  
15 ~~219(g)(2)(A)(ii) shall be ten thousand dollars (\$10,000).~~

16 ~~(e) Section 219(g)(2)(A)(ii) of the Internal Revenue~~  
17 ~~Code is modified by substituting “ten thousand dollars~~  
18 ~~(\$10,000), twenty thousand dollars (\$20,000) in the case~~  
19 ~~of a joint return for a taxable year beginning on or after~~  
20 ~~January 1, 2007)” in lieu of “ten thousand dollars~~  
21 ~~(\$10,000).”~~

22 ~~(d) Section 219(g)(3)(B) of the Internal Revenue~~  
23 ~~Code is modified to provide that “applicable dollar~~  
24 ~~amount” means, in lieu of the amounts provided therein,~~  
25 ~~the following:~~

26 ~~(1) In the case of a taxpayer filing a joint return:~~

27		
28		The applicable
29	For taxable years beginning in:	dollar amount is:
30	—1998	\$50,000
31	—1999	\$51,000
32	—2000	\$52,000
33	—2001	\$53,000
34	—2002	\$54,000
35	—2003	\$60,000
36	—2004	\$65,000
37	—2005	\$70,000
38	—2006	\$75,000
39	—2007 and thereafter	\$80,000
40		



1 ~~(2) In the case of any other taxpayer (other than a~~  
2 ~~married individual filing a separate return):~~

3	4	5	6
		For taxable years beginning in:	The applicable dollar amount is:
6	—1998		\$30,000
7	—1999		\$31,000
8	—2000		\$32,000
9	—2001		\$33,000
10	—2002		\$34,000
11	—2003		\$40,000
12	—2004		\$45,000
13	—2005 and thereafter		\$50,000

14  
15 ~~(3) In the case of a married individual filing a separate~~  
16 ~~return, zero.~~

17 *SEC. 24. Section 17273.1 is added to the Revenue and*  
18 *Taxation Code, to read:*

19 *17273.1. (a) Notwithstanding Section 17273, for each*  
20 *taxable year beginning on or after January 1, 1998, and*  
21 *before January 1, 1999, Section 162(l)(1) of the Internal*  
22 *Revenue Code, relating to applicable percentage, is*  
23 *modified by substituting “40 percent” for the*  
24 *percentages specified in that section.*

25 *(b) This section shall remain in effect only until*  
26 *January 1, 1999, and as of that date is repealed.*

27 *SEC. 25. Section 17276 of the Revenue and Taxation*  
28 *Code is amended to read:*

29 *17276. Except as provided in Sections 17276.1 and*  
30 *17276.2, the deduction provided by Section 172 of the*  
31 *Internal Revenue Code, relating to a net operating loss*  
32 *deduction, shall be modified as follows:*

33 *(a) (1) Net operating losses attributable to taxable*  
34 *years beginning before January 1, 1987, shall not be*  
35 *allowed.*

36 *(2) A net operating loss shall not be carried forward to*  
37 *any taxable year beginning before January 1, 1987.*

38 *(b) (1) Except as provided in paragraphs (2) and (3),*  
39 *the provisions of Section 172(b)(2) of the Internal*  
40 *Revenue Code, relating to the amount of carryovers, shall*



1 be modified so that 50 percent of the entire amount of the  
2 net operating loss for any taxable year shall not be eligible  
3 for carryover to any subsequent taxable year.

4 (2) In the case of a taxpayer who has a net operating  
5 loss in a taxable year beginning on or after January 1, 1994,  
6 and who operates a new business during that taxable year,  
7 each of the following shall apply to each loss incurred  
8 during the first three taxable years of operating the new  
9 business:

10 (A) If the net operating loss is equal to or less than the  
11 net loss from the new business, 100 percent of the net  
12 operating loss shall be carried forward as provided in  
13 paragraph (2) of subdivision (d).

14 (B) If the net operating loss is greater than the net loss  
15 from the new business, the net operating loss shall be  
16 carried over as follows:

17 (i) With respect to an amount equal to the net loss  
18 from the new business, 100 percent of that amount shall  
19 be carried forward as provided in paragraph (2) of  
20 subdivision (d).

21 (ii) With respect to the portion of the net operating  
22 loss which exceeds the net loss from the new business, 50  
23 percent of that amount shall be a net operating loss  
24 carryover to each of the five taxable years following the  
25 taxable year of the loss.

26 (C) For purposes of Section 172(b)(2) of the Internal  
27 Revenue Code, the amount described in clause (ii) of  
28 subparagraph (B) shall be absorbed before the amount  
29 described in clause (i) of subparagraph (B).

30 (3) In the case of a taxpayer who has a net operating  
31 loss in a taxable year beginning on or after January 1, 1994,  
32 and who operates an eligible small business during that  
33 taxable year, each of the following shall apply:

34 (A) If the net operating loss is equal to or less than the  
35 net loss from the eligible small business, 100 percent of the  
36 net operating loss shall be carried forward to the taxable  
37 years specified in paragraph (1) of subdivision (d).

38 (B) If the net operating loss is greater than the net loss  
39 from the eligible small business, the net operating loss  
40 shall be carried over as follows:



1 (i) With respect to an amount equal to the net loss  
2 from the eligible small business, 100 percent of that  
3 amount shall be carried forward to each of the five taxable  
4 years following the taxable year of the loss.

5 (ii) With respect to the portion of the net operating  
6 loss that exceeds the net loss from the eligible small  
7 business, 50 percent of that amount shall be a net  
8 operating loss carryover to each of the five taxable years  
9 following the taxable year of the loss.

10 (C) For purposes of Section 172(b)(2) of the Internal  
11 Revenue Code, the amount described in clause (ii) of  
12 subparagraph (B) shall be absorbed before the amount  
13 described in clause (i) of subparagraph (B).

14 (4) In the case of a taxpayer who has a net operating  
15 loss in a taxable year beginning on or after January 1, 1994,  
16 and who operates a business that qualifies as both a new  
17 business and an eligible small business under this section,  
18 that business shall be treated as a new business for the first  
19 three taxable years of the new business.

20 (5) In the case of a taxpayer who has a net operating  
21 loss in a taxable year beginning on or after January 1, 1994,  
22 and who operates more than one business, and more than  
23 one of those businesses qualifies as either a new business  
24 or an eligible small business under this section, paragraph  
25 (2) shall be applied first, except that if there is any  
26 remaining portion of the net operating loss after  
27 application of clause (i) of subparagraph (B) of that  
28 paragraph, paragraph (3) shall be applied to the  
29 remaining portion of the net operating loss as though that  
30 remaining portion of the net operating loss constituted  
31 the entire net operating loss.

32 (6) For purposes of this section, the term “net loss”  
33 means the amount of net loss after application of Sections  
34 465 and 469 of the Internal Revenue Code.

35 (c) Net operating loss carrybacks shall not be allowed.

36 (d) (1) Except as provided in paragraphs (2) and (3),  
37 for each taxable year beginning on or after January 1,  
38 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue  
39 Code, relating to years to which net operating losses may



1 be carried, is modified to substitute “five taxable years”  
2 in lieu of—~~15~~ “20 taxable years.”

3 (2) In the case of a “new business,” the “five taxable  
4 years” in paragraph (1) shall be modified to read as  
5 follows:

6 (A) “Eight taxable years” for a net operating loss  
7 attributable to the first taxable year of that new business.

8 (B) “Seven taxable years” for a net operating loss  
9 attributable to the second taxable year of that new  
10 business.

11 (C) “Six taxable years” for a net operating loss  
12 attributable to the third taxable year of that new business.

13 (3) For any carryover of a net operating loss for which  
14 a deduction is denied by Section 17276.3, the carryover  
15 period specified in this subdivision shall be extended as  
16 follows:

17 (A) By one year for a net operating loss attributable to  
18 taxable years beginning in 1991.

19 (B) By two years for a net operating loss attributable  
20 to taxable years beginning prior to January 1, 1991.

21 (4) The net operating loss attributable to taxable years  
22 beginning on or after January 1, 1987, and before January  
23 1, 1994, shall be a net operating loss carryover to each of  
24 the 10 taxable years following the year of the loss if it is  
25 incurred by a taxpayer that is under the jurisdiction of the  
26 court in a Title 11 or similar case at any time during the  
27 income year. The loss carryover provided in the  
28 preceding sentence shall not apply to any loss incurred  
29 after the date the taxpayer is no longer under the  
30 jurisdiction of the court in a Title 11 or similar case.

31 (e) For purposes of this section:

32 (1) “Eligible small business” means any trade or  
33 business that has gross receipts, less returns and  
34 allowances, of less than one million dollars (\$1,000,000)  
35 during the taxable year.

36 (2) Except as provided in subdivision (f), “new  
37 business” means any trade or business activity that is first  
38 commenced in this state on or after January 1, 1994.



1 (3) “Title 11 or similar case” shall have the same  
2 meaning as in Section 368(a)(3) of the Internal Revenue  
3 Code.

4 (4) In the case of any trade or business activity  
5 conducted by a partnership or S corporation, paragraphs  
6 (1) and (2) shall be applied to the partnership or S  
7 corporation.

8 (f) For purposes of this section, in determining  
9 whether a trade or business activity qualifies as a new  
10 business under paragraph (2) of subdivision (e), the  
11 following rules shall apply:

12 (1) In any case where a taxpayer ~~or partnership~~  
13 purchases or otherwise acquires all or any portion of the  
14 assets of an existing trade or business (irrespective of the  
15 form of entity) that is doing business in this state (within  
16 the meaning of Section 23101), the trade or business  
17 thereafter conducted by the taxpayer ~~or partnership~~ (or  
18 any related person) shall not be treated as a new business  
19 if the aggregate fair market value of the acquired assets  
20 (including real, personal, tangible, and intangible  
21 property) used by the taxpayer ~~or partnership~~ (or any  
22 related person) in the conduct of its trade or business  
23 exceeds 20 percent of the aggregate fair market value of  
24 the total assets of the trade or business being conducted  
25 by the taxpayer ~~or partnership~~ (or any related person).  
26 For purposes of this paragraph only, the following rules  
27 shall apply:

28 (A) The determination of the relative fair market  
29 values of the acquired assets and the total assets shall be  
30 made as of the last day of the first taxable year in which  
31 the taxpayer ~~or partnership~~ (or any related person) first  
32 uses any of the acquired trade or business assets in its  
33 business activity.

34 (B) Any acquired assets that constituted property  
35 described in Section 1221(1) of the Internal Revenue  
36 Code in the hands of the transferor shall not be treated as  
37 assets acquired from an existing trade or business, unless  
38 those assets also constitute property described in Section  
39 1221(1) of the Internal Revenue Code in the hands of the  
40 acquiring taxpayer ~~or partnership~~ (or related person).



1 (2) In any case where a taxpayer ~~or partnership~~ (or  
2 any related person) is engaged in one or more trade or  
3 business activities in this state, or has been engaged in one  
4 or more trade or business activities in this state within the  
5 preceding 36 months (“prior trade or business activity”),  
6 and thereafter commences an additional trade or  
7 business activity in this state, the additional trade or  
8 business activity shall only be treated as a new business if  
9 the additional trade or business activity is classified under  
10 a different division of the Standard Industrial  
11 Classification (SIC) Manual published by the United  
12 States Office of Management and Budget, 1987 edition,  
13 than are any of the taxpayer’s ~~or partnership’s~~ (or any  
14 related person’s) current or prior trade or business  
15 activities.

16 (3) In any case where a taxpayer ~~or partnership~~,  
17 including all related persons, is engaged in trade or  
18 business activities wholly outside of this state and the  
19 taxpayer ~~or partnership~~ first commences doing business  
20 in this state (within the meaning of Section 23101) after  
21 December 31, 1993 (other than by purchase or other  
22 acquisition described in paragraph (1)), the trade or  
23 business activity shall be treated as a new business under  
24 paragraph (2) of subdivision (e).

25 (4) In any case where the legal form under which a  
26 trade or business activity is being conducted is changed,  
27 the change in form shall be disregarded and the  
28 determination of whether the trade or business activity  
29 is a new business shall be made by treating the taxpayer  
30 or partnership as having purchased or otherwise acquired  
31 all or any portion of the assets of an existing trade or  
32 business under the rules of paragraph (1) of this  
33 subdivision.

34 (5) “Related person” shall mean any person that is  
35 related to either the taxpayer ~~or partnership~~ under either  
36 Section 267 or 318 of the Internal Revenue Code.

37 (6) “Acquire” shall include any gift, inheritance,  
38 transfer incident to divorce, or any other transfer,  
39 whether or not for consideration.



1 (7) (A) For taxable years beginning on or after  
2 January 1, 1997, the term “new business” shall include any  
3 taxpayer that is engaged in biopharmaceutical activities  
4 or other biotechnology activities that are described in  
5 Codes 2833 to 2836, inclusive, of the Standard Industrial  
6 Classification (SIC) Manual published by the United  
7 States Office of Management and Budget, 1987 edition,  
8 and as further amended, and that has not received  
9 regulatory approval for any product from the United  
10 States Food and Drug Administration.

11 (B) For purposes of this paragraph:

12 (i) “Biopharmaceutical activities” means those  
13 activities which use organisms or materials derived from  
14 organisms, and their cellular, subcellular, or molecular  
15 components, in order to provide pharmaceutical  
16 products for human or animal therapeutics and  
17 diagnostics. Biopharmaceutical activities make use of  
18 living organisms to make commercial products, as  
19 opposed to pharmaceutical activities which make use of  
20 chemical compounds to produce commercial products.

21 (ii) “Other biotechnology activities” means activities  
22 consisting of the application of recombinant DNA  
23 technology to produce commercial products, as well as  
24 activities regarding pharmaceutical delivery systems  
25 designed to provide a measure of control over the rate,  
26 duration, and site of pharmaceutical delivery.

27 (g) In computing the modifications under Section  
28 172(d)(2) of the Internal Revenue Code, relating to  
29 capital gains and losses of taxpayers other than  
30 corporations, the exclusion provided by Section 18152.5  
31 shall not be allowed.

32 (h) Notwithstanding any provisions of this section, a  
33 deduction shall be allowed to a “qualified taxpayer” as  
34 provided in Sections 17276.1 and 17276.2.

35 (i) The Franchise Tax Board may prescribe  
36 appropriate regulations to carry out the purposes of this  
37 section, including any regulations necessary to prevent  
38 the avoidance of the purposes of this section through  
39 splitups, shell corporations, partnerships, tiered  
40 ownership structures, or otherwise.



1 (j) The Franchise Tax Board may reclassify any net  
2 operating loss carryover determined under either  
3 paragraph (2) or (3) of subdivision (b) as a net operating  
4 loss carryover under paragraph (1) of subdivision (b)  
5 upon a showing that the reclassification is necessary to  
6 prevent evasion of the purposes of this section.

7 (k) The amendments made by the act adding this  
8 subdivision shall be operative for taxable years beginning  
9 on or after January 1, 1997.

10 *SEC. 26. Section 17279.4 is added to the Revenue and*  
11 *Taxation Code, to read:*

12 *17279.4. Section 198 of the Internal Revenue Code,*  
13 *relating to expensing of environmental remediation*  
14 *costs, is modified as follows:*

15 (a) (1) *If a taxpayer has, at any time, made an election*  
16 *for federal purposes under Section 198(a) of the Internal*  
17 *Revenue Code to have Section 198 of the Internal*  
18 *Revenue Code apply to a qualified environmental*  
19 *remediation expenditure, Section 198 of the Internal*  
20 *Revenue Code shall apply to that qualified*  
21 *environmental remediation expenditure for state*  
22 *purposes, a separate election for state purposes shall not*  
23 *be allowed under paragraph (3) of subdivision (e) of*  
24 *Section 17024.5, and the federal election shall be binding*  
25 *for purposes of this part.*

26 (2) *If a taxpayer fails to make an election for federal*  
27 *purposes under Section 198(a) of the Internal Revenue*  
28 *Code to have Section 198 of the Internal Revenue Code*  
29 *apply to a qualified environmental remediation*  
30 *expenditure, an election under Section 198(a) of the*  
31 *Internal Revenue Code shall not be allowed for state*  
32 *purposes, Section 198 of the Internal Revenue Code shall*  
33 *not apply to that qualified environmental remediation*  
34 *expenditure for state purposes, and a separate election for*  
35 *state purposes shall not be allowed under paragraph (3)*  
36 *of subdivision (e) of Section 17024.5.*

37 (b) *No inference as to the proper treatment for*  
38 *purposes of this part of qualified environmental*  
39 *remediation expenditures for periods before the*  
40 *enactment of this section shall be made.*



1 SEC. 27. Section 17279.5 of the Revenue and Taxation  
2 Code is amended to read:

3 17279.5. Section 264 of the Internal Revenue Code,  
4 relating to certain amounts paid in connection with  
5 insurance contracts, is modified to read as follows:

6 (a) No deduction shall be allowed for—

7 (1) Premiums ~~paid~~ on any life insurance ~~policy~~  
8 ~~covering the life of any officer or employee, or of any~~  
9 ~~person financially interested in any trade or business~~  
10 ~~carried on by the taxpayer, when the policy, or~~  
11 ~~endowment or annuity contract, if the taxpayer is directly~~  
12 ~~or indirectly a beneficiary under that the policy or~~  
13 ~~contract.~~

14 (2) Any amount paid or accrued on indebtedness  
15 incurred to purchase or carry a single premium life  
16 insurance, endowment, or annuity contract. This  
17 paragraph shall apply with respect to annuity contracts  
18 only as to contracts purchased after December 31, 1954.

19 (3) Except as provided in subdivision (c), any amount  
20 paid or accrued on indebtedness incurred or continued to  
21 purchase or carry a life insurance, endowment, or annuity  
22 contract (other than a single premium contract or a  
23 contract treated as a single premium contract) pursuant  
24 to a plan of purchase which contemplates the systematic  
25 direct or indirect borrowing of part or all of the increases  
26 in the cash value of that contract (either from the insurer  
27 or otherwise). This paragraph shall apply only with  
28 respect to contracts purchased after August 6, 1963.

29 (4) Except as provided in subdivision (d), any interest  
30 paid or accrued on any indebtedness with respect to one  
31 or more insurance policies owned by the taxpayer  
32 covering the life of any individual, or any endowment or  
33 annuity contracts owned by the taxpayer covering the life  
34 of any individual, or any endowment or annuity contracts  
35 owned by the taxpayer covering any individual, ~~who is an~~  
36 ~~officer or employee of, or is financially interested in, any~~  
37 ~~trade or business carried on by the taxpayer.~~

38 This paragraph shall apply with respect to contracts  
39 purchased after June 20, 1986.



1 (b) Paragraph (1) of subdivision (a) shall not apply to  
 2 either of the following:

3 (1) Any annuity contract described in Section  
 4 72(s)(5) of the Internal Revenue Code.

5 (2) Any annuity contract to which Section 72(u) of the  
 6 Internal Revenue Code applies.

7 (c) For purposes of paragraph (2) of subdivision (a),  
 8 a contract shall be treated as a single premium contract  
 9 if either of the following conditions exist:

10 (1) Substantially all the premiums on the contract are  
 11 paid within a period of four years from the date on which  
 12 the contract is purchased.

13 (2) An amount is deposited after December 31, 1954,  
 14 with the insurer for payment of a substantial number of  
 15 future premiums on the contract.

16 ~~(e)~~

17 (d) Paragraph (3) of subdivision (a) shall not apply to  
 18 any amount paid or accrued by a person during a taxable  
 19 year on indebtedness incurred or continued as part of a  
 20 plan referred to in paragraph (3) of subdivision (a) if any  
 21 of the following are applicable:

22 (1) No part of four of the annual premiums due during  
 23 the seven-year period (beginning with the date the first  
 24 premium on the contract to which that plan relates was  
 25 paid) is paid under that plan by means of indebtedness.

26 (2) The total of the amounts paid or accrued by the  
 27 person during that income year for which (without  
 28 regard to this paragraph) no deduction would be  
 29 allowable by reason of paragraph (3) of subdivision (a)  
 30 does not exceed one hundred dollars (\$100).

31 (3) That amount was paid or accrued on indebtedness  
 32 incurred because of an unforeseen substantial loss of  
 33 income or unforeseen substantial increase in its financial  
 34 obligations.

35 (4) That indebtedness was incurred in connection  
 36 with its trade or business.

37 For purposes of applying paragraph (1), if there is a  
 38 substantial increase in the premiums on a contract, a new  
 39 seven-year period described in that paragraph with



1 respect to that contract shall commence on the date the  
2 first that increased premium is paid.

3 ~~(d)~~

4 (e) (1) Paragraph (4) of subdivision (a) shall not  
5 apply to any interest paid or accrued on any indebtedness  
6 with respect to policies or contracts covering an  
7 individual who is a key person to the extent that the  
8 aggregate amount of that indebtedness with respect to  
9 policies and contracts covering that individual does not  
10 exceed fifty thousand dollars (\$50,000).

11 (2) (A) No deduction shall be allowed by reason of  
12 paragraph (1) or the last sentence of subdivision (a) with  
13 respect to interest paid or accrued for any month  
14 beginning after December 31, 1995, to the extent the  
15 amount of that interest exceeds the amount which would  
16 have been determined if the applicable rate of interest  
17 were used for that month.

18 (B) For purposes of subparagraph (A):

19 (i) The applicable rate of interest for any month is the  
20 rate of interest described as Moody's Corporate Bond  
21 Yield Average-Monthly Average Corporates, as  
22 published by Moody's Investors Service, Inc., or any  
23 successor thereto, for that month.

24 (ii) In the case of indebtedness on a contract  
25 purchased on or before June 20, 1986, all of the following  
26 shall apply:

27 (I) If the contract provides a fixed rate of interest, the  
28 applicable rate of interest for any month shall be the  
29 Moody's rate described in clause (i) for the month in  
30 which the contract was purchased.

31 (II) If the contract provides a variable rate of interest,  
32 the applicable rate of interest for any month in an  
33 applicable period shall be the Moody's rate described in  
34 clause (i) for the third month preceding the first month  
35 in that period.

36 (III) For purposes of subclause (II), ~~the taxpayer shall~~  
37 ~~elect an applicable period for the contract on its return~~  
38 ~~of tax imposed by this part for its~~ *the term "applicable*  
39 *period" means the 12-month period beginning on the*  
40 *date the policy is issued (and each successive 12-month*



1 *period thereafter) unless the taxpayer elects a number of*  
2 *months (not greater than 12) other than that 12-month*  
3 *period to be its applicable period. That election shall be*  
4 *made not later than the 90th day after the date of the*  
5 *enactment of the act adding this sentence and, if made,*  
6 *shall apply to the taxpayer's first taxable year ending on*  
7 *or after December 31, 1995. That applicable period shall*  
8 *be for any number of months (not greater than 12)*  
9 *specified in the election and may not be changed by the*  
10 *taxpayer without 1995, and all subsequent taxable years*  
11 *unless revoked with the consent of the Franchise Tax*  
12 *Board.*

13 (3) For purposes of paragraph (1), "key person"  
14 means an officer or 20-percent owner, except that the  
15 number of individuals who may be treated as key persons  
16 with respect to any taxpayer shall not exceed the greater  
17 of:

18 (A) Five individuals.

19 (B) The lesser of 5 percent of the total officers and  
20 employees of the taxpayer or 20 individuals.

21 (4) For purposes of this subdivision, "20-percent  
22 owner" means both of the following:

23 (A) If the taxpayer is a corporation, any person who  
24 owns directly 20 percent or more of the outstanding stock  
25 of the corporation or stock possessing 20 percent or more  
26 of the total combined voting power of all stock of the  
27 corporation.

28 (B) If the taxpayer is not a corporation, any person  
29 who owns 20 percent or more of the capital or profits  
30 interest in the ~~employer~~ taxpayer.

31 (5) (A) For purposes of subparagraph (A) of  
32 paragraph (4) and for purposes of applying the fifty  
33 thousand ~~dollars~~ *dollar* (\$50,000) limitation in paragraph  
34 (1) both of the following shall apply:

35 (i) All members of a controlled group shall be treated  
36 as one taxpayer.

37 (ii) The limitation shall be allocated among the  
38 members of the controlled group in the manner the  
39 Franchise Tax Board may prescribe.



1 (B) For purposes of this paragraph, all persons treated  
2 as a single employer under Section 52(a) or 52(b) of the  
3 Internal Revenue Code, relating to special rules, or  
4 Section 414(m) or 414(o) of the Internal Revenue Code,  
5 relating to definitions and special rules, shall be treated  
6 as members of a controlled group.

7 ~~(e)~~

8 (f) (1) *No deduction shall be allowed for that portion*  
9 *of the taxpayer's interest expense which is allocable to*  
10 *unborrowed policy cash values.*

11 (2) *For purposes of paragraph (1), the portion of the*  
12 *taxpayer's interest expense which is allocable to*  
13 *unborrowed policy cash values is an amount which bears*  
14 *the same ratio to the interest expense as:*

15 (A) *The taxpayer's average unborrowed policy cash*  
16 *values of life insurance policies, and annuity and*  
17 *endowment contracts, issued after June 8, 1997, bears to*

18 (B) *The sum of:*

19 (i) *In the case of assets of the taxpayer which are life*  
20 *insurance policies or annuity or endowment contracts,*  
21 *the average unborrowed policy cash values of those*  
22 *policies and contracts, and*

23 (ii) *In the case of assets of the taxpayer not described*  
24 *in clause (i), the average adjusted bases (within the*  
25 *meaning of Section 1016 of the Internal Revenue Code)*  
26 *of those assets.*

27 (3) *For purposes of this subdivision, the term*  
28 *"unborrowed policy cash value" means, with respect to*  
29 *any life insurance policy or annuity or endowment*  
30 *contract, the excess of:*

31 (A) *The cash surrender value of the policy or contract*  
32 *determined without regard to any surrender charge, over*

33 (B) *The amount of any loan with respect to that policy*  
34 *or contract.*

35 (4) (A) *Paragraph (1) shall not apply to any policy or*  
36 *contract owned by an entity engaged in a trade or*  
37 *business if the policy or contract covers only one*  
38 *individual and if that individual is (at the time first*  
39 *covered by the policy or contract):*

40 (i) *A 20-percent owner of the entity, or*



1 (ii) An individual (not described in clause (i)) who is  
2 an officer, director, or employee of that trade or business.

3 A policy or contract covering a 20-percent owner of the  
4 entity shall not be treated as failing to meet the  
5 requirements of the preceding sentence by reason of  
6 covering the joint lives of the owner and the owner's  
7 spouse.

8 (B) Paragraph (1) shall not apply to any annuity  
9 contract to which Section 72(u) of the Internal Revenue  
10 Code applies.

11 (C) Any policy or contract to which paragraph (1)  
12 does not apply by reason of this paragraph shall not be  
13 taken into account under paragraph (2).

14 (D) For purposes of subparagraph (A), the term  
15 "20-percent owner" has the meaning given that term by  
16 paragraph (4) of subdivision (e).

17 (5) (A) (i) This subdivision shall not apply to any  
18 policy or contract held by a natural person.

19 (ii) If a trade or business is directly or indirectly the  
20 beneficiary under any policy or contract, the policy or  
21 contract shall be treated as held by that trade or business  
22 and not by a natural person.

23 (iii) (I) Clause (ii) shall not apply to any trade or  
24 business carried on as a sole proprietorship and to any  
25 trade or business performing services as an employee.

26 (II) The amount of the unborrowed cash value of any  
27 policy or contract which is taken into account by reason  
28 of clause (ii) shall not exceed the benefit to which the  
29 trade or business is directly or indirectly entitled under  
30 the policy or contract.

31 (iv) A copy of the report required for federal purposes  
32 under Section 264(f) of the Internal Revenue Code shall  
33 be filed with the Franchise Tax Board at the time and in  
34 the manner specified for federal purposes and shall be  
35 treated as a statement referred to in Section 6724(d)(1)  
36 of the Internal Revenue Code.

37 (B) In the case of a partnership or S corporation, this  
38 subdivision shall be applied at the partnership and  
39 corporate levels.



1 (6) (A) *If interest on any indebtedness is disallowed*  
2 *under subdivision (a) or Section 17280, both of the*  
3 *following shall apply:*

4 (i) *The disallowed interest shall not be taken into*  
5 *account for purposes of applying this subdivision.*

6 (ii) *The amount otherwise taken into account under*  
7 *subparagraph (B) of paragraph (2) shall be reduced (but*  
8 *not below zero) by the amount of the indebtedness.*

9 (B) *This subdivision shall be applied before the*  
10 *application of Section 263A of the Internal Revenue*  
11 *Code, relating to capitalization of certain expenses where*  
12 *taxpayer produces property.*

13 (7) *The term “interest expense” means the aggregate*  
14 *amount allowable to the taxpayer as a deduction for*  
15 *interest (within the meaning of Section 265(b)(4) of the*  
16 *Internal Revenue Code) for the taxable year*  
17 *(determined without regard to this subdivision, Section*  
18 *265(b) of the Internal Revenue Code, and Section 291 of*  
19 *the Internal Revenue Code).*

20 (8) *All members of a controlled group (within the*  
21 *meaning of subparagraph (B) of paragraph (5) of*  
22 *subdivision (e)) shall be treated as one taxpayer for*  
23 *purposes of this subdivision.*

24 (g) (1) *The amendments made to this section by the*  
25 *act adding this subdivision shall apply to interest paid or*  
26 *accrued after December 31, 1995.*

27 (2) (A) *The amendments made to this section by the*  
28 *act adding this subdivision shall not apply to qualified*  
29 *interest paid or accrued on that indebtedness after*  
30 *December 31, 1995, and before January 1, 1999, in the case*  
31 *of either of the following:*

32 (i) *Indebtedness incurred before January 1, 1996.*

33 (ii) *Indebtedness incurred before January 1, 1997, with*  
34 *respect to any contract or policy entered into in 1994 or*  
35 *1995.*

36 (B) *For purposes of subparagraph (A), the qualified*  
37 *interest with respect to any indebtedness for any month*  
38 *is the amount of interest (otherwise deductible) which*  
39 *would be paid or accrued for that month on that*  
40 *indebtedness if—*



1 (i) In the case of any interest paid or accrued after  
2 December 31, 1995, indebtedness with respect to no more  
3 than 20,000 insured individuals were taken into account,  
4 and

5 (ii) The lesser of the following rates of interest were  
6 used for that month:

7 (I) The rate of interest specified under the terms of  
8 the indebtedness as in effect on December 31, 1995 (and  
9 without regard to modification of the terms after that  
10 date).

11 (II) The applicable percentage of the rate of interest  
12 described as Moody's Corporate Bond Yield  
13 Average-Monthly Average Corporates, as published by  
14 Moody's Investors Service, Inc., or any successor thereto,  
15 for that month. For purposes of clause (i), all persons  
16 treated as a single employer under Section 52(a) or 52(b)  
17 of the Internal Revenue Code, relating to special rules, or  
18 Section 414(m) or 414(o) of the Internal Revenue Code,  
19 relating to definitions and special rules, shall be treated  
20 as one person. Subclause (II) of clause (ii) shall not apply  
21 to any month before January 1, 1996.

22 (C) For purposes of subparagraph (B), the applicable  
23 percentage is as follows:

24		
25	For calendar year:	The percentage is:
26	1996 .....	100 percent
27	1997 .....	90 percent
28	1998 .....	80 percent

29  
30 (3) This subdivision shall not apply to any contract  
31 purchased on or before June 20, 1986, except that  
32 paragraph (2) of subdivision (d) shall apply to interest  
33 paid or accrued after December 31, 1995.

34 ~~(f)~~

35 (h) (1) Any amount received under any life  
36 insurance policy or endowment or annuity contract  
37 described in paragraph (4) of subdivision (a) shall be  
38 includable in gross income (in lieu of any other inclusion  
39 in gross income) ratably over the four taxable year period  
40 beginning with the taxable year that amount would (but



1 for this paragraph) be includable, upon the occurrence of  
2 either of the following:

3 (A) The complete surrender, redemption, or maturity  
4 of that policy or contract during the calendar year 1996,  
5 1997, or 1998.

6 (B) The full discharge during calendar year 1996, 1997,  
7 or 1998, of the obligation under the policy or contract  
8 which is in the nature of a refund of the consideration  
9 paid for the policy or contract.

10 (2) Paragraph (1) shall only apply to the extent the  
11 amount is includable in gross income for the taxable year  
12 in which the event described in subparagraph (A) or (B)  
13 of paragraph (1) occurs.

14 (3) Solely by reason of an occurrence described in  
15 subparagraph (A) or (B) of paragraph (1) or solely by  
16 reason of no additional premiums being received under  
17 the contract by reason of a lapse occurring after  
18 December 31, 1995, a contract shall not be treated as  
19 either of the following:

20 (A) Failing to meet the requirement of paragraph (1)  
21 of subdivision (c).

22 (B) A single premium contract under paragraph (1)  
23 of subdivision (b).

24 *(i) The amendments made by the act adding this*  
25 *subdivision shall apply to contracts issued after June 8,*  
26 *1997, in taxable years beginning on or after January 1,*  
27 *1998. For purposes of the preceding sentence, any*  
28 *material increase in the death benefit or other material*  
29 *change in the contract shall be treated as a new contract,*  
30 *except that the addition of covered lives shall be treated*  
31 *as a new contract only with respect to those additional*  
32 *covered lives. For purposes of this subdivision, an*  
33 *increase in the death benefit under a policy or contract*  
34 *issued in connection with a lapse described in Section*  
35 *501(d)(2) of the Health Insurance Portability and*  
36 *Accountability Act of 1996 shall not be treated as a new*  
37 *contract.*

38 SEC. 28. Section 17507.4 of the Revenue and Taxation  
39 Code is repealed.



1 17507.4. Section 408 of the Internal Revenue Code,  
2 relating to individual retirement accounts is modified as  
3 follows:

4 (a) Section 408(i) of the Internal Revenue Code is  
5 modified as follows:

6 (1) By substituting “may require” in lieu of “may  
7 require under regulations.”

8 (2) By substituting “prescribes” in lieu of “prescribes  
9 in such regulations” in each place it appears.

10 (b) Section 408(m)(3) of the Internal Revenue Code  
11 shall not apply and in lieu thereof, “collectible” shall not  
12 include either of the following:

13 (A) Any coin which is any of the following:

14 (i) A gold coin described in Section 5112(a)(7),  
15 5112(a)(8), 5112(a)(9), or 5112(a)(10) of Title 31 of the  
16 United States Code.

17 (ii) A silver coin described in Section 5112(e) of Title  
18 31 of the United States Code.

19 (iii) A platinum coin described in Section 5112(k) of  
20 Title 31 of the United States Code.

21 (iv) A coin issued under the laws of any state.

22 (B) Any gold, silver, platinum, or palladium bullion of  
23 a fineness equal to or exceeding the minimum fineness  
24 that a contract market as described in Section 7 of the  
25 Commodity Exchange Act (7 U.S.C. Sec. 7) requires for  
26 metals which may be delivered in satisfaction of a  
27 regulated futures contract, if that bullion is in the physical  
28 possession of a trustee described under Section 408(a) of  
29 the Internal Revenue Code.

30 (e) This section shall apply to taxable years beginning  
31 on or after January 1, 1998.

32 *SEC. 29. Section 17507.6 of the Revenue and Taxation*  
33 *Code is amended to read:*

34 17507.6. (a) Except as provided in this section, a Roth  
35 IRA shall be treated for purposes of this part in the same  
36 manner as an individual retirement plan.

37 (b) For purposes of this part, “Roth IRA” means an  
38 individual retirement plan (as described in Section  
39 7701(a)(37) of the Internal Revenue Code) which is  
40 designated at the time of establishment of the plan as a



1 ~~Roth IRA. That designation shall be made in the manner~~  
2 ~~as the Secretary of the Treasury may prescribe unless the~~  
3 ~~Franchise Tax Board prescribes differently.~~

4 ~~(e) (1) No deduction shall be allowed under Section~~  
5 ~~219 of the Internal Revenue Code for a contribution to a~~  
6 ~~Roth IRA.~~

7 ~~(2) The aggregate amount of contributions for any~~  
8 ~~taxable year to all Roth IRAs maintained for the benefit~~  
9 ~~of an individual shall not exceed the excess, if any, of—~~

10 ~~(A) The maximum amount allowable as a deduction~~  
11 ~~under Section 219 of the Internal Revenue Code with~~  
12 ~~respect to that individual for that taxable year (computed~~  
13 ~~without regard to Section 219(d)(1) or 219(g) of the~~  
14 ~~Internal Revenue Code, over~~

15 ~~(B) The aggregate amount of contributions for that~~  
16 ~~taxable year to all other individual retirement plans~~  
17 ~~(other than Roth IRAs) maintained for the benefit of the~~  
18 ~~individual.~~

19 ~~(3) (A) The amount determined under paragraph~~  
20 ~~(2) for any taxable year shall be reduced (but not below~~  
21 ~~zero) by the amount which bears the same ratio to that~~  
22 ~~amount as—~~

23 ~~(i) The excess of—~~

24 ~~(I) The amount required to be shown as adjusted gross~~  
25 ~~income on the taxpayer's federal tax return for that same~~  
26 ~~taxable year, over~~

27 ~~(II) The applicable dollar amount, bears to~~

28 ~~(ii) Fifteen thousand dollars (\$15,000) (ten thousand~~  
29 ~~dollars (\$10,000) in the case of a joint return). The rules~~  
30 ~~of subparagraphs (B) and (C) of Section 219(g)(2) shall~~  
31 ~~apply to any reduction under this subparagraph.~~

32 ~~(B) A taxpayer shall not be allowed to make a qualified~~  
33 ~~rollover contribution to a Roth IRA from an individual~~  
34 ~~retirement plan other than a Roth IRA during any taxable~~  
35 ~~year if either of the following occur:~~

36 ~~(i) The amount required to be shown as adjusted gross~~  
37 ~~income on the taxpayer's federal tax return for that same~~  
38 ~~taxable year exceeds one hundred thousand dollars~~  
39 ~~(\$100,000).~~



1 ~~(ii) The taxpayer is a married individual filing a~~  
2 ~~separate return.~~

3 ~~(C) For purposes of this paragraph:~~

4 ~~(i) Federal adjusted gross income shall be determined~~  
5 ~~in the same manner as under Section 219(g)(3) of the~~  
6 ~~Internal Revenue Code, except that any amount included~~  
7 ~~in gross income under paragraph (3) of subdivision (d)~~  
8 ~~shall not be taken into account and the deduction under~~  
9 ~~Section 219 of the Internal Revenue Code shall be taken~~  
10 ~~into account, and~~

11 ~~(ii) The applicable dollar amount is:~~

12 ~~(I) In the case of a taxpayer filing a joint return, one~~  
13 ~~hundred and fifty thousand dollars (\$150,000).~~

14 ~~(II) In the case of any other taxpayer (other than a~~  
15 ~~married individual filing a separate return), ninety five~~  
16 ~~thousand dollars (\$95,000).~~

17 ~~(III) In the case of a married individual filing a~~  
18 ~~separate return, zero.~~

19 ~~(D) Section 219(g)(4) of the Internal Revenue Code~~  
20 ~~shall apply for purposes of this paragraph.~~

21 ~~(4) Contributions to a Roth IRA may be made even~~  
22 ~~after the individual for whom the account is maintained~~  
23 ~~has attained age 70 1/2 years.~~

24 ~~(5) Notwithstanding Sections 408(a)(6) and~~  
25 ~~408(b)(3) of the Internal Revenue Code, relating to~~  
26 ~~required distributions, the following provisions shall not~~  
27 ~~apply to any Roth IRA:~~

28 ~~(A) Section 401(a)(9)(A) of the Internal Revenue~~  
29 ~~Code.~~

30 ~~(B) The incidental death benefit requirements of~~  
31 ~~Section 401(a) of the Internal Revenue Code.~~

32 ~~(6)(A) No rollover contribution may be made to a~~  
33 ~~Roth IRA unless it is a qualified rollover contribution.~~

34 ~~(B) A qualified rollover contribution shall not be taken~~  
35 ~~into account for purposes of paragraph (2).~~

36 ~~(7) For purposes of this section, the rule of Section~~  
37 ~~219(f)(3) of the Internal Revenue Code shall apply.~~

38 ~~(d) For purposes of this part:~~

39 ~~(1) (A) Any qualified distribution from a Roth IRA~~  
40 ~~shall not be includable in gross income.~~



1 ~~(B) In applying Section 72 to any distribution from a~~  
2 ~~Roth IRA which is not a qualified distribution, the~~  
3 ~~distribution shall be treated as made from contributions~~  
4 ~~to the Roth IRA to the extent that the distribution, when~~  
5 ~~added to all previous distributions from the Roth IRA,~~  
6 ~~does not exceed the aggregate amount of contributions to~~  
7 ~~the Roth IRA.~~

8 ~~(2) For purposes of this subdivision:~~

9 ~~(A) “Qualified distribution” means any payment or~~  
10 ~~distribution that is any of the following:~~

11 ~~(i) Made on or after the date on which the individual~~  
12 ~~attains age 59 1/2.~~

13 ~~(ii) Made to a beneficiary (or to the estate of the~~  
14 ~~individual) on or after the death of the individual.~~

15 ~~(iii) Attributable to the individual’s being disabled~~  
16 ~~(within the meaning of Section 72(m)(7) of the Internal~~  
17 ~~Revenue Code).~~

18 ~~(iv) A qualified special purpose distribution.~~

19 ~~(B) A payment or distribution shall not be treated as~~  
20 ~~a qualified distribution under subparagraph (A) if either~~  
21 ~~of the following apply:~~

22 ~~(i) It is made within the five taxable year period~~  
23 ~~beginning with the first taxable year for which the~~  
24 ~~individual made a contribution to a Roth IRA (or the~~  
25 ~~individual’s spouse made a contribution to a Roth IRA)~~  
26 ~~established for that individual.~~

27 ~~(ii) In the case of a payment or distribution properly~~  
28 ~~allocable (as determined in the manner prescribed by the~~  
29 ~~Secretary of the Treasury, unless the Franchise Tax Board~~  
30 ~~prescribes otherwise) to a qualified rollover contribution~~  
31 ~~from an individual retirement plan other than a Roth IRA~~  
32 ~~(or income allocable thereto), it is made within the~~  
33 ~~five taxable year period beginning with the taxable year~~  
34 ~~in which the rollover contribution was made.~~

35 ~~(3) (A) Notwithstanding Section 408(d)(3) of the~~  
36 ~~Internal Revenue Code, in the case of any distribution to~~  
37 ~~which this paragraph applies, all of the following shall~~  
38 ~~apply:~~



1 ~~(i) There shall be included in gross income any~~  
2 ~~amount which would be includable were it not part of a~~  
3 ~~qualified rollover contribution.~~

4 ~~(ii) Section 72(t) of the Internal Revenue Code shall~~  
5 ~~not apply.~~

6 ~~(iii) In the case of a distribution before January 1, 1999,~~  
7 ~~any amount required to be included in gross income by~~  
8 ~~reason of this paragraph shall be so included ratably over~~  
9 ~~the four taxable year period beginning with the taxable~~  
10 ~~year in which the payment or distribution is made.~~

11 ~~(B) This paragraph shall apply to a distribution from~~  
12 ~~an individual retirement plan (other than a Roth IRA)~~  
13 ~~maintained for the benefit of an individual which is~~  
14 ~~contributed to a Roth IRA maintained for the benefit of~~  
15 ~~that individual in a qualified rollover contribution.~~

16 ~~(C) The conversion of an individual retirement plan~~  
17 ~~(other than a Roth IRA) to a Roth IRA shall be treated for~~  
18 ~~purposes of this paragraph as a distribution to which this~~  
19 ~~paragraph applies.~~

20 ~~(D) If, no later than the due date for filing the return~~  
21 ~~of tax for any taxable year (without regard to extension),~~  
22 ~~an individual transfers, from an individual retirement~~  
23 ~~plan (other than a Roth IRA), contributions for that~~  
24 ~~taxable year (and any earnings allocable thereto) to a~~  
25 ~~Roth IRA, none of that amount shall be includable in gross~~  
26 ~~income to the extent no deduction was allowed with~~  
27 ~~respect to that amount.~~

28 ~~(E) Trustees of Roth IRAs, trustees of individual~~  
29 ~~retirement plans, or both, whichever is appropriate, shall~~  
30 ~~include the additional information in reports required~~  
31 ~~under Section 17507 and Section 408(i) of the Internal~~  
32 ~~Revenue Code as either the Franchise Tax Board or the~~  
33 ~~Secretary of the Treasury may require to ensure that~~  
34 ~~amounts required to be included in gross income under~~  
35 ~~subparagraph (A) are so included.~~

36 ~~(4) Section 408(d)(2) of the Internal Revenue Code~~  
37 ~~shall be applied separately with respect to Roth IRAs and~~  
38 ~~other individual retirement plans.~~

39 ~~(c) For purposes of this section:~~



1 ~~(1) “Qualified special purpose distribution” means~~  
2 ~~any distribution to which Section 72(t)(2)(F) of the~~  
3 ~~Internal Revenue Code, as amended by Public Law~~  
4 ~~105-34, applies.~~

5 ~~(2) (A) Paragraph (3) of subdivision (d) Section 408A~~  
6 ~~of the Internal Revenue Code, relating to Roth IRAs, is~~  
7 ~~modified to additionally provide all of the following:~~

8 ~~(a) Section 408A(d)(3) of the Internal Revenue Code,~~  
9 ~~relating to rollovers from an IRA other than a Roth IRA,~~  
10 ~~shall not apply if any distribution which is not a qualified~~  
11 ~~distribution under paragraph (2) of subdivision (d)~~  
12 ~~Section 408A(d)(2) of the Internal Revenue Code is~~  
13 ~~made from a Roth IRA within the five-taxable-year period~~  
14 ~~beginning with the taxable year in which a distribution to~~  
15 ~~which paragraph (3) of subdivision (d) Section~~  
16 ~~408A(d)(3) of the Internal Revenue Code would~~  
17 ~~otherwise apply is made.~~

18 ~~(B)—~~

19 ~~(b) In the case of any distribution to which~~  
20 ~~subparagraph (A) subdivision (a) applies:~~

21 ~~(i)—~~

22 ~~(1) There shall be included in gross income in the~~  
23 ~~taxable year in which the disqualifying distribution~~  
24 ~~described in subparagraph (A) subdivision (a) is made~~  
25 ~~any amount that has not been previously included in gross~~  
26 ~~income under clause (iii) of subparagraph (A) of~~  
27 ~~paragraph (2) of subdivision (d) Section~~  
28 ~~408A(d)(3)(A)(iii) of the Internal Revenue Code and~~  
29 ~~which would be includable in income were it not treated~~  
30 ~~as part of a qualified rollover contribution.~~

31 ~~(ii)—~~

32 ~~(2) In the taxable year in which the disqualifying~~  
33 ~~distribution described in subparagraph (A) subdivision~~  
34 ~~(a) is made, Section 72(t) of the Internal Revenue Code~~  
35 ~~shall be applied to the amount which was treated as~~  
36 ~~includable in gross income under clause (i) of~~  
37 ~~subparagraph (A) of paragraph (2) of subdivision (d).~~

38 ~~(3) For purposes of this section, “qualified rollover~~  
39 ~~contribution” means a rollover contribution to a Roth~~  
40 ~~IRA from another Roth IRA account, or from an~~



1 ~~individual retirement plan, but only if the rollover~~  
2 ~~contribution meets the requirements of Section~~  
3 ~~408(d)(3) of the Internal Revenue Code. For purposes of~~  
4 ~~Section 408(d)(3)(B) of the Internal Revenue Code,~~  
5 ~~there shall be disregarded any qualified rollover~~  
6 ~~contribution from an individual retirement plan (other~~  
7 ~~than a Roth IRA) to a Roth IRA.~~

8 ~~(f) This section shall apply to taxable years beginning~~  
9 ~~on or after January 1, 1998 Section 408A(d)(3)(A)(i) of~~  
10 ~~the Internal Revenue Code.~~

11 *SEC. 30. Section 17559 of the Revenue and Taxation*  
12 *Code, as added by Section 8 of Chapter 7 of the Statutes*  
13 *of 1998, is amended to read:*

14 17559. (a) Section 451(e) of the Internal Revenue  
15 Code, relating to special rule for proceeds from livestock  
16 sold on account of drought, is modified by substituting the  
17 phrase “drought, flood, or other weather-related  
18 conditions, and that those conditions” in lieu of the phrase  
19 “drought conditions, and that these drought conditions”  
20 contained therein.

21 (b) This section shall apply to sales and exchanges after  
22 December 31, 1996.

23 (c) *This section shall not apply to taxable years*  
24 *beginning on or after January 1, 1998.*

25 *SEC. 31. Section 17564 of the Revenue and Taxation*  
26 *Code is amended to read:*

27 17564. (a) Long-term contracts shall be accounted  
28 for in accordance with the special rules set forth in  
29 Section 460 of the Internal Revenue Code.

30 (b) (1) The provisions of Section 804(d) of Public  
31 Law 99-514, relating to the effective date of modifications  
32 in the method of accounting for long-term contracts, shall  
33 be applicable to taxable years beginning on or after  
34 January 1, 1987.

35 (2) In the case of a contract entered into after  
36 February 28, 1986, during a taxable year beginning before  
37 January 1, 1987, an adjustment to income shall be made  
38 upon completion of the contract, if necessary, to correct  
39 any underreporting or overreporting of income, for  
40 purposes of this part, resulting from differences between



1 state and federal law for the taxable year in which the  
2 contract began.

3 (c) (1) The amendments to Section 460 of the  
4 Internal Revenue Code made by Section 10203 of Public  
5 Law 100-203, relating to a reduction in the percentage of  
6 items taken into account under the completed contract  
7 method, shall apply to taxable years beginning on or after  
8 January 1, 1990.

9 (2) In the case of a contract entered into after October  
10 13, 1987, during a taxable year beginning before January  
11 1, 1990, an adjustment to income shall be made upon  
12 completion of the contract, if necessary, to correct any  
13 underreporting or overreporting of income, for purposes  
14 of this part, resulting from differences between California  
15 and federal law for taxable years beginning prior to  
16 January 1, 1990.

17 (d) (1) The amendments to Section 460 of the  
18 Internal Revenue Code made by Section 5041 of Public  
19 Law 100-647, relating to a reduction in the percentage of  
20 items taken into account under the completed contract  
21 method, shall apply to taxable years beginning on or after  
22 January 1, 1990.

23 (2) In the case of a contract entered into after June 20,  
24 1988, during a taxable year beginning before January 1,  
25 1990, an adjustment to income shall be made upon  
26 completion of the contract, if necessary, to correct any  
27 underreporting or overreporting of income, for purposes  
28 of this part, resulting from differences between California  
29 and federal law for taxable years beginning prior to  
30 January 1, 1990.

31 (e) (1) The amendments to Section 460 of the  
32 Internal Revenue Code made by Section 7621 of Public  
33 Law 101-239, relating to the repeal of the completed  
34 contract method of accounting for long-term contracts,  
35 shall apply to taxable years beginning on or after January  
36 1, 1990.

37 (2) In the case of a contract entered into after July 10,  
38 1989, during a taxable year beginning before January 1,  
39 1990, an adjustment to income shall be made upon  
40 completion of the contract, if necessary, to correct any



1 underreporting or overreporting of income, for purposes  
2 of this part, resulting from differences between California  
3 and federal law for taxable years beginning prior to  
4 January 1, 1990.

5 (f) For purposes of applying paragraphs (2) to ~~(5)~~ (6),  
6 inclusive, of Section 460(b) of the Internal Revenue  
7 Code, relating to the look-back method, any adjustment  
8 to income computed under paragraph (2) of subdivision  
9 (b), (c), (d), or (e) shall be deemed to have been  
10 reported in the taxable year from which the adjustment  
11 arose, rather than the taxable year in which the contract  
12 was completed.

13 *SEC. 32. Section 17570 of the Revenue and Taxation*  
14 *Code is amended to read:*

15 17570. (a) For each taxable year beginning on or  
16 after January 1, 1997, Section 475 of the Internal Revenue  
17 Code, relating to mark to market accounting method for  
18 securities dealers, ~~as added by Section 13223 of the~~  
19 ~~Revenue Reconciliation Act of 1993 (P.L. 103-66)~~, shall  
20 apply, except as otherwise provided.

21 (b) Section 13233(c)(2)(C) of the Revenue  
22 Reconciliation Act of 1993 (P.L. 103-66), relating to the  
23 effective date for changes in the mark to market  
24 accounting method for securities dealers, is modified to  
25 provide that the amount taken into account under  
26 Section 481 of the Internal Revenue Code of 1986 shall be  
27 taken into account ratably over the five-taxable-year  
28 period beginning with the first taxable year beginning on  
29 or after January 1, 1997.

30 (c) (1) *If a taxpayer has, at any time, made an election*  
31 *for federal purposes under Section 475(e) of the Internal*  
32 *Revenue Code, relating to election of mark to market for*  
33 *dealers in commodities, to have Section 475 of the*  
34 *Internal Revenue Code apply, Section 475 of the Internal*  
35 *Revenue Code shall apply to that dealer in commodities*  
36 *for state purposes, a separate election for state purposes*  
37 *shall not be allowed under paragraph (3) of subdivision*  
38 *(e) of Section 17024.5, and the federal election shall be*  
39 *binding for purposes of this part.*



1 (2) If a taxpayer fails to make, or has not previously  
2 made, an election for federal purposes under Section  
3 475(e) of the Internal Revenue Code, relating to election  
4 of mark to market for dealers in commodities, to have  
5 Section 475 of the Internal Revenue Code apply, an  
6 election under Section 475(e) of the Internal Revenue  
7 Code shall not be allowed for state purposes, Section 475  
8 of the Internal Revenue Code shall not apply to that  
9 dealer in commodities for state purposes, and a separate  
10 election for state purposes shall not be allowed under  
11 paragraph (3) of subdivision (e) of Section 17024.5.

12 (d) (1) If a taxpayer has, at any time, made an election  
13 for federal purposes under Section 475(f)(1) of the  
14 Internal Revenue Code, relating to election of mark to  
15 market for traders in securities, to have Section 475 of the  
16 Internal Revenue Code apply to a trade or business,  
17 Section 475 of the Internal Revenue Code shall apply to  
18 that trader in securities for state purposes with respect to  
19 that trade or business, a separate election for state  
20 purposes with respect to that trade or business shall not  
21 be allowed under paragraph (3) of subdivision (e) of  
22 Section 17024.5, and the federal election shall be binding  
23 for purposes of this part.

24 (2) If a taxpayer fails to make, or has not previously  
25 made, an election for federal purposes under Section  
26 475(f)(1) of the Internal Revenue Code, relating to  
27 election of mark to market for traders in securities, to  
28 have Section 475 of the Internal Revenue Code apply to  
29 a trade or business, an election under Section 475(f)(1)  
30 of the Internal Revenue Code shall not be allowed for  
31 state purposes with respect to that trade or business,  
32 Section 475 of the Internal Revenue Code shall not apply  
33 to that trader in securities for state purposes with respect  
34 to that trade or business, and a separate election for state  
35 purposes shall not be allowed under paragraph (3) of  
36 subdivision (e) of Section 17024.5.

37 (e) (1) If a taxpayer has, at any time, made an election  
38 for federal purposes under Section 475(f)(2) of the  
39 Internal Revenue Code, relating to election of mark to  
40 market for traders in commodities, to have Section 475 of



1 *the Internal Revenue Code apply to a trade or business,*  
2 *Section 475 of the Internal Revenue Code shall apply to*  
3 *that trader in commodities for state purposes with respect*  
4 *to that trade or business, a separate election for state*  
5 *purposes with respect to that trade or business shall not*  
6 *be allowed under paragraph (3) of subdivision (e) of*  
7 *Section 17024.5, and the federal election with respect to*  
8 *that trade or business shall be binding for purposes of this*  
9 *part.*

10 (2) *If a taxpayer fails to make, or has not previously*  
11 *made, an election for federal purposes under Section*  
12 *475(f)(2) of the Internal Revenue Code, relating to*  
13 *election of mark to market for traders in commodities, to*  
14 *have Section 475 of the Internal Revenue Code apply to*  
15 *a trade or business, an election under Section 475(f)(2)*  
16 *of the Internal Revenue Code shall not be allowed for*  
17 *state purposes with respect to that trade or business,*  
18 *Section 475 of the Internal Revenue Code shall not apply*  
19 *to that trader in commodities for state purposes with*  
20 *respect to that trade or business, and a separate election*  
21 *for state purposes with respect to that trade or business*  
22 *shall not be allowed under paragraph (3) of subdivision*  
23 *(e) of Section 17024.5.*

24 (f) (1) *An election under Section 475(e) or (f) of the*  
25 *Internal Revenue Code made for federal purposes with*  
26 *respect to a taxable year beginning before January 1, 1998,*  
27 *shall be treated as having been made for state purposes*  
28 *with respect to the first taxable year beginning on or after*  
29 *January 1, 1998.*

30 (2) *Section 1001(d)(4)(B) of the Taxpayer Relief Act*  
31 *of 1997 (P.L. 105-34), relating to the effective date for*  
32 *election of mark to market by securities traders and*  
33 *traders and dealers in commodities, is modified to*  
34 *provide that the requirement for timely identification*  
35 *shall be treated as timely made for state purposes if that*  
36 *identification is treated as timely made for federal*  
37 *purposes, and the amount taken into account under*  
38 *Section 481 of the Internal Revenue Code of 1986 shall be*  
39 *taken into account ratably over the four-taxable-year*



1 *period beginning with the first taxable year beginning on*  
2 *or after January 1, 1998.*

3 *SEC. 33. Section 17751 is added to the Revenue and*  
4 *Taxation Code, to read:*

5 *17751. Section 646 of the Internal Revenue Code,*  
6 *relating to certain revocable trusts treated as part of*  
7 *estate, is modified as follows:*

8 *(a) An election under Section 646(a) of the Internal*  
9 *Revenue Code for federal purposes shall be treated for*  
10 *purposes of this part as an election made by the executor,*  
11 *if any, of the estate and the trustee of the qualified*  
12 *revocable trust under Section 646(a) of the Internal*  
13 *Revenue Code for state purposes and a separate election*  
14 *under paragraph (3) of subdivision (e) of Section 17024.5*  
15 *shall not be allowed.*

16 *(b) If the executor, if any, of the estate and the trustee*  
17 *of a qualified revocable trust fail to make an election*  
18 *under Section 646(a) of the Internal Revenue Code for*  
19 *federal purposes with respect to that qualified revocable*  
20 *trust, that trust shall be treated and taxed for purposes of*  
21 *this part as a separate trust, an election under Section*  
22 *646(a) of the Internal Revenue Code for state purposes*  
23 *with respect to that trust shall not be allowed, and a*  
24 *separate election under paragraph (3) of subdivision (e)*  
25 *of Section 17024.5 shall not be allowed with respect to that*  
26 *trust.*

27 *SEC. 34. Section 17752 is added to the Revenue and*  
28 *Taxation Code, to read:*

29 *17752. Section 663 of the Internal Revenue Code,*  
30 *relating to special rules applicable to Sections 661 and 662,*  
31 *is modified as follows:*

32 *(a) Section 663(b) of the Internal Revenue Code,*  
33 *relating to distributions in the first 65 days of the taxable*  
34 *year, is modified as follows:*

35 *(1) An election under Section 663(b) of the Internal*  
36 *Revenue Code for federal purposes shall be treated for*  
37 *purposes of this part as an election made by the executor*  
38 *of the estate or the fiduciary of the trust, as the case may*  
39 *be, under Section 663(b) of the Internal Revenue Code*  
40 *for state purposes and a separate election under*



1 paragraph (3) of subdivision (e) of Section 17024.5 shall  
2 not be allowed.

3 (2) If the executor of the estate or the fiduciary of the  
4 trust, as the case may be, fails to make an election under  
5 Section 663(b) of the Internal Revenue Code for federal  
6 purposes with respect to an amount properly paid or  
7 credited within 65 days of the taxable year, that amount  
8 shall not be considered for purposes of this part as having  
9 been paid or credited on the last day of the preceding  
10 taxable year, an election under Section 663(b) of the  
11 Internal Revenue Code for state purposes with respect to  
12 that amount shall not be allowed, and a separate election  
13 under paragraph (3) of subdivision (e) of Section 17024.5  
14 shall not be allowed with respect to that amount.

15 (b) Section 663(c) of the Internal Revenue Code,  
16 relating to separate shares treated as separate estates or  
17 trusts, is modified as follows:

18 (1) An election under Section 663(c) of the Internal  
19 Revenue Code for federal purposes shall be treated for  
20 purposes of this part as an election made by the executor  
21 of the estate or the fiduciary of the trust, as the case may  
22 be, under Section 663(c) of the Internal Revenue Code  
23 for state purposes and a separate election under  
24 paragraph (3) of subdivision (e) of Section 17024.5 shall  
25 not be allowed.

26 (2) If the executor of the estate or the fiduciary of the  
27 trust, as the case may be, fails to make an election under  
28 Section 663(c) of the Internal Revenue Code for federal  
29 purposes with respect to separate shares treated as  
30 separate estates or trusts, an election under Section  
31 663(c) of the Internal Revenue Code for state purposes  
32 shall not be allowed, and a separate election under  
33 paragraph (3) of subdivision (e) of Section 17024.5 shall  
34 not be allowed.

35 SEC. 35. Section 17760.5 of the Revenue and Taxation  
36 Code, as added by Chapter 7 of the Statutes of 1998, is  
37 amended to read:

38 17760.5. ~~(a)~~Section 685 of the Internal Revenue  
39 Code, relating to treatment of funeral trusts, is modified  
40 as follows:



1 (a) Section 685(a) of the Internal Revenue Code is  
2 modified to read: In the case of a qualified funeral trust—

3 (1) Subparts B, C, D, and E of Subchapter J of Chapter  
4 1 of Subtitle A of the Internal Revenue Code shall not  
5 apply.

6 (2) No credit for personal exemption shall be allowed  
7 under Section 17054 or Section 17733.

8 (b) ~~For purposes of this section, the term “qualified~~  
9 ~~funeral trust” means any trust (other than a foreign trust)~~  
10 ~~if all of the following apply:~~

11 ~~(1) The trust arises as a result of a contract with a~~  
12 ~~person engaged in the trade or business of providing~~  
13 ~~funeral or burial services or property necessary to~~  
14 ~~provide those services.~~

15 ~~(2) The sole purpose of the trust is to hold, invest, and~~  
16 ~~reinvest funds in the trust and to use the funds solely to~~  
17 ~~make payments for those services or property for the~~  
18 ~~benefit of the beneficiaries of the trust.~~

19 ~~(3) The only beneficiaries of the trust are individuals~~  
20 ~~with respect to whom those services or property are to be~~  
21 ~~provided at their death under contracts described in~~  
22 ~~paragraph (1).~~

23 ~~(4) The only contributions to the trust are~~  
24 ~~contributions by or for the benefit of the beneficiaries.~~

25 ~~(5) The trustee elects the application of this section.~~

26 ~~(6) The trust would (but for the election described in~~  
27 ~~paragraph (5)) be treated as owned under Subpart E of~~  
28 ~~Subchapter J of Chapter 1 of Subtitle A of the Internal~~  
29 ~~Revenue Code by the purchasers of the contracts~~  
30 ~~described in paragraph (1).~~

31 ~~(c) (1) The term “qualified funeral trust” shall not~~  
32 ~~include any trust which accepts aggregate contributions~~  
33 ~~by or for the benefit of an individual in excess of seven~~  
34 ~~thousand dollars (\$7,000).~~

35 ~~(2) For purposes of paragraph (1), all trusts having~~  
36 ~~trustees that are related persons shall be treated as one~~  
37 ~~trust. For purposes of the preceding sentence, persons are~~  
38 ~~related if any of the following are applicable:~~



1 ~~(A) The relationship between those persons is~~  
2 ~~described in Section 267 or 707(b) of the Internal~~  
3 ~~Revenue Code.~~

4 ~~(B) Those persons are treated as a single employer~~  
5 ~~under Section 52(a) or (b) of the Internal Revenue Code~~  
6 ~~for federal purposes.~~

7 ~~(C) The Secretary of the Treasury determines that~~  
8 ~~treating those persons as related is necessary to prevent~~  
9 ~~avoidance of the purposes of Section 685 of the Internal~~  
10 ~~Revenue Code (as added by Public Law 105-34).~~

11 ~~(D) The Franchise Tax Board determines that~~  
12 ~~treating those persons as related is necessary to prevent~~  
13 ~~avoidance of the purposes of this section.~~

14 ~~(3) In the case of any contract referred to in paragraph~~  
15 ~~(1) of subdivision (b) which is entered into during any~~  
16 ~~calendar year after 1998, the dollar amount referred to in~~  
17 ~~paragraph (1) shall be increased by an amount equal to:~~

18 ~~(A) That dollar amount, multiplied by~~

19 ~~(B) The cost-of-living adjustment determined under~~  
20 ~~Section 1(f)(3) of the Internal Revenue Code for that~~  
21 ~~calendar year, by substituting “calendar year 1997” for~~  
22 ~~“calendar year 1992” in subparagraph (B) thereof.~~

23 ~~If any dollar amount after being increased under the~~  
24 ~~preceding sentence is not a multiple of one hundred~~  
25 ~~dollars (\$100), that dollar amount shall be rounded to the~~  
26 ~~nearest multiple of one hundred dollars (\$100).~~

27 ~~(d) Section 685(b) of the Internal Revenue Code is~~  
28 ~~modified as follows:~~

29 ~~(1) An election under Section 685(b)(5) of the~~  
30 ~~Internal Revenue Code for federal purposes shall be~~  
31 ~~treated for purposes of this part as an election made by~~  
32 ~~the trustee of the qualified funeral trust under Section~~  
33 ~~685(b)(5) of the Internal Revenue Code for state~~  
34 ~~purposes and a separate election under paragraph (3) of~~  
35 ~~subdivision (e) of Section 17024.5 shall not be allowed.~~

36 ~~(2) If the trustee of a qualified funeral trust fails to~~  
37 ~~make an election under Section 685(b)(5) of the Internal~~  
38 ~~Revenue Code for federal purposes with respect to a~~  
39 ~~qualified funeral trust, that trust shall be treated for~~  
40 ~~purposes of this part as owned under Subpart E of the~~



1 *Internal Revenue Code by the purchasers of the contracts*  
2 *described in Section 685(b)(1) of the Internal Revenue*  
3 *Code, an election under Section 685(b)(5) of the Internal*  
4 *Revenue Code for state purposes with respect to that*  
5 *trust shall not be allowed, and a separate election under*  
6 *paragraph (3) of subdivision (e) of Section 17024.5 shall*  
7 *not be allowed with respect to that trust.*

8 (c) *Section 685(d) of the Internal Revenue Code is*  
9 *modified to read:* Subdivision (e) of Section 17041 shall be  
10 applied to each qualified funeral trust by treating each  
11 beneficiary's interest in each qualified funeral trust as a  
12 separate trust.

13 ~~(e) No gain or loss shall be recognized to a purchaser~~  
14 ~~of a contract described in paragraph (1) of subdivision~~  
15 ~~(b) by reason of any payment from the trust to that~~  
16 ~~purchaser by reason of cancellation of that contract. If any~~  
17 ~~payment referred to in the preceding sentence consists~~  
18 ~~of property other than money, the basis of the property~~  
19 ~~in the hands of that purchaser shall be the same as the~~  
20 ~~trust's basis in the property immediately before the~~  
21 ~~payment.~~

22 (f)

23 (d) The Franchise Tax Board may, by forms and  
24 instructions, provide rules for simplified reporting of all  
25 trusts having a single trustee consistent with the rules  
26 prescribed by the Secretary of the Treasury under  
27 Section 685 of the Internal Revenue Code ~~(as added by~~  
28 ~~Public Law 105-34).~~

29 (g)

30 (e) This section shall apply to taxable years ending  
31 after August 5, 1997.

32 (f) *The amendments made to this section by the act*  
33 *adding this subdivision shall apply to taxable years*  
34 *beginning on or after January 1, 1998.*

35 *SEC. 36. Section 17856 of the Revenue and Taxation*  
36 *Code is amended to read:*

37 17856. The provisions of Section ~~751(d)(2)(C)~~  
38 ~~751(d)(3)~~ of the Internal Revenue Code, relating to  
39 appreciated inventory items subject to tax as a gain on



1 foreign investment company stock, shall not be  
2 applicable.

3 *SEC. 37. Section 17865 is added to the Revenue and*  
4 *Taxation Code, to read:*

5 *17865. Part IV of Subchapter K of Chapter 1 of*  
6 *Subtitle A of the Internal Revenue Code (commencing*  
7 *with Section 771 of the Internal Revenue Code), shall not*  
8 *apply, except as otherwise provided.*

9 *SEC. 38. Section 18037.3 of the Revenue and Taxation*  
10 *Code, as added by Section 12 of Chapter 7 of the Statutes*  
11 *of 1998, is amended to read:*

12 18037.3. (a) Section 1033(e) of the Internal Revenue  
13 Code, relating to livestock sold on account of drought, is  
14 modified by substituting the phrase “on account of  
15 drought, flood, or other weather-related conditions” in  
16 lieu of the phrase “on account of drought” contained  
17 therein.

18 (b) This section shall apply to sales and exchanges after  
19 December 31, 1996.

20 (c) *This section shall not apply to taxable years*  
21 *beginning on or after January 1, 1998.*

22 *SEC. 39. Section 18037.6 of the Revenue and Taxation*  
23 *Code is repealed.*

24 ~~18037.6. For sales and exchanges after July 1, 1998:~~

25 ~~(a) Section 1034 of the Internal Revenue Code,~~  
26 ~~relating to rollover of gain on sale of principal residence,~~  
27 ~~shall not apply.~~

28 ~~(b) References in Sections 56(c), 163(h), 280A(d),~~  
29 ~~464(f), 1033(h), 1274(e), and 7872(f) of the Internal~~  
30 ~~Revenue Code, and paragraph (3) of subdivision (c) of~~  
31 ~~Section 18662 of the Revenue and Taxation Code, to~~  
32 ~~Section 1034 of the Internal Revenue Code, shall instead~~  
33 ~~be treated as a reference to Section 17152 of the Revenue~~  
34 ~~and Taxation Code.~~

35 ~~(c) Section 216(e) of the Internal Revenue Code is~~  
36 ~~modified by substituting “such dwelling unit is used as his~~  
37 ~~or her principal residence (with the meaning of Section~~  
38 ~~17152)” for the phrase “such exchange qualifies for~~  
39 ~~nonrecognition of gain under Section 1034(f).”~~



1 ~~(d) References in Sections 512(a), 1016(a), and~~  
2 ~~1223(7) of the Internal Revenue Code to Section 1034 of~~  
3 ~~the Internal Revenue Code shall be treated as a reference~~  
4 ~~to that section as in effect on the day before the date of~~  
5 ~~the enactment of the act adding this section.~~

6 ~~(e) Section 1038(e) of the Internal Revenue Code,~~  
7 ~~relating to principal residences, shall be modified to~~  
8 ~~provide that, under regulations prescribed by the~~  
9 ~~Secretary of the Treasury under Section 1038 of the~~  
10 ~~Internal Revenue Code, unless the Franchise Tax Board~~  
11 ~~prescribes otherwise, Section 1038(b), (c), and (d) of the~~  
12 ~~Internal Revenue Code shall not apply to the~~  
13 ~~reacquisition of property and, for purposes of applying~~  
14 ~~Section 17152, the resale of that property shall be treated~~  
15 ~~as a part of the transaction constituting the original sale~~  
16 ~~of the property, if both of the following apply:~~

17 ~~(1) Section 1038(a) of the Internal Revenue Code~~  
18 ~~applies to a reacquisition of real property with respect to~~  
19 ~~the sale of which gain was not recognized under Section~~  
20 ~~17152.~~

21 ~~(2) Within one year after the date of reacquisition of~~  
22 ~~the property by the seller, that property is resold by him~~  
23 ~~or her.~~

24 ~~(f) Section 1250(d)(7) of the Internal Revenue Code,~~  
25 ~~relating to disposition of principal residence, shall not~~  
26 ~~apply.~~

27 ~~(g) Section 1250(e)(3) of the Internal Revenue Code,~~  
28 ~~relating to principal residence, shall not apply.~~

29 *SEC. 40. Section 18038.4 is added to the Revenue and*  
30 *Taxation Code, to read:*

31 *18038.4. Section 1045 of the Internal Revenue Code,*  
32 *relating to rollover of gain from qualified small business*  
33 *stock to another qualified small business stock, shall not*  
34 *apply.*

35 *SEC. 41. Section 18042 of the Revenue and Taxation*  
36 *Code is amended to read:*

37 *18042. (a) Section 1042 of the Internal Revenue*  
38 *Code, relating to sales of stock to employee stock*  
39 *ownership plans or certain cooperatives, shall apply to*  
40 *taxable years beginning on or after January 1, 1996 1995.*



1 (b) For taxable years beginning on or after January 1,  
2 1998, Section 1042 of the Internal Revenue Code, relating  
3 to sales of stock to employee stock ownership plans or  
4 certain cooperatives, is modified to provide that the term  
5 “domestic corporation” shall instead mean “domestic C  
6 corporation.”

7 (c) *Section 1042(g) of the Internal Revenue Code,*  
8 *relating to application of section to sales of stock in*  
9 *agricultural refiners and processors to eligible farm*  
10 *cooperatives, shall not apply.*

11 *SEC. 42. Section 18178 of the Revenue and Taxation*  
12 *Code is amended to read:*

13 18178. Section 1272 of the Internal Revenue Code  
14 shall be modified as follows:

15 (a) For taxable years beginning on or after January 1,  
16 1987, and before the taxable year in which the debt  
17 obligation matures or is sold, exchanged, or otherwise  
18 disposed, the amount included in gross income under this  
19 part shall be the same as the amount included in gross  
20 income on the federal tax return.

21 (b) The difference between the amount included in  
22 gross income on the federal return and the amount  
23 included in gross income under this part, with respect to  
24 obligations issued after December 31, 1984, for taxable  
25 years beginning before January 1, 1987, shall be included  
26 in gross income in the taxable year in which the debt  
27 obligation matures or is sold, exchanged, or otherwise  
28 disposed.

29 (c) *Section 1004(b) of the Taxpayer Relief Act of 1997*  
30 *(P.L. 105-34), relating to the effective date for*  
31 *determination of original issue discount where pooled*  
32 *debt obligations are subject to acceleration, is modified to*  
33 *provide that the changes to Section 1272(a)(6) of the*  
34 *Internal Revenue Code made by the act adding this*  
35 *subdivision shall apply to taxable years beginning on or*  
36 *after January 1, 1998, and the amount taken into account*  
37 *under Section 481 of the Internal Revenue Code shall be*  
38 *taken into account ratably over the four-taxable-year*  
39 *period beginning with the first taxable year beginning on*  
40 *or after January 1, 1998.*



1 SEC. 43. Section 18505 of the Revenue and Taxation  
2 Code is amended to read:

3 18505. (a) Every fiduciary (except a receiver  
4 appointed by authority of law in possession of part only of  
5 the property of an individual) taxable under Part 10  
6 (commencing with Section 17001) shall make a return,  
7 which shall contain or be verified by a written declaration  
8 that it is made under the penalties of perjury, for any of  
9 the following taxpayers for whom he or she acts, stating  
10 specifically the items of gross income of the taxpayer and  
11 the deductions and credits allowed:

12 (1) Every individual having an adjusted gross income  
13 for the taxable year in excess of six thousand dollars  
14 (\$6,000), if single.

15 (2) Every individual having an adjusted gross income  
16 for the taxable year in excess of twelve thousand dollars  
17 (\$12,000), if married.

18 (3) Every individual having a gross income for the  
19 taxable year in excess of eight thousand dollars (\$8,000),  
20 regardless of the amount of adjusted gross income.

21 (4) Every estate the net income of which for the  
22 taxable year is in excess of one thousand dollars (\$1,000).

23 (5) Every trust (not treated as a corporation under  
24 Section 23038) the net income of which for the taxable  
25 year is in excess of one hundred dollars (\$100).

26 (6) Every estate or trust (not treated as a corporation  
27 under Section 23038) the gross income of which for the  
28 taxable year is in excess of eight thousand dollars (\$8,000),  
29 regardless of the amount of the net income.

30 (7) Every decedent, for the year in which death  
31 occurred, and for prior years, if returns for those years  
32 should have been filed but have not been filed by the  
33 decedent, under the rules and regulations that the  
34 Franchise Tax Board may prescribe.

35 (b) The fiduciary of any estate or trust required to file  
36 a return under subdivision (a), for any taxable year shall,  
37 on or before the date on which that return was required  
38 to be filed, furnish to each beneficiary (or nominee  
39 thereof) a statement in accordance with the provisions of  
40 Section 6034A of the Internal Revenue Code.

1 (c) For taxable or income years beginning on or after  
2 January 1, 1998:

3 (1) A beneficiary of any estate or trust to which  
4 subdivision (b) applies shall, on that beneficiary's return,  
5 treat any reported item in a manner which is consistent  
6 with the treatment of that item on the applicable entity's  
7 return.

8 (2) (A) In the case of any reported item, paragraph  
9 (1) shall not apply to that item if:

10 (i) (I) The applicable entity has filed a return but the  
11 beneficiary's treatment on that beneficiary's return is (or  
12 may be) inconsistent with the treatment of the item on  
13 the applicable entity's return, or

14 (II) The applicable entity has not filed a return, and

15 (ii) The beneficiary files with the Franchise Tax Board  
16 a statement identifying the inconsistency.

17 (B) A beneficiary shall be treated as having complied  
18 with clause (ii) of subparagraph (A) with respect to a  
19 reported item if the beneficiary does both of the  
20 following:

21 (i) Demonstrates to the satisfaction of the Franchise  
22 Tax Board that the treatment of the reported item on the  
23 beneficiary's return is consistent with the treatment of  
24 the item on the statement furnished under subdivision  
25 (b) to the beneficiary (or nominee thereof) by the  
26 applicable entity.

27 (ii) Elects to have this paragraph apply with respect to  
28 that item.

29 (3) In any case described in subclause (I) of clause (i)  
30 of subparagraph (A) of paragraph (2), in which the  
31 beneficiary does not comply with clause (ii) of  
32 subparagraph (A) of paragraph (2), any adjustment  
33 required to make the treatment of the items by the  
34 beneficiary consistent with the treatment of the items on  
35 the applicable entity's return shall be treated as arising  
36 out of mathematical or clerical errors and assessed and  
37 collected under Section 19051.

38 (4) For purposes of this subdivision:



1 (A) The term “reported item” means any item for  
2 which information is required to be furnished under  
3 subdivision (b).

4 (B) The term “applicable entity” means the estate or  
5 trust of which the taxpayer is the beneficiary.

6 (5) The penalties imposed under Article 7  
7 (commencing with Section 19131) of Chapter 4 shall  
8 apply in the case of a beneficiary’s negligence in  
9 connection with, or disregard of, the requirements of this  
10 subdivision.

11 (d) The amendments made by the act adding this  
12 subdivision shall apply to returns of beneficiaries and  
13 owners filed on or after January 1, 1998.

14 SEC. 44. Section 18510 of the Revenue and Taxation  
15 Code, as amended by Chapter 7 of the Statutes of 1998, is  
16 amended to read:

17 18510. For taxable years beginning on or after January  
18 1, 1997, for purposes of Sections 18501, 18505, and 18521,  
19 gross income shall be computed without regard to the  
20 exclusion provided for in Section ~~17152~~ 121 of the Internal  
21 Revenue Code, relating to exclusion of gains from sale of  
22 principal residence.

23 SEC. 45. Section 18572 of the Revenue and Taxation  
24 Code, as added by Chapter 7 of the Statutes of 1998, is  
25 amended to read:

26 18572. (a) In the case of ~~a~~ an individual taxpayer  
27 determined by the Secretary of the Treasury or the  
28 Franchise Tax Board to be affected by a presidentially  
29 declared disaster (as defined by Section 1033(h)(3) of the  
30 Internal Revenue Code), under regulations prescribed  
31 by the Secretary of the Treasury, unless the Franchise Tax  
32 Board prescribes differently, a period of up to 90 days may  
33 be disregarded in determining, in respect of any tax  
34 liability (including any penalty, additional amount, or  
35 addition to the tax) of the taxpayer:

36 (1) Whether any of the acts described in paragraph  
37 (1) of Section 7508(a)(1) of the Internal Revenue Code  
38 were performed within the time prescribed therefor.

39 (2) The amount of any credit or refund.



1 (b) Subdivision (a) shall not apply for the purposes of  
2 determining interest on any overpayment or  
3 underpayment.

4 (c) This section shall apply with respect to any period  
5 for performing an act that has not expired before August  
6 5, 1997.

7 *SEC. 46. Section 18641 of the Revenue and Taxation*  
8 *Code is amended to read:*

9 18641. (a) Every person doing business as a broker  
10 shall, when required by the Franchise Tax Board, make  
11 a return, in accordance with regulations as the Franchise  
12 Tax Board may prescribe, showing the name and address  
13 of each customer, with ~~such~~ details regarding gross  
14 proceeds and any other information which the Franchise  
15 Tax Board may by forms or regulations require with  
16 respect to that business.

17 (b) (1) Every person required to make a return  
18 under subdivision (a) shall furnish to each customer  
19 whose name is required to be set forth in that return a  
20 written statement showing all of the following:

21 (A) The name and address of the person required to  
22 make that return.

23 (B) The information required to be shown on that  
24 return with respect to that customer.

25 (2) The written statement required under paragraph  
26 (1) shall be furnished to the customer on or before  
27 January 31 of the year following the calendar year for  
28 which the return under subdivision (a) was required to  
29 be made.

30 (c) For purposes of this section:

31 (1) "Broker" includes any of the following:

32 (A) A dealer.

33 (B) A barter exchange.

34 (C) Any other person, who, for a consideration,  
35 regularly acts as a middleman with respect to personal  
36 property or services. A person shall not be treated as a  
37 broker with respect to activities consisting of managing  
38 a farm on behalf of another person.

39 (2) "Customer" means any person for whom the  
40 broker has transacted any business.



1 (3) “Barter exchange” means any organization of  
2 members providing personal property or services who  
3 jointly contract to trade or barter that personal property  
4 or services.

5 (4) “Person” includes any governmental unit and any  
6 agency or instrumentality thereof.

7 (d) (1) *Any person engaged in a trade or business and*  
8 *making a payment (in the course of that trade or*  
9 *business) to which this subdivision applies shall file a*  
10 *return under subdivision (a) and a statement under*  
11 *subdivision (b) with respect to that payment.*

12 (2) (A) *This subdivision shall apply to any payment to*  
13 *an attorney in connection with legal services (whether or*  
14 *not those services are performed for the payer).*

15 (B) *This subdivision shall not apply to the portion of*  
16 *any payment which is required to be reported under*  
17 *subdivision (a) of Section 18637 (or would be so required*  
18 *but for the dollar limitation contained therein).*

19 (e) (1) *Any regulations which apply to payments*  
20 *subject to the reporting requirements imposed under*  
21 *Section 18637 that provide an exception for payments*  
22 *made to corporations shall not apply to payments of*  
23 *attorneys’ fees.*

24 (2) *The regulations under Section 6041 of the Internal*  
25 *Revenue Code, relating to providing an exception for*  
26 *payments made to corporations, shall not be used to*  
27 *interpret the requirements under Section 18637 with*  
28 *respect to payments of attorneys’ fees.*

29 (f) *If the taxpayer has complied with the requirements*  
30 *of Section 6045(f) of the Internal Revenue Code for*  
31 *federal purposes, the taxpayer shall be deemed to have*  
32 *complied with the requirements of subdivision (d) for*  
33 *purposes of this part and no penalty shall be imposed*  
34 *under Section 19183.*

35 (g) *The amendments made by the act adding this*  
36 *subdivision shall apply to payments made after*  
37 *December 31, 1997.*

38 (h) *In lieu of the return required by ~~this section~~*  
39 *subdivision (a), a copy of the similar return filed with the*  
40 *Internal Revenue Service pursuant to Section 6045 of the*



1 Internal Revenue Code, and the regulations adopted  
2 thereto, may be filed with the Franchise Tax Board.

3 *SEC. 47. Section 18645 of the Revenue and Taxation*  
4 *Code is amended to read:*

5 18645. (a) The Franchise Tax Board may require a  
6 copy of the federal information return to be filed with the  
7 Franchise Tax Board if a federal information return was  
8 required under any of the following:

9 (1) Section 6039C of the Internal Revenue Code,  
10 relating to returns with respect to foreign persons holding  
11 direct investments in United States real property  
12 interests, if that person holds a direct investment in a  
13 California real property interest as defined in Section  
14 18662.

15 (2) Section 6050H of the Internal Revenue Code,  
16 relating to mortgage interest received in trade or  
17 business from individuals.

18 (3) Section 6050J of the Internal Revenue Code,  
19 relating to foreclosures and abandonments of security.

20 (4) Section 6050K of the Internal Revenue Code,  
21 relating to exchanges of certain partnership interests.

22 (5) Section 6050L of the Internal Revenue Code,  
23 relating to certain dispositions of donated property.

24 (6) Section 6050N of the Internal Revenue Code,  
25 relating to returns regarding payments of royalties.

26 (7) Section 6050P of the Internal Revenue Code,  
27 relating to returns relating to the cancellation of  
28 indebtedness by certain financial entities.

29 (8) Section 6050Q of the Internal Revenue Code,  
30 relating to certain long-term care benefits.

31 (9) Section 6050R of the Internal Revenue Code,  
32 relating to returns relating to certain purchases of fish.

33 (10) *Section 6050S of the Internal Revenue Code,*  
34 *relating to returns relating to higher education tuition*  
35 *and related expenses.*

36 (b) Every person required to make a return under  
37 subdivision (a) shall also furnish a statement to each  
38 person whose name is required to be set forth in the  
39 return, as required to do so by the Internal Revenue  
40 Code.



1 (c) A transferor of a partnership interest shall be  
2 required to notify the partnership of that exchange in  
3 accordance with Section 6050K(c) of the Internal  
4 Revenue Code.

5 (d) The Franchise Tax Board shall require a copy of  
6 the federal information return to be filed with the  
7 Franchise Tax Board if a federal information return was  
8 required under Section 6050I(a) of the Internal Revenue  
9 Code, relating to cash received in trade or business.  
10 Section 6050I(g) of the Internal Revenue Code, relating  
11 to cash received by criminal court clerks, shall not apply.

12 (e) (1) The Attorney General shall, upon court order  
13 following a showing ex parte to a magistrate of an  
14 articulable suspicion that an individual or entity has  
15 committed a felony offense to which a federal  
16 information return is related, be provided a copy of a  
17 federal information return filed with the Franchise Tax  
18 Board under subdivision (d). The Attorney General may  
19 make a return or information therefrom available to a  
20 district attorney subject to regulations promulgated by  
21 the Attorney General. The regulations shall require the  
22 district attorney seeking the return or information to  
23 specify in writing the specific reasons for believing that  
24 a felony offense has been committed to which the return  
25 or information is related.

26 (2) Any information or return obtained by the  
27 Attorney General or a district attorney pursuant to this  
28 section shall be confidential and used only for  
29 investigative or prosecutorial purposes.

30 *SEC. 48. Section 19057 of the Revenue and Taxation*  
31 *Code is amended to read:*

32 19057. (a) Except in the case of a false or fraudulent  
33 return and except as otherwise expressly provided in this  
34 part, every notice of a proposed deficiency assessment  
35 shall be mailed to the taxpayer within four years after the  
36 return was filed. No deficiency shall be assessed or  
37 collected with respect to the year for which the return  
38 was filed unless the notice is mailed within the four-year  
39 period or the period otherwise provided. *For purposes of*  
40 *this chapter, the term 'return' means the return required*



1 to be filed by the taxpayer and does not include a return  
2 of any person from whom the taxpayer has received an  
3 item of income, gain, loss, deduction, or credit.

4 (b) The running of the period of limitations provided  
5 in subdivision (a) on mailing a notice of proposed  
6 deficiency assessment shall, in a case under Title 11 of the  
7 United States Code, be suspended for any period during  
8 which the Franchise Tax Board is prohibited by reason of  
9 that case from mailing the notice of proposed deficiency  
10 assessment and 60 days thereafter.

11 (c) Where, within the 60-day period ending on the day  
12 on which the time prescribed in this section for the  
13 assessment of any tax imposed under Part 10  
14 (commencing with Section 17001) or Part 11  
15 (commencing with Section 23001) for any taxable year  
16 would otherwise expire, the Franchise Tax Board  
17 receives a written document, other than an amended  
18 return or a report required by Section 18622, signed by  
19 the taxpayer showing that the taxpayer owes an  
20 additional amount of that tax for that taxable year, the  
21 period for the assessment of an additional amount in  
22 excess of the amount shown on either an original or  
23 amended return shall not expire before the day 60 days  
24 after the day on which the Franchise Tax Board receives  
25 that document.

26 (d) If a taxpayer determines in good faith that it is an  
27 exempt organization and files a return as such under  
28 Section 23772, and if the taxpayer is thereafter held to be  
29 a taxable organization for the taxable year for which the  
30 return is filed, that return shall be deemed the return of  
31 the organization for the purposes of this section.

32 *SEC. 49. Section 19066.5 is added to the Revenue and*  
33 *Taxation Code, to read:*

34 *19066.5. In the case of any information that is required*  
35 *to be reported to the Franchise Tax Board under Section*  
36 *19141.2 or 19141.5, the time for assessment of any tax*  
37 *imposed by Part 10 (commencing with Section 17001),*  
38 *Part 11 (commencing with Section 23001), or this part*  
39 *with respect to any event or period to which that*  
40 *information relates shall not expire before the date that*



1 *is four years after the date on which the Franchise Tax*  
2 *Board is furnished the information required to be*  
3 *reported under Section 19141.2 or 19141.5, or within the*  
4 *periods provided in Section 19057, 19058, 19059, 19060,*  
5 *19065, 24945, 24946, Section 1033(a)(2)(C) of the Internal*  
6 *Revenue Code, or Section 1033(a)(2)(D) of the Internal*  
7 *Revenue Code, whichever period expires later.*

8 *SEC. 50. Section 19132 of the Revenue and Taxation*  
9 *Code is amended to read:*

10 19132. (a) (1) Unless it is shown that the failure is  
11 due to reasonable cause and not due to willful neglect, a  
12 penalty computed in accordance with paragraph (2) is  
13 hereby imposed in the case of failure to pay any of the  
14 following:

15 (A) The amount shown as tax on any return on or  
16 before the date prescribed for payment of that tax  
17 determined with regard to any extension of time for  
18 payment.

19 (B) Any amount in respect of any tax required to be  
20 shown on a return which is not so shown including an  
21 assessment made pursuant to Section 19051 within 15 days  
22 of the date of the notice and demand therefor.

23 (C) The amount required to be paid by Section 19021,  
24 if applicable, that is not paid.

25 (D) The amount required to be paid by Section 17941  
26 or 23091, if applicable, that is not paid.

27 (E) The amount required to be paid by Section ~~17951~~  
28 ~~17948~~ or 23097, if applicable, that is not paid.

29 (2) The penalty imposed under paragraph (1) shall  
30 consist of both of the following:

31 (A) Five percent of the total tax unpaid as defined in  
32 subdivision (c).

33 (B) An amount computed at the rate of 0.5 percent per  
34 month of the “remaining tax” as defined in subdivision  
35 (d) for each additional month or fraction thereof not to  
36 exceed 40 months during which the “remaining tax” is  
37 greater than zero.

38 (3) The aggregate amount of penalty imposed by this  
39 subdivision shall not exceed 25 percent of the total unpaid  
40 tax and shall be due and payable upon notice and demand



1 by the Franchise Tax Board. The tender of a check or  
2 money order does not constitute payment of the tax for  
3 purposes of this section unless the check or money order  
4 is paid on presentment.

5 (b) The penalty prescribed by subdivision (a) shall not  
6 be assessed if, for the same taxable year, the sum of any  
7 penalties imposed under Section 19131 relating to failure  
8 to file return and Section 19133 relating to failure to file  
9 return after demand is equal to or greater than the  
10 subdivision (a) penalty. In the event the penalty imposed  
11 under subdivision (a) is greater than the sum of any  
12 penalties imposed under Sections 19131 and 19133, the  
13 penalty imposed under subdivision (a) shall be the  
14 amount which exceeds the sum of any penalties imposed  
15 under Sections 19131 and 19133.

16 (c) For purposes of this section, total tax unpaid means  
17 the amount of tax shown on the return reduced by both  
18 of the following:

19 (1) The amount of any part of the tax which is paid on  
20 or before the date prescribed for payment of the tax.

21 (2) The amount of any credit against the tax which  
22 may be claimed upon the return.

23 (d) For purposes of this section, “remaining tax”  
24 means total tax unpaid reduced by the amount of any  
25 payment of the tax.

26 (e) If the amount required to be shown as a tax on a  
27 return is less than the amount shown as tax on that return,  
28 subdivisions (a), (c), and (d) shall be applied by  
29 substituting that lower amount.

30 (f) No interest shall accrue on the portion of the  
31 penalty prescribed in subparagraph (B) of paragraph (2)  
32 of subdivision (a).

33 (g) The amendments made by the act adding this  
34 subdivision are operative for notices issued on or after  
35 January 1, 1998.

36 *SEC. 51. Section 19133.5 of the Revenue and Taxation*  
37 *Code is amended to read:*

38 19133.5. (a) In the case of a failure to make a report  
39 required under Section 18152.5 that contains the  
40 information required by that section on the date



1 prescribed therefor (determined with regard to any  
2 extension of time for filing), there shall be paid (on notice  
3 and demand by the Franchise Tax Board and in the same  
4 manner as tax) by the person failing to make the report,  
5 an amount equal to fifty dollars (\$50) for each report with  
6 respect to which there was such a failure. In the case of  
7 any failure due to negligence or intentional disregard, the  
8 preceding sentence shall be applied by substituting one  
9 hundred dollars (\$100) for fifty dollars (\$50). In the case  
10 of a report covering periods in two or more years, the  
11 penalty determined under preceding provisions of this  
12 section shall be multiplied by the number of those years.

13 (b) This section shall become operative on January 1,  
14 1994.

15 (c) *No penalty shall be imposed under this section for*  
16 *any failure that is shown to be due to reasonable cause and*  
17 *not willful neglect.*

18 (d) *The amendments made by the act adding this*  
19 *subdivision shall become operative on January 1, 1998.*

20 SEC. 52. *Section 19136 of the Revenue and Taxation*  
21 *Code is amended to read:*

22 19136. (a) Section 6654 of the Internal Revenue  
23 Code, relating to failure by an individual to pay estimated  
24 income tax, shall apply, except as otherwise provided.

25 (b) Section 6654(a)(1) of the Internal Revenue Code  
26 is modified to refer to the rate determined under Section  
27 19521 in lieu of Section 6621 of the Internal Revenue  
28 Code.

29 (c) (1) For purposes of Section 6654(d) of the  
30 Internal Revenue Code, relating to the amount of  
31 required installments, any reference to "90 percent" is  
32 modified to read "80 percent."

33 (2) Section 6654(d)(2)(C)(ii) of the Internal  
34 Revenue Code, relating to applicable percentages, is  
35 modified as follows:

36



1	In the case of the following	The applicable
2	required installments:	percentage is:
3	1st .....	20
4	2nd .....	40
5	3rd .....	60
6	4th .....	80

7  
8 (3) The annualized income installment, determined  
9 under Section 6654(d)(2) of the Internal Revenue Code,  
10 shall not include “alternative minimum taxable income”  
11 or “adjusted self-employment income.”

12 (d) (1) Section 6654(e)(1) of the Internal Revenue  
13 Code, relating to exceptions where the tax is a small  
14 amount, shall not apply.

15 (2) No addition to the tax shall be imposed under this  
16 section if any of the following apply:

17 (A) The tax imposed under Section 17041 or 17048 for  
18 the preceding taxable year, minus the sum of any credits  
19 against the tax provided by Part 10 (commencing with  
20 Section 17001) or this part, or the tax computed under  
21 Section 17041 or 17048 upon the estimated income for the  
22 taxable year, minus the sum of any credits against the tax  
23 provided by Part 10 (commencing with Section 17001) or  
24 this part, is less than ~~one hundred dollars (\$100)~~ *two*  
25 *hundred dollars (\$200)*, except in the case of a separate  
26 return filed by a married person the amount shall be less  
27 than ~~fifty dollars (\$50)~~ *one hundred dollars (\$100)*.

28 (B) Eighty percent or more of the tax imposed under  
29 Section 17041 or 17048 for the preceding taxable year, less  
30 any credits against the tax other than the credit allowed  
31 under Section 19002, was paid by withholding pursuant to  
32 Section 18662 or 18666 of this code or Section 13020 of the  
33 Unemployment Insurance Code.

34 (C) Eighty percent or more of the estimated tax for  
35 the taxable year will be paid by withholding of tax  
36 pursuant to Section 18662 or 18666 of this code or Section  
37 13020 of the Unemployment Insurance Code.

38 (D) Eighty percent or more of the adjusted gross  
39 income for the taxable year consists of items subject to  
40 withholding pursuant to Section 18662 or 18666 of this



1 code or Section 13020 of the Unemployment Insurance  
2 Code.

3 (3) Paragraph (2) shall not apply if the employee files  
4 a false or fraudulent withholding exemption certificate  
5 for the taxable year, or the taxpayer provides a false or  
6 fraudulent document or documents to obtain reduced  
7 withholding at source for the taxable year.

8 (e) Section 6654(f) of the Internal Revenue Code shall  
9 not apply and for purposes of this section the term “tax”  
10 means the tax imposed under Section 17041 or 17048, less  
11 any credits against the tax provided by Part 10  
12 (commencing with Section 17001) or this part, other than  
13 the credit provided by subdivision (a) of Section 19002.

14 (f) The credit for tax withheld on wages, as specified  
15 in Section 6654(g) of the Internal Revenue Code, shall be  
16 the credit allowed under subdivision (a) of Section 19002.

17 (g) This section shall apply to a nonresident individual.

18 (h) *No addition to tax shall be made under this section*  
19 *for any period before April 16, 1999, with respect to any*  
20 *underpayment of an installment for the 1998 taxable year,*  
21 *to the extent that the underpayment was created or*  
22 *increased as the result of a distribution to which Section*  
23 *408A(d)(3) of the Internal Revenue Code, relating to*  
24 *rollovers from an IRA other than a Roth IRA, applies.*

25 SEC. 53. Section 19136.6 is added to the Revenue and  
26 Taxation Code, to read:

27 19136.6. (a) *No addition to tax shall be made under*  
28 *Section 19136 for any period before April 16, 1999, with*  
29 *respect to any underpayment of an installment for the*  
30 *1998 taxable year, to the extent that the underpayment*  
31 *was created or increased by the act adding this section.*

32 (b) *No addition to tax shall be made under Section*  
33 *19142 for any period before April 16, 1999, with respect to*  
34 *any underpayment of an installment for the 1998 income*  
35 *year, to the extent that the underpayment was created or*  
36 *increased by the act adding this section.*

37 (c) *The Franchise Tax Board shall implement this*  
38 *section in a reasonable manner.*

39 SEC. 54. Section 19141.2 of the Revenue and Taxation  
40 Code is amended to read:



1 19141.2. (a) Section 6038 of the Internal Revenue  
2 Code, relating to information with respect to certain  
3 foreign corporations, shall apply, except as otherwise  
4 provided.

5 (b) Section 6038(a) is modified as follows:

6 (1) The information required to be filed with the  
7 Franchise Tax Board under this section shall be a copy of  
8 the information required to be filed with the Internal  
9 Revenue Service.

10 (2) The term “United States person,” as defined in  
11 Section 7701(a)(30) of the Internal Revenue Code, shall  
12 be limited to a domestic corporation, as defined in Section  
13 7701(a) of the Internal Revenue Code, or a bank, as  
14 defined in Section 23039, that is subject to the tax imposed  
15 under Chapter 2 (commencing with Section 23101),  
16 Chapter 2.5 (commencing with Section 23400), or  
17 Chapter 3 (commencing with Section 23501), of Part 11.

18 (c) (1) Unless it is shown that the failure is due to  
19 reasonable cause and not due to willful neglect, a penalty  
20 shall be imposed under this part for failure to furnish  
21 information and that penalty shall be determined in  
22 accordance with Section 6038 of the Internal Revenue  
23 Code, except as otherwise provided.

24 (A) *Section 6038(b) of the Internal Revenue Code*  
25 *shall be modified by substituting “\$1,000” for “\$10,000” in*  
26 *each place it appears.*

27 (B) *Section 6038(b)(2) of the Internal Revenue Code*  
28 *shall be modified by substituting “\$24,000” for “\$50,000.”*

29 (2) No penalty shall be imposed under paragraph (1)  
30 if the copy of the information required to be filed with the  
31 Internal Revenue Service was not attached to the  
32 taxpayer’s return as originally filed but the taxpayer does  
33 both of the following:

34 (A) Furnishes the copy of the information required to  
35 be filed with the Internal Revenue Service either upon its  
36 own initiative or within 90 days of notification by the  
37 Franchise Tax Board of the requirements of this section.

38 (B) Agrees to attach a copy of the information  
39 required to be filed with the Internal Revenue Service to



1 the taxpayer's original return filed for subsequent income  
2 years.

3 (3) All or any portion of the penalty imposed under  
4 paragraph (1) may be waived by the Franchise Tax Board  
5 when the taxpayer has entered into a voluntary disclosure  
6 agreement under Article 8 (commencing with Section  
7 19191) of Chapter 4.

8 (4) The penalty imposed under this subdivision shall  
9 not apply to returns required to be filed for income years  
10 beginning before January 1, 1998.

11 (d) This section shall apply to returns required to be  
12 filed for income years beginning on or after January 1,  
13 1997.

14 *SEC. 55. Section 19141.5 of the Revenue and Taxation*  
15 *Code is amended to read:*

16 19141.5. (a) (1) Section 6038A of the Internal  
17 Revenue Code, relating to information with respect to  
18 certain foreign-owned corporations, shall apply.

19 (2) A penalty shall be imposed under this part for  
20 failure to furnish information or maintain records and  
21 that penalty shall be determined in accordance with  
22 Section 6038A of the Internal Revenue Code.

23 (3) Section 11314 of Public Law 101-508, relating to  
24 application of amendments made by Section 7403 of the  
25 Revenue Reconciliation Act of 1989 to taxable years  
26 beginning on or before July 10, 1989, shall apply.

27 (4) Section 6038A(e) of the Internal Revenue Code,  
28 relating to enforcement of requests for certain records, is  
29 modified as follows:

30 (A) Each reference to Section 7602, 7603, or 7604 of the  
31 Internal Revenue Code shall instead refer to Section  
32 19504.

33 (B) Each reference to "summons" shall instead refer  
34 to "subpoena duces tecum."

35 (C) Section 6038A(e)(4)(C) of the Internal Revenue  
36 Code shall refer to "superior courts of the State of  
37 California for the Counties of Los Angeles, Sacramento,  
38 and San Diego, and for the City and County of San  
39 Francisco," instead of "United States district court for the



1 district in which the person (to whom the summons is  
2 issued) resides or is found.”

3 (b) In the case of a corporation, each of the following  
4 shall apply:

5 (1) Section 6038B of the Internal Revenue Code,  
6 relating to notice of certain transfers to foreign persons,  
7 shall apply, *except as otherwise provided*.

8 (2) *The information required to be filed with the*  
9 *Franchise Tax Board under this subdivision shall be a*  
10 *copy of the information required to be filed with the*  
11 *Internal Revenue Service.*

12 (3) (A) A penalty shall be imposed under this part for  
13 failure to furnish information ~~or maintain records~~ and  
14 that penalty shall be determined in accordance with  
15 Section 6038B of the Internal Revenue Code, *except as*  
16 *otherwise provided*.

17 (B) *Subparagraph (A) shall not apply to any transfer*  
18 *described in Section 6038B(a)(1)(B) of the Internal*  
19 *Revenue Code.*

20 (c) (1) Section 6038C of the Internal Revenue Code,  
21 relating to information with respect to foreign  
22 corporations engaged in United States business, shall  
23 apply.

24 (2) A penalty shall be imposed under this part for  
25 failure to furnish information or maintain records and  
26 that penalty shall be determined in accordance with  
27 Section 6038C of the Internal Revenue Code.

28 (3) Section 6038C(d) of the Internal Revenue Code,  
29 relating to enforcement of requests for certain records, is  
30 modified as follows:

31 (A) Each reference to Section 7602, 7603, or 7604 of the  
32 Internal Revenue Code shall instead refer to Section  
33 19504.

34 (B) Each reference to “summons” shall instead refer  
35 to “subpoena duces tecum.”

36 (d) For purposes of this part, the information required  
37 to be filed with the Franchise Tax Board pursuant to this  
38 section shall be a copy of the information filed with the  
39 Internal Revenue Service.



1 (e) For purposes of this section, each of the following  
2 shall apply:

3 (1) Section 7701(a)(4) of the Internal Revenue Code,  
4 relating to the term “domestic,” shall apply.

5 (2) Section 7701(a)(5) of the Internal Revenue Code,  
6 relating to the term “foreign,” shall apply.

7 (3) Section 7701(a)(30) of the Internal Revenue Code,  
8 relating to the term “United States person,” shall apply.

9 However, the term “United States person” shall not  
10 include any corporation that is not subject to the tax  
11 imposed under Chapter 2 (commencing with Section  
12 23101), Chapter 2.5 (commencing with Section 23400), or  
13 Chapter 3 (commencing with Section 23501), of Part 11.

14 *SEC. 56. Section 19182 of the Revenue and Taxation*  
15 *Code is amended to read:*

16 19182. (a) A penalty shall be imposed for failure to  
17 furnish information pursuant to Section 18547 and the  
18 penalty amount shall be determined in accordance with  
19 Section 6707 of the Internal Revenue Code.

20 (b) *If the person required to register the tax shelter*  
21 *has complied, for federal purposes, with the*  
22 *requirements of Section 6111(d) of the Internal Revenue*  
23 *Code, relating to certain confidential arrangements*  
24 *treated as tax shelters, the person required to register the*  
25 *tax shelter shall be deemed to have complied with the*  
26 *requirements of Section 18547 for purposes of this part*  
27 *and no penalty shall be imposed under subdivision (a).*

28 (c) Article 3 (commencing with Section 19031) of this  
29 chapter (relating to deficiency assessments) shall not  
30 apply in respect of the assessment or collection of any  
31 penalty imposed under this section.

32 *SEC. 57. Section 19184 of the Revenue and Taxation*  
33 *Code, as amended by Chapter 7 of the Statutes of 1998, is*  
34 *amended to read:*

35 19184. (a) A penalty of fifty dollars (\$50) shall be  
36 imposed for each failure, unless it is shown that the failure  
37 is due to reasonable cause, by any person required to file  
38 who fails to file a report at the time and in the manner  
39 required by any of the following provisions:



1 (1) Subdivision (c) of Section 17507, relating to  
 2 individual retirement accounts.

3 (2) Section 220(h) of the Internal Revenue Code,  
 4 relating to medical savings accounts for taxable years  
 5 beginning on or after January 1, 1997.

6 (3) *Subdivision (b) of Section 17140.3 or subdivision*  
 7 *(b) of Section 23711 relating to qualified tuition*  
 8 *programs.*

9 (4) Subdivision ~~(c)~~ (e) of Section 23712, relating to  
 10 education individual retirement accounts.

11 (b) (1) Any individual who:

12 (A) Is required to furnish information under Section  
 13 17508 as to the amount designated nondeductible  
 14 contributions made for any taxable year, and

15 (B) Overstates the amount of those contributions  
 16 made for that taxable year, shall pay a penalty of one  
 17 hundred dollars (\$100) for each overstatement unless it  
 18 is shown that the overstatement is due to reasonable  
 19 cause.

20 (2) Any individual who fails to file a form required to  
 21 be filed by the Franchise Tax Board under Section 17508  
 22 shall pay a penalty of fifty dollars (\$50) for each failure  
 23 unless it is shown that the failure is due to reasonable  
 24 cause.

25 (c) Article 3 (commencing with Section 19031) of this  
 26 chapter (relating to deficiency assessments) shall not  
 27 apply in respect of the assessment or collection of any  
 28 penalty imposed under this section.

29 *SEC. 58. Section 19521 of the Revenue and Taxation*  
 30 *Code is amended to read:*

31 19521. (a) The rate established under this section  
 32 (referred to in other code sections as “the adjusted annual  
 33 rate”) shall be determined in accordance with Section  
 34 6621 of the Internal Revenue Code, except that:

35 (1) The overpayment rate specified in Section  
 36 6621(a)(1) of the Internal Revenue Code shall be  
 37 modified to be equal to the underpayment rate  
 38 determined under Section 6621(a)(2) of the Internal  
 39 Revenue Code; and



1 (2) The determination specified in Section 6621(b) of  
2 the Internal Revenue Code shall be modified to be  
3 determined semiannually as follows:

4 (A) The rate for January shall apply during the  
5 following July through December, and

6 (B) The rate for July shall apply during the following  
7 January through June.

8 (b) (1) For purposes of this part, Part 10  
9 (commencing with Section 17001), Part 11 (commencing  
10 with Section 23001), and any other provision of law  
11 referencing this method of computation, in computing  
12 the amount of any interest required to be paid by the state  
13 or by the taxpayer, or any other amount determined by  
14 reference to that amount of interest, that interest and  
15 that amount shall be compounded daily.

16 (2) Paragraph (1) shall not apply for purposes of  
17 computing the amount of any addition to tax under  
18 Section 19136 or 19142.

19 (c) Section 6621(c) of the Internal Revenue Code,  
20 relating to increase in underpayment rate for large  
21 corporate underpayments, is modified as follows:

22 (1) The applicable date shall be the 30th day after the  
23 earlier of either of the following:

24 (A) The date on which the proposed deficiency  
25 assessment is issued.

26 (B) The date on which the notice and demand is sent.

27 (2) This subdivision shall apply for purposes of  
28 determining interest for periods after December 31, 1991.

29 (3) *Section 6621(c)(2)(B)(iii) of the Internal*  
30 *Revenue Code shall apply for purposes of determining*  
31 *interest for periods after December 31, 1998.*

32 *SEC. 59. Section 19524 of the Revenue and Taxation*  
33 *Code is amended to read:*

34 19524. (a) The Franchise Tax Board shall prescribe  
35 regulations providing standards for determining which  
36 returns shall be filed on magnetic media or in other  
37 machine-readable form. The Franchise Tax Board shall  
38 not require returns of any tax imposed by Part 10  
39 (commencing with Section 17001) on individuals, estates,  
40 and trusts to be other than on paper forms supplied by the



1 Franchise Tax Board. In prescribing those regulations,  
2 the Franchise Tax Board shall take into account, among  
3 other relevant factors, the ability of the taxpayer to  
4 comply at a reasonable cost with that filing requirement.

5 (b) (1) Subdivision (a) is applicable only to taxpayers  
6 required to file returns on magnetic media or in other  
7 machine-readable form pursuant to Section 6011(e) of  
8 the Internal Revenue Code and the regulations adopted  
9 thereto. ~~It~~

10 (2) *For purposes of paragraph (1), the last sentence of*  
11 *Section 6011(e)(2) of the Internal Revenue Code, shall*  
12 *not apply.*

13 (3) *In addition, the regulations under subdivision (a)*  
14 *shall not require that returns filed on magnetic media or*  
15 *in other machine-readable form contain more*  
16 *information than is required to be included in similar*  
17 *returns filed with the Internal Revenue Service under*  
18 *Section 6011(e) of the United States Internal Revenue*  
19 *Code and the regulations adopted thereto.*

20 (c) *In lieu of the magnetic media or other*  
21 *machine-readable form returns required by this section,*  
22 *a copy of the similar magnetic media or other*  
23 *machine-readable form returns filed with the Internal*  
24 *Revenue Service pursuant to Section 6011(e) of the*  
25 *Internal Revenue Code, and the regulations adopted*  
26 *thereto, may be filed with the Franchise Tax Board.*

27 *SEC. 60. Section 19721.6 of the Revenue and Taxation*  
28 *Code is amended and renumbered to read:*

29 ~~19721.6.~~

30 19271.6. (a) The Franchise Tax Board, through a  
31 cooperative agreement with the State Department of  
32 Social Services, and in coordination with financial  
33 institutions doing business in this state, shall operate a  
34 Financial Institution Match System utilizing automated  
35 data exchanges to the maximum extent feasible. The  
36 Financial Institution Match System shall be implemented  
37 pursuant to guidelines prescribed by the State  
38 Department of Social Services and the Franchise Tax  
39 Board. These guidelines shall include a structure by  
40 which financial institutions, or their designated data



1 processing agents, shall receive from the Franchise Tax  
2 Board the entire list of past-due support obligors, which  
3 the institution shall match with its own list of  
4 accountholders to identify past-due support obligor  
5 accountholders at the institution. To the extent allowed  
6 by the federal Personal Responsibility and Work  
7 Opportunity Reconciliation Act of 1996, the guidelines  
8 shall include an option by which financial institutions  
9 without the technical ability to process the data  
10 exchange, or without the ability to employ a third-party  
11 data processor to process the data exchange, may forward  
12 to the Franchise Tax Board a list of all accountholders and  
13 their social security numbers, so that the Franchise Tax  
14 Board shall match that list with the entire list of past-due  
15 support obligors.

16 (b) The Financial Institution Match System shall not  
17 be subject to any limitation set forth in Chapter 20  
18 (commencing with Section 7460) of Division 7 of Title 1  
19 of the Government Code. However, any use of the  
20 information provided pursuant to this section for any  
21 purpose other than the enforcement and collection of a  
22 child support delinquency, as set forth in Section 19271,  
23 shall be a violation of Section 19542.

24 (c) Each county shall compile a file of support obligors  
25 with judgments and orders that are being enforced by  
26 district attorneys pursuant to Section 11475.1 of the  
27 Welfare and Institutions Code, and who are past due in  
28 the payment of their support obligations. The file shall be  
29 compiled, updated, and forwarded to the Franchise Tax  
30 Board, in accordance with the guidelines prescribed by  
31 the State Department of Social Services and the  
32 Franchise Tax Board.

33 (d) To effectuate the Financial Institution Match  
34 System, financial institutions subject to this section shall  
35 do all of the following:

36 (1) Provide to the Franchise Tax Board on a quarterly  
37 basis the name, record address and other addresses, social  
38 security number or other taxpayer identification  
39 number, and other identifying information for each  
40 noncustodial parent who maintains an account at the



1 institution and who owes past-due support, as identified  
2 by the Franchise Tax Board by name and social security  
3 number or other taxpayer identification number.

4 (2) In response to a notice or order to withhold issued  
5 by the Franchise Tax Board, withhold from any accounts  
6 of the obligor the amount of any past-due support stated  
7 on the notice or order and transmit the amount to the  
8 Franchise Tax Board in accordance with Section 18670 or  
9 18670.5.

10 (e) Unless otherwise required by applicable law, a  
11 financial institution furnishing a report or providing  
12 information to the Franchise Tax Board pursuant to this  
13 section shall not disclose to a depositor or an  
14 accountholder, or a codepositor or coaccountholder, that  
15 the name, address, social security number, or other  
16 taxpayer identification number or other identifying  
17 information of that person has been received from or  
18 furnished to the Franchise Tax Board.

19 (f) A financial institution shall incur no obligation or  
20 liability to any person arising from any of the following:

21 (1) Furnishing information to the Franchise Tax  
22 Board as required by this section.

23 (2) Failing to disclose to a depositor or accountholder  
24 that the name, address, social security number, or other  
25 taxpayer identification number or other identifying  
26 information of that person was included in the data  
27 exchange with the Franchise Tax Board required by this  
28 section.

29 (3) Withholding or transmitting any assets in response  
30 to a notice or order to withhold issued by the Franchise  
31 Tax Board as a result of the data exchange. This paragraph  
32 shall not preclude any liability that may result if the  
33 financial institution does not comply with subdivision (b)  
34 of Section 18674.

35 (4) Any other action taken in good faith to comply  
36 with the requirements of this section.

37 (g) Information required to be submitted to the  
38 Franchise Tax Board pursuant to this section shall only be  
39 used by the Franchise Tax Board to collect past-due  
40 support pursuant to Section 19271. If the Franchise Tax



1 Board has issued an earnings withholding order and the  
2 condition described in subparagraph (C) of paragraph  
3 (1) of subdivision (i) exists with respect to the obligor, the  
4 Franchise Tax Board shall not use the information it  
5 receives under this section to collect the past-due support  
6 from that obligor. The Franchise Tax Board shall forward  
7 to the counties, in accordance with guidelines prescribed  
8 by the State Department of Social Services and the  
9 Franchise Tax Board, information obtained from the  
10 financial institutions pursuant to this section. No county  
11 shall use this information for directly levying on any  
12 account. Each county shall keep the information  
13 confidential as provided by Section 11478.1 of the Welfare  
14 and Institutions Code.

15 (h) For those noncustodial parents owing past-due  
16 support for which there is a match under paragraph (1)  
17 of subdivision (d), the past-due support at the time of the  
18 match shall be a delinquency under this article for the  
19 purposes of the Franchise Tax Board taking any collection  
20 action pursuant to Section 18670 or 18670.5.

21 (i) (1) Each county shall notify the Franchise Tax  
22 Board upon the occurrence of the circumstances  
23 described in the following subparagraphs with respect to  
24 an obligor of past-due support:

25 (A) All of the following apply:

26 (i) A court has ordered an obligor to make scheduled  
27 payments on a child support arrearages obligation.

28 (ii) The obligor is in compliance with that order.

29 (B) An earnings assignment order or a notice of  
30 assignment that includes an amount for past-due support  
31 has been served on the obligated parent's employer and  
32 earnings are being withheld pursuant to the earnings  
33 assignment order or a notice of assignment.

34 (C) At least 50 percent of the obligated parent's  
35 earnings are being withheld for support.

36 (D) The obligor is less than 90 days delinquent in the  
37 payment of any amount of support. For purposes of this  
38 subparagraph, any delinquency existing at the time a case  
39 is received by a district attorney shall not be considered  
40 until 90 days have passed.



1 (E) A child support delinquency need not be referred  
2 to the Franchise Tax Board for collection if a jurisdiction  
3 outside this state is enforcing the support order.

4 (2) Upon notification, the Franchise Tax Board shall  
5 not use the information it receives under this section to  
6 collect any past-due support from that obligor.

7 (j) Notwithstanding subdivision (i), the Franchise Tax  
8 Board may use the information it receives under this  
9 section to collect any past-due support at any time if a  
10 county requests action be taken.

11 (k) The Franchise Tax Board may not use the  
12 information it receives under this section to collect any  
13 past-due support if a county has applied for and received  
14 an exemption from the State Department of Social  
15 Services as provided by subdivision (k) of Section 19271,  
16 unless that county specifically requests collection against  
17 that obligor. The Franchise Tax Board may not use the  
18 information it receives under this section to collect any  
19 past-due support if a county requests that action not be  
20 taken.

21 (l) For purposes of this section:

22 (1) "Account" means any demand deposit account,  
23 share or share draft account, checking or negotiable  
24 withdrawal order account, savings account, time deposit  
25 account, or a money market mutual fund account,  
26 whether or not the account bears interest.

27 (2) "Financial institution" has the same meaning as  
28 defined in Section 669A(d)(1) of Title 42 of the United  
29 States Code.

30 (3) "Past-due support" means any child support  
31 obligation that is unpaid on the due date for payment.

32 (m) Out of any money received from the federal  
33 government for the purpose of reimbursing financial  
34 institutions for their actual and reasonable costs incurred  
35 in complying with this section, the state shall reimburse  
36 those institutions. To the extent that money is not  
37 provided by the federal government for that purpose, the  
38 state shall not reimburse financial institutions for their  
39 costs in complying with this section.



1 (n) By March 1, 1998, the Franchise Tax Board and the  
2 Department of Social Services, in consultation with  
3 counties and financial institutions, shall jointly propose an  
4 implementation plan for inclusion in the annual Budget  
5 Act, or in other legislation that would fund this program.  
6 The implementation plan shall take into account the  
7 program's financial benefits, including the costs of all  
8 participating private and public agencies. It is the intent  
9 of the Legislature that this program shall result in a net  
10 savings to the state and the counties.

11 *SEC. 61. Section 20514 of the Revenue and Taxation*  
12 *Code is amended to read:*

13 20514. (a) Assistance shall not be allowed under this  
14 chapter if gross household income, after allowance for  
15 actual cash expenditures ~~which~~ *that* are reasonable,  
16 ordinary, and necessary to realize income, exceeds  
17 twenty-four thousand dollars (\$24,000).

18 (b) *With respect to assistance that is provided by the*  
19 *Franchise Tax Board pursuant to this chapter for the 1999*  
20 *calendar year, the gross household income figure set forth*  
21 *in subdivision (a) shall be multiplied by a factor of 2.51.*

22 (c) *With respect to assistance that is provided by the*  
23 *Franchise Tax Board pursuant to this chapter for the 2000*  
24 *calendar year and each calendar year thereafter, the*  
25 *gross household income figure that applies to assistance*  
26 *provided by the Franchise Tax Board during that period*  
27 *shall be the gross household income figure that applied to*  
28 *assistance provided by the Franchise Tax Board in the*  
29 *same period in the immediately preceding year,*  
30 *multiplied by an inflation adjustment factor calculated as*  
31 *follows:*

32 (1) *On or before February 1 of each year, the*  
33 *Department of Industrial Relations shall transmit to the*  
34 *Franchise Tax Board the percentage change in the*  
35 *California Consumer Price Index for all items from June*  
36 *of the second preceding calendar year to June of the*  
37 *immediately preceding calendar year.*

38 (2) *The Franchise Tax Board shall add 100 percent to*  
39 *the percentage change figure that is furnished pursuant*  
40 *to paragraph (1) and divide the result by 100.*



1 (3) The Franchise Tax Board shall multiply the gross  
2 household income figure that applies in the immediately  
3 preceding year by the inflation adjustment factor  
4 determined in paragraph (2), and round off the resulting  
5 product to the nearest one dollar (\$1).

6 SEC. 62. Section 20543 of the Revenue and Taxation  
7 Code is amended to read:

8 20543. (a) (1) The amount of assistance for a  
9 claimant owning his or her residential dwelling shall be  
10 based on claimant's household income for the period set  
11 forth in Section 20503.

12 ~~The~~  
13 (2) The percentage of assistance for which each  
14 claimant owning his or her residential dwelling shall be  
15 eligible shall be based on the following scale:

16		
17		The percentage of tax on
18		the first \$34,000 of full
19		value (as determined for
20	If the total household income (as defined	tax purposes) used to
21	in this part) is not more than:	provide assistance is:
22	\$3,300 .....	96%
23	3,520 .....	94
24	3,740 .....	92
25	3,960 .....	90
26	4,180 .....	88
27	4,400 .....	86
28	4,620 .....	84
29	4,840 .....	82
30	5,060 .....	80
31	5,280 .....	78
32	5,500 .....	76
33	5,720 .....	73
34	5,940 .....	69
35	6,160 .....	65
36	6,380 .....	61
37	6,600 .....	57
38	6,820 .....	53
39	7,040 .....	49
40	7,260 .....	45



1	7,480 .....	41
2	7,700 .....	37
3	7,920 .....	34
4	8,140 .....	31
5	8,360 .....	28
6	8,580 .....	25
7	8,800 .....	22
8	9,020 .....	20
9	9,240 .....	18
10	9,460 .....	16
11	9,680 .....	14
12	9,900 .....	12
13	10,450 .....	10
14	11,000 .....	8
15	11,550 .....	7
16	12,100 .....	6
17	12,650 .....	5
18	13,200 .....	4

19  
20 *(b) With respect to assistance that is provided by the*  
21 *Franchise Tax Board pursuant to this chapter for the 1999*  
22 *calendar year, the household income figures set forth in*  
23 *paragraph (2) of subdivision (a) shall be multiplied by a*  
24 *factor of 2.51.*

25 *(c) With respect to assistance that is provided by the*  
26 *Franchise Tax Board pursuant to this chapter for the 2000*  
27 *calendar year and each year thereafter, the household*  
28 *income figures that apply to assistance provided by the*  
29 *Franchise Tax Board during that period shall be the*  
30 *household income figures that applied to assistance*  
31 *provided by the Franchise Tax Board in the same period*  
32 *in the immediately preceding year, multiplied by an*  
33 *inflation factor calculated as follows:*

34 *(1) On or before February 1 of each year, the*  
35 *Department of Industrial Relations shall transmit to the*  
36 *Franchise Tax Board the percentage change in the*  
37 *California Consumer Price Index for all items from June*  
38 *of the second preceding calendar year to June of the*  
39 *immediately preceding calendar year.*



1 (2) The Franchise Tax Board shall add 100 percent to  
2 the percentage change figure that is furnished pursuant  
3 to paragraph (1) and divide the result by 100.

4 (3) The Franchise Tax Board shall multiply the  
5 immediately preceding household income figure by the  
6 inflation adjustment factor determined in paragraph (2),  
7 and round off the resulting product to the nearest one  
8 dollar (\$1).

9 SEC. 63. Section 20544 of the Revenue and Taxation  
10 Code is amended to read:

11 20544. (a) (1) The amount of assistance for a  
12 claimant renting his or her residence shall be based on the  
13 claimant's household income for the time period set forth  
14 in Section 20503.

15 ~~The~~  
16 (2) The percentage of assistance for which each  
17 claimant renting his or her residence shall be eligible shall  
18 be based on the following scale:

		The percentage of the
	The statutory	statutory property tax
	property tax	equivalent used to
	equivalent is:	provide assistance is:
19		
20		
21	If the total household	
22	income (as defined in this	
23	part) is not more than:	
24	\$3,300 .....	\$250 ..... 96%
25	3,520 .....	250 ..... 94
26	3,740 .....	250 ..... 92
27	3,960 .....	250 ..... 90
28	4,180 .....	250 ..... 88
29	4,400 .....	250 ..... 86
30	4,620 .....	250 ..... 84
31	4,840 .....	250 ..... 82
32	5,060 .....	250 ..... 80
33	5,280 .....	250 ..... 78
34	5,500 .....	250 ..... 76
35	5,720 .....	250 ..... 73
36	5,940 .....	250 ..... 69
37	6,160 .....	250 ..... 65
38	6,380 .....	250 ..... 61
39	6,600 .....	250 ..... 57
40	6,820 .....	250 ..... 53



1	7,040	250	49
2	7,260	250	45
3	7,480	250	41
4	7,700	250	37
5	7,920	250	34
6	8,140	250	31
7	8,360	250	28
8	8,580	250	25
9	8,800	250	22
10	9,020	250	20
11	9,240	250	18
12	9,460	250	16
13	9,680	250	14
14	9,900	250	12
15	10,450	250	10
16	11,000	250	8
17	11,550	250	7
18	12,100	250	6
19	12,600	250	5
20	13,200	250	4
21			

22 *(b) With respect to assistance that is provided by the*  
 23 *Franchise Tax Board pursuant to this chapter for the 1999*  
 24 *calendar year, the household income figures set forth in*  
 25 *paragraph (2) of subdivision (a) shall be multiplied by a*  
 26 *factor of 2.51.*

27 *(c) With respect to assistance that is provided by the*  
 28 *Franchise Tax Board pursuant to this chapter for the 2000*  
 29 *calendar year and each year thereafter, the household*  
 30 *income figures that apply to assistance provided by the*  
 31 *Franchise Tax Board during that period shall be the*  
 32 *household income figures that applied to assistance*  
 33 *provided by the Franchise Tax Board in the same period*  
 34 *in the immediately preceding year, multiplied by an*  
 35 *inflation factor calculated as follows:*

36 *(1) On or before February 1 of each year, the*  
 37 *Department of Industrial Relations shall transmit to the*  
 38 *Franchise Tax Board the percentage change in the*  
 39 *California Consumer Price Index for all items from June*



1 of the second preceding calendar year to June of the  
2 immediately preceding calendar year.

3 (2) The Franchise Tax Board shall add 100 percent to  
4 the percentage change figure that is furnished pursuant  
5 to paragraph (1) and divide the result by 100.

6 (3) The Franchise Tax Board shall multiply the  
7 immediately preceding household income figure by the  
8 inflation adjustment factor determined in paragraph (2),  
9 and round off the resulting product to the nearest one  
10 dollar (\$1).

11 SEC. 64. Section 23455.5 is added to the Revenue and  
12 Taxation Code, to read:

13 23455.5. Section 55(e) of the Internal Revenue Code,  
14 relating to exemption for small corporations, shall not  
15 apply.

16 SEC. 65. Section 23456 of the Revenue and Taxation  
17 Code, as amended by Chapter 7 of the Statutes of 1998, is  
18 amended to read:

19 23456. For purposes of this part, Section 56 of the  
20 Internal Revenue Code is modified as follows:

21 (a) (1) Section 56(a)(2) of the Internal Revenue  
22 Code, relating to mining exploration and development  
23 costs, shall apply only to expenses incurred during income  
24 years beginning on or after January 1, 1988.

25 (2) Section 56(a)(5) of the Internal Revenue Code,  
26 relating to pollution control facilities, shall apply only to  
27 amounts allowable as a deduction under Section 24372.3.

28 (3) (A) Section 56(a)(6) of the Internal Revenue  
29 Code, as in effect on January 1, 1997, relating to  
30 installment sales of certain property, shall not apply to  
31 payments received in income years beginning on or after  
32 January 1, 1997, with respect to dispositions occurring in  
33 income years beginning after December 31, 1987.

34 (B) This paragraph shall not apply to any income year  
35 beginning on or after January 1, 1998.

36 (b) For purposes of applying Section 56(d) of the  
37 Internal Revenue Code, all references to "December 31,  
38 1986," are modified to read "December 31, 1987," and all  
39 references to "January 1, 1987," are modified to read  
40 "January 1, 1988."



1 (c) Section 56(d)(1) of the Internal Revenue Code,  
2 relating to the alternative tax net operating loss  
3 deduction, is modified to include the provisions of Section  
4 25108.

5 (d) For each income year beginning on or after  
6 January 1, 1988, and before January 1, 1990, Section  
7 56(f)(2)(E) of the Internal Revenue Code, as it read  
8 during that period, is modified to refer to both of the  
9 following:

10 (1) Cooperatives under Section 24404 in lieu of the  
11 deduction allowed under Section 1382(b) of the Internal  
12 Revenue Code.

13 (2) Credit unions under Section 24405 as though the  
14 deduction allowed under Section 1382(b) of the Internal  
15 Revenue Code applied to credit unions.

16 (e) Section 56(g) of the Internal Revenue Code,  
17 relating to adjustments based on adjusted current  
18 earnings, is modified to provide that for corporations  
19 whose income is determined under Chapter 17  
20 (commencing with Section 25101), adjusted current  
21 earnings shall be allocated and apportioned in the same  
22 manner as net income is allocated and apportioned for  
23 purposes of the regular tax. In addition, each of the  
24 following shall apply:

25 (1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal  
26 Revenue Code are modified to provide that the term  
27 “adjusted current earnings” means the sum of the  
28 adjusted current earnings of that corporation  
29 apportionable to this state and the adjusted current  
30 earnings allocable to this state.

31 (2) Section 56(g)(1)(B) of the Internal Revenue  
32 Code is modified to provide that the term “alternative  
33 minimum taxable income” means the sum of the  
34 alternative minimum taxable income of that corporation  
35 apportionable to this state and the alternative minimum  
36 taxable income allocable to this state.

37 (f) Section 56(g)(4)(A) of the Internal Revenue Code  
38 is modified to provide the following:

39 (1) In the case of any property placed in service on or  
40 after January 1, 1981, and prior to January 1, 1987, other



1 than residential rental property for which an election was  
2 made under former Section 24349.5, the amount  
3 allowable as depreciation or amortization with respect to  
4 that property shall be the same amount that would have  
5 been allowable for the income year had the taxpayer  
6 depreciated the property under the straight line method  
7 for each income year of the useful life (determined  
8 without regard to Section 24354.2) for which the taxpayer  
9 has held the property.

10 (2) In the case of any property placed in service on or  
11 after January 1, 1987, and prior to January 1, 1990, other  
12 than residential rental property for which an election was  
13 made under former Section 24349.5, the amount  
14 allowable as depreciation or amortization with respect to  
15 that property shall be determined by each of the  
16 following:

17 (A) Taking into account the adjusted basis of that  
18 property (as determined for purposes of computing  
19 alternative minimum taxable income) as of the close of  
20 the last income year beginning before January 1, 1990.

21 (B) Using the straight line method over the remainder  
22 of the recovery period applicable to that property under  
23 the alternative system of Section 168(g) of the Internal  
24 Revenue Code.

25 (3) The amendments made to paragraph (2) by the  
26 act adding this paragraph shall apply to income years  
27 beginning on or after January 1, 1990.

28 (4) The last sentence of Section 56(g)(4)(A)(i) of the  
29 Internal Revenue Code, shall not apply *to income years*  
30 *beginning before January 1, 1998.*

31 (g) (1) Section 56(g)(4)(C) of the Internal Revenue  
32 Code, relating to disallowance of items not deductible in  
33 computing earnings and profits, shall be modified as  
34 follows:

35 (A) (i) A deduction shall be allowed for amounts  
36 allowable as a deduction for purposes of the regular tax  
37 under Sections 24402, 24410, 24411, and 25106.

38 (ii) For each income year beginning on or after  
39 January 1, 1990, a deduction shall be allowed for amounts



1 allowable as a deduction to a credit union for purposes of  
2 the regular tax under Section 24405.

3 (B) Section 56(g)(4)(C)(ii) of the Internal Revenue  
4 Code, relating to special rule for 100-percent dividends,  
5 shall not be applicable.

6 (C) Section 56(g)(4)(C)(iii) of the Internal Revenue  
7 Code, relating to special rule for dividends from Section  
8 936 companies, shall not be applicable.

9 (D) Section 56(g)(4)(C)(iv) of the Internal Revenue  
10 Code, relating to special rule for certain dividends  
11 received by certain cooperatives, shall not be applicable.

12 (2) Section 56(g)(4)(D)(ii) of the Internal Revenue  
13 Code is modified to specify that Sections 24364 and 24407  
14 shall not apply to expenditures paid or incurred in income  
15 years beginning on or after January 1, 1990.

16 (3) With respect to corporations which are not subject  
17 to the tax imposed under Chapter 2 (commencing with  
18 Section 23101), the amount of interest income included  
19 in the adjusted current earnings shall not exceed the  
20 amount of interest income included for purposes of the  
21 regular tax.

22 (4) Appropriate adjustments shall be made to limit  
23 deductions from adjusted current earnings for interest  
24 expense in accordance with the provisions of Sections  
25 24344 and 24425.

26 (h) Section 56(g)(4)(I) of the Internal Revenue  
27 Code, relating to treatment of charitable contributions,  
28 shall not apply.

29 *SEC. 66. Section 23636 is added to the Revenue and*  
30 *Taxation Code, to read:*

31 23636. (a) For each income year beginning on or  
32 after January 1, 2001, and before January 1, 2006, a  
33 qualified taxpayer shall be allowed as a credit against the  
34 "tax," as defined in Section 23036, an amount equal to the  
35 following:

36 (1) Fifty percent of qualified wages paid or incurred  
37 during any income year beginning on or after January 1,  
38 2001, and before January 1, 2002.



1 (2) Forty percent of qualified wages paid or incurred  
2 during any income year beginning on or after January 1,  
3 2002, and before January 1, 2003.

4 (3) Thirty percent of the qualified wages paid or  
5 incurred during any income year beginning on or after  
6 January 1, 2003, and before January 1, 2004.

7 (4) Twenty percent of the qualified wages paid or  
8 incurred during any income year beginning on or after  
9 January 1, 2004, and before January 1, 2005.

10 (5) Ten percent of the qualified wages paid or  
11 incurred during any income year beginning on or after  
12 January 1, 2005, and before January 1, 2006.

13 (b) For purposes of this section:

14 (1) (A) “Qualified taxpayer” means any taxpayer  
15 under an initial contract or subcontract to manufacture  
16 property for ultimate use in a Joint Strike Fighter.

17 (B) In the case of any pass-through entity, the  
18 determination of whether a taxpayer is a qualified  
19 taxpayer under this section shall be made at the entity  
20 level and any credit under this section or Section 17053.36  
21 shall be allowed to the pass-through entity and passed  
22 through to the partners or shareholders in accordance  
23 with applicable provisions of Part 10 (commencing with  
24 Section 17001) or this part. For purposes of this  
25 paragraph, “pass-through entity” means any partnership  
26 or S corporation.

27 (2) “Qualified wages” means that portion of wages  
28 paid or incurred by the qualified taxpayer during the  
29 income year with respect to qualified employees that are  
30 direct costs as defined in Section 263A of the Internal  
31 Revenue Code allocable to property manufactured in this  
32 state by the qualified taxpayer for ultimate use in a Joint  
33 Strike Fighter.

34 (3) “Qualified employee” means an individual whose  
35 services for the qualified taxpayer are performed in this  
36 state and are at least 90 percent directly related to the  
37 qualified taxpayer’s contract or subcontract to  
38 manufacture property for ultimate use in a Joint Strike  
39 Fighter.



1 (4) “Joint Strike Fighter” means the next generation  
2 air combat strike aircraft developed and produced under  
3 the Joint Strike Fighter program.

4 (5) “Joint Strike Fighter program” means the  
5 multiservice, multinational project conducted by the  
6 United States government to develop and produce the  
7 next generation of air combat strike aircraft.

8 (c) The credit allowed by this section shall not exceed  
9 ten thousand dollars (\$10,000) per year, per qualified  
10 employee. For employees that are qualified employees  
11 for part of an income year, the credit shall not exceed ten  
12 thousand dollars (\$10,000) multiplied by a fraction, the  
13 numerator of which is the number of months of the  
14 income year that the employee is a qualified employee  
15 and the denominator of which is 12.

16 (d) In the case where the credit allowed by this section  
17 exceeds the “tax,” the excess may be carried over to  
18 reduce the “tax” in the following year, and the seven  
19 succeeding years if necessary, until the credit is  
20 exhausted.

21 (e) No credit shall be allowed unless the credit is  
22 reflected within the bid upon which the qualified  
23 taxpayer’s contract or subcontract to manufacture  
24 property for ultimate use in a Joint Strike Fighter is based  
25 by reducing the amount of the bid by the amount of the  
26 credit allowable.

27 (f) All references to the credit and ultimate cost  
28 reductions incorporated into any successful bid that was  
29 awarded a contract or subcontract and for which a  
30 qualified taxpayer is making a claim shall be made  
31 available to the Franchise Tax Board upon request.

32 (g) This section shall remain in effect only until  
33 December 1, 2006, and as of that date is repealed.

34 *SEC. 67. Section 23637 is added to the Revenue and*  
35 *Taxation Code, to read:*

36 *23637. (a) For each income year beginning on or*  
37 *after January 1, 2001, and before January 1, 2006, a*  
38 *qualified taxpayer shall be allowed as a credit against the*  
39 *“tax,” as defined in Section 23036, an amount equal to 10*



1 percent of the qualified cost of qualified property that is  
2 placed in service in this state.

3 (b) (1) For purposes of this section, “qualified cost”  
4 means any costs that satisfy each of the following  
5 conditions:

6 (A) Except as otherwise provided in this  
7 subparagraph, is a cost paid or incurred by the qualified  
8 taxpayer for the construction, reconstruction, or  
9 acquisition of qualified property on or after January 1,  
10 2001, and before January 1, 2006. In the case of any  
11 qualified property constructed, reconstructed, or  
12 acquired by the qualified taxpayer (or any person related  
13 to the qualified taxpayer within the meaning of Section  
14 267 or 707 of the Internal Revenue Code) pursuant to a  
15 binding contract in existence on or before January 1, 2001,  
16 costs paid pursuant to that contract shall be subject to  
17 allocation as follows. Contract costs shall be allocated to  
18 qualified property based on a ratio of costs actually paid  
19 prior to January 1, 2001, and total contract costs actually  
20 paid. “Cost paid” shall include, without limitation,  
21 contractual deposits and option payments. To the extent  
22 of costs allocated, whether or not currently deductible or  
23 depreciable for tax purposes, to a period prior to January  
24 1, 2001, the cost shall be deemed allocated to property  
25 acquired before January 1, 2001, and is thus not a  
26 “qualified cost.”

27 (B) Except as provided in paragraph (2) of subdivision  
28 (d), is an amount upon which the qualified taxpayer has  
29 paid, directly or indirectly, as a separately stated contract  
30 amount or as determined from the records of the  
31 qualified taxpayer, sales or use tax under Part 1  
32 (commencing with Section 6001).

33 (C) Is an amount properly chargeable to the capital  
34 account of the qualified taxpayer.

35 (2) (A) For purposes of this subdivision, any contract  
36 entered into on or after January 1, 2001, that is a successor  
37 or replacement contract to a contract that was binding  
38 before January 1, 2001, shall be treated as a binding  
39 contract in existence before January 1, 2001.



1 (B) If a successor or replacement contract is entered  
2 into on or after January 1, 2001, and the subject of the  
3 successor or replacement contract relates both to  
4 amounts for the construction, reconstruction, or  
5 acquisition of qualified property described in the original  
6 binding contract and to costs for the construction,  
7 reconstruction, or acquisition of qualified property not  
8 described in the original binding contract, then the  
9 portion of those amounts described in the successor or  
10 replacement contract that were not described in the  
11 original binding contract shall not be treated as costs paid  
12 or incurred pursuant to a binding contract in existence on  
13 or prior to January 1, 2001, under subparagraph (A) of  
14 paragraph (1).

15 (3) (A) For purposes of this section, an option  
16 contract in existence before January 1, 2001, under which  
17 a qualified taxpayer (or any other person related to the  
18 qualified taxpayer within the meaning of Section 267 or  
19 707 of the Internal Revenue Code) had an option to  
20 acquire qualified property, shall be treated as a binding  
21 contract under the rules in paragraph (2). For purposes  
22 of this subparagraph, an option contract shall not include  
23 an option under which the option holder will forfeit an  
24 amount less than 10 percent of the fixed option price in  
25 the event the option is not exercised.

26 (B) For purposes of this section, a contract shall be  
27 treated as binding even if the contract is subject to a  
28 condition.

29 (c) (1) For purposes of this section, “qualified  
30 taxpayer” means any taxpayer under an initial contract or  
31 subcontract to manufacture property for ultimate use in  
32 a Joint Strike Fighter.

33 (2) In the case of any pass-through entity, the  
34 determination of whether a taxpayer is a qualified  
35 taxpayer under this section shall be made at the entity  
36 level and any credit under this section or Section 17053.37  
37 shall be allowed to the pass-through entity and passed  
38 through to the partners or shareholders in accordance  
39 with applicable provisions of Part 10 (commencing with  
40 Section 17001) or Part 11 (commencing with Section



1 23001). For purposes of this paragraph, the term  
2 “pass-through entity” means any partnership or S  
3 corporation.

4 (3) The Franchise Tax Board may prescribe  
5 regulations to carry out the purposes of this section,  
6 including any regulations necessary to prevent the  
7 avoidance of the effect of this section through splitups,  
8 shell corporations, partnerships, tiered ownership  
9 structures, sale-leaseback transactions, or otherwise.

10 (d) (1) For purposes of this section, “qualified  
11 property” means property that is described as either of  
12 the following:

13 (A) Tangible personal property that is defined in  
14 Section 1245(a)(3)(A) of the Internal Revenue Code for  
15 use by a qualified taxpayer primarily in qualified activities  
16 to manufacture a product for ultimate use in a Joint Strike  
17 Fighter.

18 (B) The value of any capitalized labor costs that are  
19 direct costs as defined in Section 263A of the Internal  
20 Revenue Code allocable to the construction or  
21 modification of property described in subparagraph (A).

22 (2) Qualified property does not include any of the  
23 following:

24 (A) Furniture.

25 (B) Inventory.

26 (C) Equipment used to store finished products that  
27 have completed the manufacturing process.

28 (D) Any tangible personal property that is used in  
29 administration, general management, or marketing.

30 (e) For purposes of this section:

31 (1) “Fabricating” means to make, build, create,  
32 produce, or assemble components or property to work in  
33 a new or different manner.

34 (2) “Joint Strike Fighter” means the next generation  
35 air combat strike aircraft developed and produced under  
36 the Joint Strike Fighter program.

37 (3) “Joint Strike Fighter program” means the  
38 multiservice, multinational project conducted by the  
39 United States government to develop and produce the  
40 next generation of air combat strike aircraft.



1 (4) “Manufacturing” means the activity of converting  
2 or conditioning property by changing the form,  
3 composition, quality, or character of the property for  
4 ultimate use in a Joint Strike Fighter. Manufacturing  
5 includes any improvements to tangible personal property  
6 that result in a greater service life or greater functionality  
7 than that of the original property.

8 (5) “Primarily” means tangible personal property  
9 used 50 percent or more of the time in an activity  
10 described in subparagraph (A) of paragraph (1) of  
11 subdivision (d).

12 (6) “Process” means the period beginning at the point  
13 at which any raw materials are received by the qualified  
14 taxpayer and introduced into the manufacturing,  
15 processing, or fabricating activity of the qualified  
16 taxpayer and ending at the point at which the  
17 manufacturing, processing, or fabricating activity of the  
18 qualified taxpayer has altered tangible personal property  
19 to its completed form, including packaging, if required.  
20 Raw materials shall be considered to have been  
21 introduced into the process when the raw materials are  
22 stored on the same premises where the qualified  
23 taxpayer’s manufacturing, processing, or fabricating  
24 activity is conducted. Raw materials that are stored on  
25 premises other than where the qualified taxpayer’s  
26 manufacturing, processing, or fabricating activity is  
27 conducted, shall not be considered to have been  
28 introduced into the manufacturing, processing, or  
29 fabricating process.

30 (7) “Processing” means the physical application of the  
31 materials and labor necessary to modify or change the  
32 characteristics of property.

33 (8) “Qualified activities” means manufacturing,  
34 processing, or fabricating of property, beginning at the  
35 point at which any raw materials are received by the  
36 qualified taxpayer and introduced into the process and  
37 ending at the point at which the manufacturing,  
38 processing, or fabricating has altered tangible personal  
39 property to its completed form, including packaging, if  
40 required.



1 (f) *The credit allowed under subdivision (a) shall*  
2 *apply to qualified property that is acquired by or subject*  
3 *to lease by a qualified taxpayer, subject to the following*  
4 *special rules:*

5 (1) *A lessor of qualified property, irrespective of*  
6 *whether the lessor is a qualified taxpayer, shall not be*  
7 *allowed the credit provided under subdivision (a) with*  
8 *respect to any qualified property leased to another*  
9 *qualified taxpayer.*

10 (2) *For purposes of paragraphs (2) and (3) of*  
11 *subdivision (b), “binding contract” includes any lease*  
12 *agreement with respect to the qualified property.*

13 (3) (A) *For purposes of determining the qualified*  
14 *cost paid or incurred by a lessee in any leasing transaction*  
15 *that is not treated as a sale under Part 1 (commencing*  
16 *with Section 6001), the following rules shall apply:*

17 (i) *Except as provided by subparagraph (C) of this*  
18 *paragraph, subparagraphs (A) and (C) of paragraph (1)*  
19 *of subdivision (b) shall not apply.*

20 (ii) *Except as provided in subparagraph (B) and*  
21 *clause (iii), the “qualified cost” upon which the lessee*  
22 *shall compute the credit provided under this section shall*  
23 *be equal to the original cost to the lessor (within the*  
24 *meaning of Section 18031) of the qualified property that*  
25 *is the subject of the lease.*

26 (iii) *The requirement of subparagraph (B) of*  
27 *paragraph (1) of subdivision (b) shall be treated as*  
28 *satisfied only if the lessor has made a timely election*  
29 *under either Section 6094.1 or subdivision (d) of Section*  
30 *6244 and has paid sales tax reimbursement or use tax*  
31 *measured by the purchase price of the qualified property*  
32 *(within the meaning of paragraph (5) of subdivision (g)*  
33 *of Section 6006). For purposes of this subdivision, the*  
34 *amount of original cost to the lessor which may be taken*  
35 *into account under clause (ii) shall not exceed the*  
36 *purchase price upon which sales tax reimbursement or*  
37 *use tax has been paid under the preceding sentence.*

38 (B) *For purposes of applying subparagraph (A) only,*  
39 *the following special rules shall apply:*



1 (i) *The original cost to the lessor of the qualified*  
2 *property shall be reduced by the amount of any original*  
3 *cost of that property that was taken into account by a*  
4 *predecessor lessee in computing the credit allowable*  
5 *under this section.*

6 (ii) *Clause (i) shall not apply in any case where the*  
7 *predecessor lessee was required to recapture the credit*  
8 *provided under this section pursuant to the provisions of*  
9 *subdivision (g).*

10 (iii) *For purposes of this section only, in any case*  
11 *where a successor lessor has acquired qualified property*  
12 *from a predecessor lessor in a transaction not treated as*  
13 *a sale under Part 1 (commencing with Section 6001), the*  
14 *original cost to the successor lessor of the qualified*  
15 *property shall be reduced by the amount of the original*  
16 *cost of the qualified property that was taken into account*  
17 *by any lessee of the predecessor lessor in computing the*  
18 *credit allowable under this section.*

19 (C) *In determining the original cost of any qualified*  
20 *property under this paragraph, only amounts paid or*  
21 *incurred by the lessor on or after January 1, 2001, and*  
22 *before January 1, 2006, shall be taken into account. In the*  
23 *case of any qualified property constructed,*  
24 *reconstructed, or acquired by a lessor pursuant to a*  
25 *binding contract in existence on or prior to January 1,*  
26 *2001, the allocation rule specified in subparagraph (A) of*  
27 *paragraph (1) of subdivision (b) shall apply in*  
28 *determining the original cost to the lessor of qualified*  
29 *property.*

30 (D) *Notwithstanding subparagraph (A), in the case of*  
31 *any leasing transaction for which the lessee is allowed the*  
32 *credit under this section and thereafter the lessee (or any*  
33 *party related to the lessee within the meaning of Section*  
34 *267 or 318 of the Internal Revenue Code) acquires the*  
35 *qualified property from the lessor (or any successor*  
36 *lessor) within one year from the date the qualified*  
37 *property is first used by the lessee under the terms of the*  
38 *lease, the lessee's (or related party's) acquisition of the*  
39 *qualified property from the lessor (or successor lessor)*  
40 *shall be treated as a disposition by the lessee of the*



1 qualified property that was subject to the lease under  
2 subdivision (g).

3 (4) For purposes of determining the qualified cost  
4 paid or incurred by a lessee in any leasing transaction that  
5 is treated as a sale under Part 1 (commencing with  
6 Section 6001), the following rules shall apply:

7 (A) Subparagraph (A) of paragraph (1) of subdivision  
8 (b) shall be applied by substituting the term “purchase”  
9 for the term “construction, reconstruction, or  
10 acquisition.”

11 (B) Subparagraph (C) of paragraph (1) of subdivision  
12 (b) shall apply.

13 (C) The requirement of subparagraph (B) of  
14 paragraph (1) of subdivision (b) shall be treated as  
15 satisfied at the time that either the lessor or the qualified  
16 taxpayer pays sales or use tax under Part 1 (commencing  
17 with Section 6001).

18 (5) (A) In the case of any leasing transaction  
19 described in paragraph (3), the lessor shall provide a  
20 statement to the lessee specifying the amount of the  
21 lessor’s original cost of the qualified property and the  
22 amount of that cost upon which a sales or use tax was paid  
23 within 45 days after the close of the lessee’s income year  
24 in which the credit is allowable to the lessee under this  
25 section.

26 (B) The statement required under subparagraph (A)  
27 shall be made available to the Franchise Tax Board upon  
28 request.

29 (g) No credit shall be allowed if the qualified property  
30 is removed from the state, is disposed of to an unrelated  
31 party, or is used for any purpose not qualifying for the  
32 credit provided in this section in the same income year in  
33 which the taxpayer first places the qualified property in  
34 service in this state. If any qualified property for which a  
35 credit is allowed pursuant to this section is thereafter  
36 removed from this state, disposed of to an unrelated  
37 party, or used for any purpose not qualifying for the credit  
38 provided in this section within one year from the date the  
39 taxpayer first places the qualified property in service in  
40 this state, the amount of the credit allowed by this section



1 for that qualified property shall be recaptured by adding  
2 that credit amount to the tax of the qualified taxpayer for  
3 the income year in which the qualified property is  
4 disposed of, removed, or put to an ineligible use.

5 (h) In the case where the credit allowed by this section  
6 exceeds the "tax," the excess may be carried over to  
7 reduce the "tax" in the following year; and the seven  
8 succeeding years if necessary, until the credit is  
9 exhausted.

10 (i) (1) No credit shall be allowed under this section if  
11 a credit is claimed under Section 23649 in connection with  
12 the same property.

13 (2) No credit shall be allowed unless the credit is  
14 reflected within the bid upon which the qualified  
15 taxpayer's contract or subcontract to manufacture  
16 property for ultimate use in a Joint Strike Fighter is based  
17 by reducing the amount of the bid by the amount of the  
18 credit allowable.

19 (j) All references to the credit and ultimate cost  
20 reductions incorporated into any successful bid that was  
21 awarded a contract or subcontract and for which a  
22 qualified taxpayer is making a claim shall be made  
23 available to the Franchise Tax Board upon request.

24 (k) This section shall remain in effect only until  
25 December 1, 2006, and as of that date is repealed.

26 SEC. 68. Section 23701t of the Revenue and Taxation  
27 Code is amended to read:

28 23701t. (a) A homeowners' association organized  
29 and operated to provide for the acquisition, construction,  
30 management, maintenance, and care of residential  
31 association property if *all of the following apply*:

32 (1) Sixty percent or more of the gross income of such  
33 organization for the taxable year consists solely of  
34 amounts received as membership dues, fees and  
35 assessments from ~~tenant-stockholders~~ either of the  
36 following:

37 (A) Tenant-stockholders or owners of residential  
38 units, residences or ~~lots~~; lots.



1 (B) Owners of timeshare rights to use, or timeshare  
 2 ownership interests in, association property in the case of  
 3 a timeshare association.

4 (2) Ninety percent or more of the expenditures of the  
 5 organization for the taxable year are expenditures for the  
 6 acquisition, construction, management, maintenance,  
 7 and care of association ~~property~~; *property and, in the case*  
 8 *of a timeshare association, for activities provided to or on*  
 9 *behalf of members of the association.*

10 (3) No part of the net earnings inures (other than by  
 11 providing management, maintenance and care of  
 12 association property or by a rebate of excess membership  
 13 dues, fees or assessments) to the benefit of any private  
 14 shareholder or ~~individual~~; *and individual.*

15 (4) Amounts received as membership dues, fees and  
 16 assessments not expended for association purposes during  
 17 the taxable year are transferred to and held in trust to  
 18 provide for the management, maintenance, and care of  
 19 association property and common areas.

20 (b) The term “association property” means—

21 (1) Property held by the organization,

22 (2) Property held in common by the members of the  
 23 organization, and

24 (3) Property within the organization privately held by  
 25 the members of the organization.

26 *In the case of a timeshare association, “association*  
 27 *property” includes property in which the timeshare*  
 28 *association, or members of the association, have rights*  
 29 *arising out of recorded easements, covenants, or other*  
 30 *recorded instruments to use property related to the*  
 31 *timeshare project.*

32 (c) A ~~homeowners~~ *homeowners’* association shall be  
 33 subject to tax under this part with respect to its  
 34 ~~“homeowners~~ *“homeowners’* association taxable  
 35 income,” and such income shall be subject to tax as  
 36 provided by Chapter 3 (commencing with Section 23501)  
 37 of this part.

38 (1) For purposes of this section, the term  
 39 ~~“homeowners~~ *“homeowners’* association taxable  
 40 income” of any organization for any taxable year means



1 an amount equal to the excess over one hundred dollars  
2 (\$100) (if any) of—

3 (A) The gross income for the taxable year (excluding  
4 any exempt function income), over

5 (B) The deductions allowed by this part which are  
6 directly connected with the production of the gross  
7 income (excluding exempt function income).

8 (2) For purposes of this section, the term “exempt  
9 function income” means any amount received as  
10 membership fees, dues and assessments from  
11 tenant-shareholders or owners of residential units,  
12 residences or lots, *or owners of timeshare rights to use, or*  
13 *timeshare ownership interests in, association property in*  
14 *the case of a timeshare association.*

15 (d) The term “homeowners’ association” includes a  
16 condominium management association, a residential real  
17 estate management association, *a timeshare association,*  
18 and a cooperative housing corporation.

19 (e) “Cooperative housing corporation” includes, but is  
20 not limited to, a limited-equity housing cooperative, as  
21 defined in Section 33007.5 of the Health and Safety Code,  
22 organized either as a nonprofit public benefit corporation  
23 pursuant to Part 2 (commencing with Section 5110) of  
24 Division 2 of Title 1 of the Corporations Code, or a  
25 nonprofit mutual benefit corporation pursuant to Part 3  
26 (commencing with Section 7110) of Division 2 of Title 1  
27 of the Corporations Code.

28 (f) *The term “timeshare association” means any*  
29 *organization (other than a condominium management*  
30 *association) organized and operated to provide for the*  
31 *acquisition, construction, management, maintenance,*  
32 *and care of association property if any member thereof*  
33 *holds a timeshare right to use, or a timeshare ownership*  
34 *interest in, real property constituting association*  
35 *property.*

36 (g) *The amendments made to this section by the act*  
37 *adding this subdivision shall apply to taxable years*  
38 *beginning on or after January 1, 1998.*

39 *SEC. 69. Section 23704 of the Revenue and Taxation*  
40 *Code is amended to read:*



1 23704. For purposes of this part, an organization shall  
2 be treated as an organization organized and operated  
3 exclusively for charitable purposes, if:

4 (a) ~~Such~~—*The* organization is organized and operated  
5 solely:

6 (1) To perform, on a centralized basis, one or more of  
7 the following services which, if performed on its own  
8 behalf by a hospital which is an organization described in  
9 Section 23701d and exempt from taxation under Section  
10 23701, would constitute activities in exercising or  
11 performing the purpose or function constituting the basis  
12 for its exemption: data processing, purchasing (including  
13 the purchasing of insurance on a group basis),  
14 warehousing, billing and collection (*including the*  
15 *purchase of patron accounts receivable on a recourse*  
16 *basis*), food, clinical, industrial engineering, laboratory,  
17 laundry, printing, communications, record center, and  
18 personnel (including selection, testing, training, and  
19 education of personnel) services; and

20 (2) To perform such services solely for two or more  
21 hospitals, and for no other individuals or organizations,  
22 each of which is:

23 (A) An organization described in Section 23701d  
24 which is exempt from taxation under Section 23701;

25 (B) A constituent part of an organization described in  
26 Section 23701d which is exempt from taxation under  
27 Section 23701 and which, if organized and operated as a  
28 separate entity, would constitute an organization  
29 described in Section 23701d; or

30 (C) Owned and operated by the United States, the  
31 state, a county, or political subdivision, or an agency or  
32 instrumentality of any of the foregoing;

33 (b) ~~Such~~—*The* organization is organized and operated  
34 on a cooperative basis and allocates or pays, within 8<sup>1</sup>/<sub>2</sub>  
35 months after the close of its income year, all net earnings  
36 to members on the basis of services performed for them;  
37 and

38 (c) If ~~such~~ *the* organization has capital stock, all of ~~such~~  
39 *that* stock outstanding is owned by its members.



1 For purposes of this part, any organization which, by  
2 reason of the preceding sentence, is an organization  
3 described in Section 23701d and exempt from taxation  
4 under Section 23701, shall be treated as a hospital and as  
5 an organization referred to in Section 23736(e).

6 *SEC. 70. Section 23704.3 is added to the Revenue and  
7 Taxation Code, to read:*

8 *23704.3. An organization shall not fail to be treated as  
9 organized and operated exclusively for a charitable  
10 purpose for purposes of Section 23701d solely because a  
11 hospital that is owned and operated by the organization  
12 participates in a provider-sponsored organization, as  
13 defined in Section 1853(e) of the Social Security Act,  
14 whether or not the provider-sponsored organization is  
15 exempt from tax. For purposes of Section 23701d, any  
16 person with a material financial interest in such a  
17 provider-sponsored organization shall be treated as a  
18 private shareholder or individual with respect to the  
19 hospital.*

20 *SEC. 71. Section 23711 is added to the Revenue and  
21 Taxation Code, to read:*

22 *23711. Section 529 of the Internal Revenue Code,  
23 relating to qualified state tuition programs, shall apply,  
24 except as otherwise provided.*

25 *(a) Section 529(a) of the Internal Revenue Code is  
26 modified as follows:*

27 *(1) By substituting the phrase “under Part 10  
28 (commencing with Section 17001) and this part” in lieu  
29 of the phrase “under this subtitle.”*

30 *(2) By substituting “Article 2 (commencing with  
31 Section 23731)” in lieu of “section 511.”*

32 *(b) A copy of the report required to be filed with the  
33 Secretary of the Treasury under Section 529(d) of the  
34 Internal Revenue Code shall be filed with the Franchise  
35 Tax Board at the same time and in the same manner as  
36 specified in that section.*

37 *SEC. 72. Section 23712 of the Revenue and Taxation  
38 Code is amended to read:*

39 *23712. ~~(a) An education individual retirement~~  
40 ~~account shall be exempt from taxation under Part 10~~*



1 ~~(commencing with Section 17001) and this part.~~  
2 ~~Notwithstanding the preceding sentence, the education~~  
3 ~~individual retirement account shall be subject to the taxes~~  
4 ~~imposed by Article 2 (commencing with Section 23731).~~

5 ~~(b) For purposes of this section:~~

6 ~~(1) "Education individual retirement account" means~~  
7 ~~a trust created or organized in the United States~~  
8 ~~exclusively for the purpose of paying the qualified higher~~  
9 ~~education expenses of the designated beneficiary of the~~  
10 ~~trust (and designated as an education individual~~  
11 ~~retirement account at the time created or organized),~~  
12 ~~but only if the written governing instrument creating the~~  
13 ~~trust meets the following requirements:~~

14 ~~(A) No contribution will be accepted under any of the~~  
15 ~~following conditions:~~

16 ~~(i) In any form other than in cash.~~

17 ~~(ii) After the date on which the beneficiary attains 18~~  
18 ~~years of age.~~

19 ~~(iii) Except in the case of rollover contributions, if~~  
20 ~~those contribution would result in aggregate~~  
21 ~~contributions for the taxable year exceeding five hundred~~  
22 ~~dollars (\$500).~~

23 ~~(B) The trustee is a bank (as defined in Section 408(n)~~  
24 ~~of the Internal Revenue Code) or another person who~~  
25 ~~demonstrates to the satisfaction of the Secretary of the~~  
26 ~~Treasury, unless the Franchise Tax Board determines~~  
27 ~~otherwise, that the manner in which that person will~~  
28 ~~administer the trust will be consistent with the~~  
29 ~~requirements of this section or who has so demonstrated~~  
30 ~~with respect to any individual retirement plan.~~

31 ~~(C) No part of the trust assets will be invested in life~~  
32 ~~insurance contracts.~~

33 ~~(D) The assets of the trust shall not be commingled~~  
34 ~~with other property except in a common trust fund or~~  
35 ~~common investment fund.~~

36 ~~(E) Upon the death of the designated beneficiary, any~~  
37 ~~balance to the credit of the beneficiary shall be~~  
38 ~~distributed within 30 days after the date of death to the~~  
39 ~~estate of that beneficiary.~~



1 ~~(F) Upon Section 530 of the Internal Revenue Code,~~  
2 ~~relating to education individual retirement accounts,~~  
3 ~~shall apply, except as otherwise provided.~~

4 (a) Section 530(a) of the Internal Revenue Code is  
5 modified as follows:

6 (1) By substituting the phrase “under Part 10  
7 (commencing with Section 17001) and this part” in lieu  
8 of the phrase “under this subtitle.”

9 (2) By substituting “Article 2 (commencing with  
10 Section 23731)” in lieu of “section 511.”

11 (b) Section 530(b)(1) of the Internal Revenue Code,  
12 relating to the definition of education individual  
13 retirement account, is modified to additionally require  
14 that upon the date of that the designated beneficiary  
15 becomes 30 years of age, any balance to the credit of the  
16 beneficiary shall be distributed within 30 days after the  
17 date the beneficiary becomes 30 years of age to that  
18 beneficiary.

19 (2) (A) ~~“Qualified higher education expenses” has~~  
20 ~~the meaning given that term by Section 529(e)(3) of the~~  
21 ~~Internal Revenue Code.~~

22 (B) ~~“Qualified high education expenses” shall include~~  
23 ~~amounts paid or incurred to make contributions to an~~  
24 ~~account, under a qualified state tuition program (as~~  
25 ~~defined in Section 529(b) of the Internal Revenue Code)~~  
26 ~~for the benefit of the beneficiary of the account.~~

27 (3) ~~“Eligible educational institution” has the meaning~~  
28 ~~given that term by Section 529(e)(5) of the Internal~~  
29 ~~Revenue Code, as added by Public Law 105-34.~~

30 (e) (1) ~~The maximum amount which a contributor~~  
31 ~~could otherwise make to an account under this section~~  
32 ~~shall be reduced by an amount which bears the same ratio~~  
33 ~~to that maximum amount as —~~

34 (A) ~~The excess of —~~

35 (i) ~~The contributor’s modified adjusted gross income~~  
36 ~~for the taxable year, over~~

37 (ii) ~~Ninety-five thousand dollars (\$95,000) (one~~  
38 ~~hundred fifty thousand dollars (\$150,000) in the case of a~~  
39 ~~joint return), bears to~~



1 ~~(B) Fifteen thousand dollars (\$15,000) (ten thousand~~  
2 ~~dollars (\$10,000) in the case of a joint return).~~

3 ~~(2) For purposes of paragraph (1), “modified adjusted~~  
4 ~~gross income” means the amount required to be shown~~  
5 ~~as adjusted gross income of the taxpayer on the federal tax~~  
6 ~~return for the same taxable year, increased by any~~  
7 ~~amount excluded from federal adjusted gross income~~  
8 ~~under Section 911, 931, or 933 of the Internal Revenue~~  
9 ~~Code on the federal tax return for the same taxable year.~~

10 ~~(d) (1) Any distribution shall be includable in the~~  
11 ~~gross income of the distributee under~~

12 ~~(c) Section 530(d) of the Internal Revenue Code is~~  
13 ~~modified as follows:~~

14 ~~(1) By substituting the phrase “under Part 10~~  
15 ~~(commencing with Section 17001) in the manner as~~  
16 ~~provided in Section 72(b) of the Internal Revenue Code,~~  
17 ~~as modified by Part 10” in lieu of the phrase “in the~~  
18 ~~manner as provided in Section 72(b)” in Section~~  
19 ~~530(d)(1) of the Internal Revenue Code.~~

20 ~~(2) (A) No amount shall be includable under~~  
21 ~~paragraph (1) if the qualified higher education expenses~~  
22 ~~of the designated beneficiary during the taxable year are~~  
23 ~~not less than the aggregate distributions during the~~  
24 ~~taxable year.~~

25 ~~(B) If the aggregate distributions exceed those~~  
26 ~~expenses during the taxable year, the amount includable~~  
27 ~~in gross income under paragraph (1) shall be equal to the~~  
28 ~~amount which bears the same ratio to the amount which~~  
29 ~~would be includable in gross income under paragraph (1)~~  
30 ~~(without regard to this subparagraph) as the qualified~~  
31 ~~higher education expenses bear to those aggregate~~  
32 ~~distributions.~~

33 ~~(C)~~

34 ~~(2) (A) A taxpayer that has elected to waive the~~  
35 ~~application of Section 530(d)(2) of the Internal Revenue~~  
36 ~~Code (as added by P.L. 105-34), for federal purposes shall~~  
37 ~~be treated as having waived the application of this that~~  
38 ~~paragraph for state purposes, a separate election for state~~  
39 ~~purposes shall not be allowed under paragraph (3) of~~  
40 ~~subdivision (e) of Section 17024.5 or paragraph (3) of~~



1 subdivision (e) of Section 23051.5, and the federal  
2 election shall be binding for purposes of Part 10  
3 (commencing with Section 17001) and this part.

4 (B) *If a taxpayer fails to make an election under*  
5 *Section 530(d)(2)(C) of the Internal Revenue Code for*  
6 *federal purposes to waive the application of Section*  
7 *530(d)(2) of the Internal Revenue Code, an election*  
8 *under Section 530(d)(2)(C) of the Internal Revenue*  
9 *Code shall not be allowed for state purposes, Section*  
10 *530(d)(2)(A) and (B) of the Internal Revenue Code shall*  
11 *apply for state purposes, and a separate election for state*  
12 *purposes shall not be allowed under paragraph (3) of*  
13 *subdivision (e) of Section 17024.5.*

14 (3) (A) ~~The tax~~ *By substituting the phrase “tax*  
15 *imposed by Part 10 (commencing with Section 17001) for*  
16 *any taxable year on any taxpayer who receives a payment*  
17 *or distribution from an education individual retirement*  
18 *account which is includable in the gross income of that*  
19 *taxpayer under this subdivision shall be increased by 2½*  
20 *percent of the amount which is so includable 17001)” in*  
21 *lieu of the phrase “tax imposed by this chapter” in Section*  
22 *530(d)(4)(A) of the Internal Revenue Code.*

23 (B) *By substituting the phrase “increased by 2½*  
24 *percent” in lieu of the phrase “increased by 10 percent”*  
25 *in Section 530(d)(4)(A) of the Internal Revenue Code.*

26 ~~(B) Subparagraph (A) shall not apply if the payment~~  
27 ~~or distribution is—~~

28 ~~(i) Made to a beneficiary (or to the estate of the~~  
29 ~~designated beneficiary) on or after the death of the~~  
30 ~~designated beneficiary;~~

31 ~~(ii) Attributable to the designated beneficiary’s being~~  
32 ~~disabled (within the meaning of Section 72(m)(7) of the~~  
33 ~~Internal Revenue Code), or~~

34 ~~(iii) Made on account of a scholarship, allowance, or~~  
35 ~~payment described in Section 25A(g)(2) of the Internal~~  
36 ~~Revenue Code, as added by Public Law 105-34, received~~  
37 ~~by the accountholder to the extent the amount of the~~  
38 ~~payment or distribution does not exceed the amount of~~  
39 ~~the scholarship, allowance, or payment.~~



1 ~~(C) (i) Subparagraph (A) shall not apply to the~~  
2 ~~distribution of any contribution made during a taxable~~  
3 ~~year on behalf of a designated beneficiary to the extent~~  
4 ~~that the contribution exceeds five hundred dollars (\$500)~~  
5 ~~if—~~

6 ~~(I) The distribution is received on or before the day~~  
7 ~~prescribed by law (including extensions of time) for filing~~  
8 ~~that contributor's return for the taxable year, and~~

9 ~~(II) The distribution is accompanied by the amount of~~  
10 ~~net income attributable to that excess contribution.~~

11 ~~(ii) Any net income described in clause (II) shall be~~  
12 ~~included in the contributor's gross income under Part 10~~  
13 ~~(commencing with Section 17001) or this part for the~~  
14 ~~taxable year in which that excess contribution was made.~~

15 ~~(4) Paragraph (1) shall not apply to any amount paid~~  
16 ~~or distributed from an education individual retirement~~  
17 ~~account to the extent that the amount received is paid~~  
18 ~~into another education individual retirement account for~~  
19 ~~the benefit of the same beneficiary or a member of the~~  
20 ~~family (within the meaning of Section 529(e)(2) of the~~  
21 ~~Internal Revenue Code) of that beneficiary not later than~~  
22 ~~the 60th day after the date of that payment or~~  
23 ~~distribution. The preceding sentence shall not apply to~~  
24 ~~any payment or distribution if it applied to any prior~~  
25 ~~payment or distribution during the 12-month period~~  
26 ~~ending on the date of the payment or distribution.~~

27 ~~(5) Any change in the beneficiary of an education~~  
28 ~~individual retirement account shall not be treated as a~~  
29 ~~distribution for purposes of paragraph (1) if the new~~  
30 ~~beneficiary is a member of the family (as so defined) of~~  
31 ~~the old beneficiary.~~

32 ~~(6) Rules similar to the rules of paragraphs (7) and (8)~~  
33 ~~of Section 220(f) of the Internal Revenue Code shall~~  
34 ~~apply.~~

35 ~~(e) Rules similar to the rules of paragraphs (2) and (4)~~  
36 ~~of Section 408(e) of the Internal Revenue Code shall~~  
37 ~~apply to any education individual retirement account.~~

38 ~~(f) This section shall be applied without regard to any~~  
39 ~~community property laws.~~



1 ~~(g) For purposes of this section, a custodial account~~  
2 ~~shall be treated as a trust if the assets of the account are~~  
3 ~~held by a bank (as defined in Section 408(n) of the~~  
4 ~~Internal Revenue Code) or another person who~~  
5 ~~demonstrates, to the satisfaction of the Secretary of the~~  
6 ~~Treasury, unless the Franchise Tax Board determines~~  
7 ~~otherwise, that the manner in which he or she will~~  
8 ~~administer the account will be consistent with the~~  
9 ~~requirements of this section, and if the custodial account~~  
10 ~~would, except for the fact that it is not a trust, constitute~~  
11 ~~an account described in paragraph (1) of subdivision (b).~~

12 ~~For~~

13 *(C) By substituting the phrase “shall be included in*  
14 *the contributor’s gross income under Part 10*  
15 *(commencing with Section 17001) or this part” in lieu of*  
16 *the phrase “shall be included in gross income” in Section*  
17 *530(d)(4)(C) of the Internal Revenue Code.*

18 *(d) For purposes of Part 10 (commencing with Section*  
19 *17001) and this part, in the case of a custodial account*  
20 *treated as a trust by reason of the preceding sentence*  
21 *Section 530(g) of the Internal Revenue Code, the*  
22 *custodian of that account shall be treated as the trustee*  
23 *thereof.*

24 ~~(h)–~~

25 *(e) A copy of the report, which is required to be filed*  
26 *with the Secretary of the Treasury under Section 530(h)*  
27 *of the Internal Revenue Code, as enacted by Section 213*  
28 *of the Taxpayer Relief Act of 1997 (P.L. 105-34), shall be*  
29 *filed with the Franchise Tax Board at the same time and*  
30 *in the same manner as specified in that section.*

31 ~~(i) This section shall apply to taxable and income years~~  
32 ~~beginning on or after January 1, 1998.~~

33 *SEC. 73. Section 23771 of the Revenue and Taxation*  
34 *Code is amended to read:*

35 *23771. Every—(a) Except as provided in subdivision*  
36 *(b), every organization, otherwise exempt under Article*  
37 *1 (commencing with Section 23701), but having income*  
38 *of the character described in Article 2 (commencing with*  
39 *Section 23731), shall file a return, verified by an executive*  
40 *officer under penalty of perjury in the form prescribed by*



1 the Franchise Tax Board, on or before the 15th day of the  
2 fifth month following the close of the income year,  
3 reporting its income from those activities and shall pay a  
4 tax as required by Section 23731 on its unrelated business  
5 taxable income as defined in Section 23732.

6 (b) An education IRA described in Section 23712 shall  
7 file a return described in subdivision (a) on or before the  
8 15th day of the fourth month following the close of the  
9 income year.

10 SEC. 74. Section 23800.5 of the Revenue and Taxation  
11 Code, as amended by Chapter 7 of the Statutes of 1998, is  
12 amended to read:

13 23800.5. (a) Section 1361(b)(2)(A) of the Internal  
14 Revenue Code, relating to ineligible corporation defined,  
15 shall not apply and in lieu thereof, for purposes of Section  
16 1361(b)(1) of the Internal Revenue Code, Part 10  
17 (commencing with Section 17001), Part 10.2  
18 (commencing with Section 18401), and this part,  
19 “ineligible corporation” shall include a savings and loan  
20 association, bank, or financial corporation which uses the  
21 reserve method of accounting for bad debts described in  
22 Section 24348.

23 (b) Section 1361(b)(3) of the Internal Revenue Code,  
24 relating to treatment of certain wholly owned  
25 subsidiaries, is modified as follows:

26 (1) For purposes of Part 10 (commencing with Section  
27 17001), Part 10.2 (commencing with Section 18401), and  
28 this part:

29 (A) Section 1361(b)(3)(A)(i) of the Internal Revenue  
30 Code shall apply, except as provided in subparagraph  
31 (B).

32 (B) There is hereby imposed a tax annually in an  
33 amount equal to the applicable amount specified in  
34 paragraph (1) of subdivision (d) of Section 23153 on a  
35 qualified Subchapter S subsidiary that is incorporated  
36 under the laws of this state, qualified to transact intrastate  
37 business in this state pursuant to Chapter 21  
38 (commencing with Section 2100) of Division 1 of Title 1  
39 of the Corporations Code, or doing business in this state.



1 (C) Every qualified Subchapter S subsidiary described  
2 in subparagraph (B) shall be subject to the tax imposed  
3 under subparagraph (B) from the earlier of the date of  
4 incorporation, qualification, or commencement of  
5 business in this state, until the effective date of dissolution  
6 or withdrawal as provided in Section 23331, or, if later, the  
7 date the corporation ceases to do business in this state.

8 (2) For purposes of Part 10 (commencing with Section  
9 17001), Part 10.2 (commencing with Section 18401), and  
10 this part:

11 (A) Section 1361(b)(3)(A)(ii) of the Internal  
12 Revenue Code shall not apply and, in lieu thereof,  
13 subparagraph (B) shall apply and all references to  
14 Section 1361(b)(3)(A)(ii) of the Internal Revenue Code  
15 shall be treated as a reference to subparagraph (B).

16 (B) All activities, assets, liabilities, including liability  
17 for the tax imposed under this subdivision, and items of  
18 income, deduction, and credit of a qualified Subchapter  
19 S subsidiary shall be treated as activities (including  
20 activities for purposes of Section 23101), assets, liabilities,  
21 and those items, as the case may be, of the “S  
22 corporation.”

23 (3) Section 1361(b)(3)(B) of the Internal Revenue  
24 Code is modified to include the following requirements  
25 in addition to the requirements contained therein:

26 (A) The “S corporation” has in effect a valid election  
27 to treat the corporation as a qualified Subchapter S  
28 subsidiary for federal purposes.

29 (B) An election made by the “S corporation” under  
30 Section 1361(b)(3)(B)(ii) of the Internal Revenue Code  
31 to treat the corporation as a qualified Subchapter S  
32 subsidiary for federal purposes shall be treated for  
33 purposes of this part as an election made by the “S  
34 corporation” under this subdivision and a separate  
35 election under paragraph (3) of subdivision (e) of  
36 Section 23051.5 shall not be allowed.

37 (C) No election under this subdivision shall be allowed  
38 unless the “S corporation” has made the election under  
39 Section 1361(b)(3)(B)(ii) of the Internal Revenue Code



1 to treat the corporation as a qualified Subchapter S  
2 subsidiary for federal purposes.

3 (c) Section ~~1361(e)(7)~~ 1361(c)(6) of the Internal  
4 Revenue Code, relating to certain exempt organizations  
5 permitted as shareholders, is modified by substituting a  
6 reference to *Section 17631 or* Section 23701d in lieu of the  
7 reference to Section 501(c)(3) of the Internal Revenue  
8 Code and by substituting a reference to *Section 17631 or*  
9 Section 23701 in lieu of the reference to Section 501(a) of  
10 the Internal Revenue Code.

11 (d) Section 1361(e)(1)(B)(ii) of the Internal  
12 Revenue Code, relating to certain trusts not eligible, is  
13 modified by substituting “under Part 10 (commencing  
14 with Section 17001) or this part” in lieu of “under this  
15 subtitle.”

16 (e) Section 1361(e)(3) of the Internal Revenue Code,  
17 relating to election, is modified to include the following  
18 provisions:

19 (1) An election made by the trustee under Section  
20 1361(e) of the Internal Revenue Code to be an electing  
21 small business trust for federal purposes shall be treated  
22 for purposes of this part as an election made by the trustee  
23 under this subdivision and a separate election under  
24 paragraph (3) of subdivision (e) of Section 23051.5 shall  
25 not be allowed. Any election made shall apply to the  
26 taxable year of the trust for which made and to all  
27 subsequent taxable years of the trust, unless revoked with  
28 the consent of the Franchise Tax Board.

29 (2) No election under this subdivision shall be allowed  
30 unless the trustee has made the election under Section  
31 1361(e) of the Internal Revenue Code to be an electing  
32 small business trust for federal purposes.

33 *SEC. 75. Section 23801 of the Revenue and Taxation*  
34 *Code is amended to read:*

35 23801. (a) (1) A corporation may not elect to be  
36 treated as an “S corporation” unless it has in effect for  
37 federal purposes a valid election under Section 1362(a) of  
38 the Internal Revenue Code for the same year.

39 (2) For income years beginning in 1987, the following  
40 shall apply:



1 (A) A corporation that has in effect a valid federal  
2 election for the income year beginning in 1987, shall be  
3 deemed to have elected to be treated as an “S  
4 corporation” for purposes of this part, unless that  
5 corporation elects on its return to continue to be treated  
6 as a “C corporation” for purposes of this part.

7 (B) A corporation to which subparagraph (A) applies,  
8 but is not required to file a return under this part, may  
9 elect to be treated as a “C corporation” for purposes of  
10 this part in the form and in the manner as the Franchise  
11 Tax Board may prescribe.

12 (C) A corporation that is deemed to have elected to be  
13 treated as an “S corporation” under subparagraph (A)  
14 shall, for purposes of applying the provisions of Section  
15 1374 of the Internal Revenue Code, relating to tax  
16 imposed on certain built-in gains, and Section 1375 of the  
17 Internal Revenue Code, relating to tax imposed on  
18 passive investment income, be deemed to have made the  
19 election to be treated as an “S corporation” on the same  
20 date as the date of its federal election under Section  
21 1362(a) of the Internal Revenue Code.

22 (3) For income years beginning in 1988 or 1989, the  
23 following shall apply:

24 (A) A corporation that had in effect a valid federal  
25 election for the preceding year, but was a “C  
26 corporation” for purposes of this part for that preceding  
27 year, may elect to be treated as an “S corporation” for  
28 purposes of this part by making an election in accordance  
29 with the provisions of Section 1362 of the Internal  
30 Revenue Code in the form and in the manner as the  
31 Franchise Tax Board may prescribe.

32 (B) A corporation that did not have in effect a valid  
33 federal election for the preceding year and that makes a  
34 federal election for the income year under Section  
35 1362(a) of the Internal Revenue Code shall be deemed to  
36 have made an election to be treated as an “S corporation”  
37 for purposes of this part on the same date as the date of  
38 its federal election, unless that corporation elects on its  
39 return to continue to be treated as a “C corporation” for  
40 purposes of this part.



1 (C) A corporation to which subparagraph (B) applies,  
2 but is not required to file a return under this part, may  
3 elect to be treated as a “C corporation” for purposes of  
4 this part in a form and manner as the Franchise Tax Board  
5 may prescribe.

6 (D) A corporation that elects to be treated as an “S  
7 corporation” under subparagraph (A) for an income year  
8 beginning in 1988 shall, for purposes of applying the  
9 provisions of Section 1374 of the Internal Revenue Code,  
10 relating to tax imposed on certain built-in gains, and  
11 Section 1375 of the Internal Revenue Code, relating to tax  
12 imposed on passive investment income, be deemed to  
13 have made the election to be treated as an “S  
14 corporation” on the same date as the date of its federal  
15 election under Section 1362(a) of the Internal Revenue  
16 Code.

17 (4) For income years beginning on or after January 1,  
18 1990, the following shall apply:

19 (A) An election under Section 1362(a) of the Internal  
20 Revenue Code, that is first effective for an income year  
21 beginning on or after January 1, 1990, shall be an election  
22 to which subdivision (e) of Section 23051.5 applies and  
23 shall be deemed to have been made for purposes of this  
24 part on the same date as the date of the federal election,  
25 unless the corporation files a California election under  
26 clause (ii) to be treated as a “C corporation” for purposes  
27 of this part.

28 (i) The federal “S” election shall be reported for  
29 purposes of this part in the form and manner as  
30 prescribed by the Franchise Tax Board no later than the  
31 last date allowed for filing the federal election under  
32 Section 1362(a) of the Internal Revenue Code for that  
33 income year.

34 (ii) The California election to be a “C corporation”  
35 may only be made by a corporation incorporated in  
36 California or qualified to do business in California and  
37 shall be made in the form and manner prescribed by the  
38 Franchise Tax Board no later than the last date allowed  
39 for filing the federal “S” election under Section 1362(a)  
40 of the Internal Revenue Code for that income year.



1 (B) A corporation that has in effect a valid election  
2 under Section 1362(a) of the Internal Revenue Code, but  
3 is a “C corporation” for purposes of this part, may elect  
4 to be treated as an “S corporation” by making an election  
5 in the form and manner as prescribed by the Franchise  
6 Tax Board at the time required for making an “S” election  
7 under Section 1362(a) of the Internal Revenue Code for  
8 that income year, unless prohibited from doing so by  
9 Section 1362(g) of the Internal Revenue Code, relating  
10 to election after termination.

11 (C) In the event a corporation which has in effect a  
12 valid election under Section 1362(a) of the Internal  
13 Revenue Code and is not doing business in California  
14 becomes subject to this part by qualifying to do business  
15 in California, the corporation is deemed to have made an  
16 election to be treated as an “S corporation” for the  
17 income year during which the corporation qualifies to do  
18 business in California, unless the corporation files a  
19 California election in accordance with clause (ii) to be  
20 treated as a “C corporation” for that income year.

21 (i) The federal “S” election shall be reported for  
22 purposes of this part within two and one-half months after  
23 qualifying to do business in California in the form and  
24 manner as prescribed by the Franchise Tax Board.

25 (ii) The California election to be a “C corporation”  
26 shall be made in the form and manner as prescribed by  
27 the Franchise Tax Board no later than the following:

28 (I) For an income year beginning in 1990, two and  
29 one-half months after qualifying to do business in  
30 California.

31 (II) For an income year beginning on or after January  
32 1, 1991, the last date allowed for filing a federal “S”  
33 election under Section 1362(a) of the Internal Revenue  
34 Code for that income year.

35 (D) (i) A corporation that is not qualified to do  
36 business in California, but is treated as an “S corporation”  
37 for federal purposes, shall be treated as an “S  
38 corporation” for purposes of this part, and its  
39 shareholders shall be treated as shareholders of an “S  
40 corporation.”



1 (ii) If a corporation described in clause (i) elected to  
2 be treated as a “C corporation” under this section prior  
3 to its amendment by the act adding this paragraph during  
4 the 1989–90 Regular Session, that election shall be  
5 revoked for income years beginning on or after January  
6 1, 1990. The corporation shall be treated as an “S  
7 corporation” for purposes of this part, and its  
8 shareholders shall be treated as shareholders of an “S  
9 corporation.”

10 (E) For purposes of this section, “qualified to do  
11 business in California” or “qualifying to do business in  
12 California” means incorporating or obtaining a certificate  
13 of qualification pursuant to the Corporations Code.

14 (F) For purposes of this section:

15 (i) A timely election to be treated as a “C corporation”  
16 shall be treated as a revocation and Section 1362(g) of the  
17 Internal Revenue Code, relating to election after  
18 termination, shall apply.

19 (ii) An untimely election to be treated as a “C  
20 corporation” shall be null and void and shall not be  
21 applied to either the current or any subsequent income  
22 year.

23 (5) For income years beginning on or after January 1,  
24 1997, the provisions of paragraph (4) shall apply, subject  
25 to the following modifications:

26 (A) A corporation that elects “S corporation” status  
27 under Section 1362 of the Internal Revenue Code for  
28 federal purposes but which is not qualified to be an “S  
29 corporation” under subdivision (a) of Section 23800.5,  
30 shall not be an “S corporation” for purposes of Part 10  
31 (commencing with Section 17001) and this part.

32 (B) (i) A corporation that becomes an “S  
33 corporation” for an income year beginning before  
34 January 1, 1997, under the provisions of Section 1305 of the  
35 Small Business Job Protection Act of 1996 (P.L. 104-188)  
36 for federal purposes, shall become an “S corporation” for  
37 purposes of Part 10 (commencing with Section 17001)  
38 and this part, for its first income year beginning on or  
39 after January 1, 1997, unless a timely election to continue  
40 as a “C corporation” is made.



1 (ii) For purposes of clause (i), an election shall be  
2 considered timely if made no later than the earlier of the  
3 date that is 180 days after the date of enactment of the act  
4 adding this paragraph or the due date, without regard to  
5 extensions, of the return for its first income year  
6 beginning on or after January 1, 1997.

7 (C) (i) A corporation that makes a valid federal  
8 election to be an “S corporation” during the period in  
9 1997 before the date of enactment of the act adding this  
10 paragraph and which would not qualify to be an “S  
11 corporation” under this part on the date of the federal  
12 election shall become an “S corporation” for purposes of  
13 Part 10 (commencing with Section 17001) and this part,  
14 for its first income year beginning on or after January 1,  
15 1997, unless a timely election to continue as a “C  
16 corporation” is made.

17 (ii) For purposes of clause (i), an election shall be  
18 considered timely if made no later than the earlier of the  
19 date that is 180 days after the date of enactment of the act  
20 adding this paragraph or the due date, without regard to  
21 extensions, of the return for its first income year  
22 beginning on or after January 1, 1997.

23 (b) If a corporation subject to tax under this part elects  
24 to be treated as an “S corporation” and has one or more  
25 shareholders who are nonresidents of this state or is a trust  
26 with a nonresident fiduciary, each of the following shall  
27 be required:

28 (1) Each nonresident shareholder or fiduciary shall  
29 file with the return a statement of consent by that  
30 shareholder or fiduciary to be subject to the jurisdiction  
31 of the State of California to tax the shareholder’s pro rata  
32 share of the income attributable to California sources.

33 (2) An “S corporation” shall include in its return for  
34 each income year a list of shareholders in the form and in  
35 the manner prescribed by the Franchise Tax Board.

36 (3) Failure to meet the requirements of this  
37 subdivision shall be grounds for retroactive revocation by  
38 the Franchise Tax Board of the election pursuant to this  
39 chapter.



1 (c) Except as provided in subdivision (d), a  
2 corporation that makes a valid election to be treated as an  
3 “S corporation” for purposes of this part shall not be  
4 included in a combined report pursuant to Chapter 17  
5 (commencing with Section 25101).

6 (d) (1) In cases where the Franchise Tax Board  
7 determines that the reported income or loss of a group of  
8 commonly owned or controlled corporations (within the  
9 meaning of Section 25105), which includes one or more  
10 corporations electing to be treated as an “S corporation”  
11 under Chapter 4.5 (commencing with Section 23800),  
12 does not clearly reflect income (or loss) of a member of  
13 that group or represents an evasion of tax by one or more  
14 members of that group, and the Franchise Tax Board  
15 determines that the comparable uncontrolled price  
16 method prescribed by regulations pursuant to Section 482  
17 of the Internal Revenue Code cannot practically be  
18 applied, the Franchise Tax Board may, in lieu of other  
19 methods prescribed by regulations pursuant to Section  
20 482 of the Internal Revenue Code, apply methods of  
21 unitary combination, pursuant to Article 1 (commencing  
22 with Section 25101) of Chapter 17, to properly reflect the  
23 income or loss of the members of the group.

24 (2) The application of the provisions of this subdivision  
25 shall not affect the election of any corporation to be  
26 treated as an “S corporation.”

27 (e) The tax for a “C corporation” for a short year shall  
28 be determined in accordance with Chapter 13  
29 (commencing with Section 24631), in lieu of Section  
30 1362(e)(5) of the Internal Revenue Code.

31 (f) (1) A termination of a federal election pursuant to  
32 Section 1362(d) of the Internal Revenue Code, that is not  
33 an inadvertent termination pursuant to Section 1362(f) of  
34 the Internal Revenue Code, shall simultaneously  
35 terminate the “S corporation” election for purposes of  
36 Part 10 (commencing with Section 17001) and this part.

37 (2) A federal termination by revocation shall be  
38 effective for purposes of this part and shall be reported to  
39 the Franchise Tax Board in the form and manner  
40 prescribed by the Franchise Tax Board no later than the



1 last date allowed for filing federal termination for that  
2 year under Section 1362(d) of the Internal Revenue  
3 Code.

4 (3) A corporation which is qualified to do business in  
5 California and has in effect a valid "S" election under  
6 Section 1362(a) of the Internal Revenue Code, may  
7 revoke its "S" election for purposes of this part without  
8 revoking its federal election. The revocation for purposes  
9 of this part shall be made by providing a written  
10 notification to the Franchise Tax Board in the form and  
11 manner prescribed by the Franchise Tax Board which  
12 includes the California corporation number and meets  
13 the requirements of Section 1362(d)(1) of the Internal  
14 Revenue Code.

15 (g) For income years beginning on or after January 1,  
16 1990, if a corporation, which has in effect a valid "S"  
17 election under Section 1362(a) of the Internal Revenue  
18 Code, fails to make a "C corporation" election under  
19 clause (ii) of subparagraphs (A) and (C) of paragraph (4)  
20 of subdivision (a) or to terminate by revocation under  
21 paragraph (3) of subdivision (f), the corporation shall be  
22 treated as an "S corporation" pursuant to subparagraph  
23 (A) of paragraph (4) of subdivision (a).

24 (h) For income years beginning on or after January 1,  
25 1997, for purposes of subparagraph (F) of paragraph (4)  
26 of subdivision (a) of this section and Section 1362(g) of  
27 the Internal Revenue Code, relating to election after  
28 termination, any termination under Section 1362(d) of  
29 the Internal Revenue Code or election to be treated as a  
30 "C corporation" under subparagraph (A) or (C) of  
31 paragraph (4) of subdivision (a), or to terminate by  
32 revocation under paragraph (3) of subdivision (f) in an  
33 income year beginning before January 1, 1997, shall not  
34 be taken into account.

35 (i) (1) The provisions of Section 1362(b)(5) of the  
36 Internal Revenue Code, relating to authority to treat late  
37 elections, etc., as timely, shall apply only for income years  
38 beginning on or after January 1, 1997, with respect to  
39 elections under Section 1362(a) of the Internal Revenue



1 Code for income years beginning on or after January 1,  
2 1997.

3 (2) *Notwithstanding the provisions of paragraph (1),*  
4 *if for any income year beginning on or after January 1,*  
5 *1987, a corporation fails to qualify as an “S corporation”*  
6 *for federal income tax purposes solely because the federal*  
7 *Form 2553 (Election by a Small Business Corporation)*  
8 *was not filed timely, the corporation shall be treated for*  
9 *purposes of this part as an “S corporation” for the income*  
10 *year the “S corporation” election should have been made,*  
11 *and for each subsequent year until terminated, if both of*  
12 *the following conditions are met:*

13 (A) *The corporation and all of its shareholders*  
14 *reported their income for California tax purposes on*  
15 *original returns consistent with “S corporation” status for*  
16 *the year the “S corporation” election should have been*  
17 *made, and for each subsequent income year (if any) until*  
18 *terminated.*

19 (B) *The corporation and its shareholders have filed*  
20 *with the Internal Revenue Service a federal Form 2553*  
21 *requesting automatic relief with respect to the late “S*  
22 *corporation” election, in full compliance with the federal*  
23 *Revenue Procedure 1997-48, I.R.B. 1997-43, and have*  
24 *received notification of the acceptance of the untimely*  
25 *filed “S corporation” election from the Internal Revenue*  
26 *Service. A copy of the notification shall be provided to the*  
27 *Franchise Tax Board upon request.*

28 (j) *The provisions of Section 1362(f) of the Internal*  
29 *Revenue Code, relating to inadvertent invalid elections*  
30 *or terminations, shall apply only for income years*  
31 *beginning on or after January 1, 1997, with respect to*  
32 *elections under Section 1362(a) of the Internal Revenue*  
33 *Code for income years beginning on or after January 1,*  
34 *1997.*

35 *SEC. 76. Section 23806 of the Revenue and Taxation*  
36 *Code is repealed.*

37 ~~23806. (a) Section 1371(a) of the Internal Revenue~~  
38 ~~Code, relating to application of Subchapter C rules, is~~  
39 ~~modified to provide that, notwithstanding subdivisions~~  
40 ~~(a) and (e) of Section 23051.5, an election under Section~~



1 ~~338 of the Internal Revenue Code, relating to certain~~  
2 ~~stock purchases treated as asset acquisitions, for federal~~  
3 ~~purposes shall be treated as an election for purposes of~~  
4 ~~this part and a separate election under paragraph (3) of~~  
5 ~~subdivision (e) of Section 23051.5 shall not be allowed.~~

6 ~~(b) Section 1371(d) of the Internal Revenue Code~~  
7 ~~shall not be applicable.~~

8 *SEC. 77. Section 23806 is added to the Revenue and*  
9 *Taxation Code, to read:*

10 *23806. (a) Section 1371(a) of the Internal Revenue*  
11 *Code, relating to application of Subchapter C rules, is*  
12 *modified to provide that, notwithstanding subdivisions*  
13 *(a) and (e) of Sections 17024.5 and 23051.5, any election*  
14 *by an "S corporation" or its shareholders under Section*  
15 *338 of the Internal Revenue Code, relating to certain*  
16 *stock purchases treated as asset acquisitions, for federal*  
17 *purposes shall be treated as an election for purposes of*  
18 *this part and a separate election under paragraph (3) of*  
19 *subdivision (e) of Section 17024.5 or 23051.5 shall not be*  
20 *allowed.*

21 *(b) No election under Section 338 of the Internal*  
22 *Revenue Code, relating to certain stock purchases*  
23 *treated as asset acquisitions, shall be allowed for state*  
24 *purposes unless the "S corporation" or its shareholders*  
25 *made a valid election for federal purposes under Section*  
26 *338 of the Internal Revenue Code.*

27 *(c) Section 1371 (d) of the Internal Revenue Code*  
28 *shall not apply.*

29 *(d) (1) Subdivisions (a) and (b) shall apply to any*  
30 *transaction occurring on or after January 1, 1998, in an*  
31 *income year beginning on or after January 1, 1997.*

32 *(2) Subdivision (c) shall apply to income years*  
33 *beginning on or after January 1, 1997.*

34 *SEC. 78. Section 24309.5 is added to the Revenue and*  
35 *Taxation Code, to read:*

36 *24309.5. Section 110 of the Internal Revenue Code,*  
37 *relating to qualified lessee construction allowances for*  
38 *short-term leases, shall apply, except as otherwise*  
39 *provided.*



1 (a) Section 110(b) of the Internal Revenue Code is  
2 modified by substituting the phrase “(including for  
3 purposes of paragraph (2) of subdivision (e) of Section  
4 24349)” for the phrase “(including for purposes of Section  
5 168(i)(8)(B)).”

6 (b) Section 110(c)(2) of the Internal Revenue Code is  
7 modified by substituting the phrase “(as determined  
8 under the rules of paragraph (3) of subdivision (e) of  
9 Section 24349)” for the phrase “(as determined under the  
10 rules of Section 168(i)(3)).”

11 SEC. 79. Section 24349 of the Revenue and Taxation  
12 Code is amended to read:

13 24349. (a) There shall be allowed as a depreciation  
14 deduction a reasonable allowance for the exhaustion,  
15 wear, and tear (including a reasonable allowance for  
16 obsolescence)—

17 (1) Of property used in the trade or business; or

18 (2) Of property held for the production of income.

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

26 (1) The straight-line method.

27 (2) The declining balance method, using a rate not  
28 exceeding twice the rate that would have been used had  
29 the annual allowance been computed under the method  
30 described in paragraph (1).

31 (3) The sum of the years-digits method.

32 (4) Any other consistent method productive of an  
33 annual allowance that, when added to all allowances for  
34 the period commencing with the taxpayer’s use of the  
35 property and including the income year, does not, during  
36 the first two-thirds of the useful life of the property,  
37 exceed the total of those allowances that would have been  
38 used had those allowances been computed under the  
39 method described in paragraph (2).



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

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

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

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

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



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

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

6 This subdivision shall not apply to any property to  
7 which Section 168 of the Internal Revenue Code does not  
8 apply for federal purposes by reason of Section 168(f) of  
9 the Internal Revenue Code. Any election made under  
10 Section 168(f)(1) of the Internal Revenue Code for  
11 federal purposes with respect to that property shall be  
12 treated as a binding election for state purposes under this  
13 subdivision with respect to that same property and no  
14 separate election under subdivision (e) of Section 23051.5  
15 with respect to that property shall be allowed.

16 (3) (A) *In determining a lease term, both of the*  
17 *following shall apply:*

18 (i) *There shall be taken into account options to renew.*

19 (ii) *Two or more successive leases which are part of*  
20 *the same transaction (or a series of related transactions)*  
21 *with respect to the same or substantially similar property*  
22 *shall be treated as one lease.*

23 (B) *For purposes of clause (i) of subparagraph (A), in*  
24 *the case of nonresidential real property or residential*  
25 *rental property, there shall not be taken into account any*  
26 *option to renew at fair market value determined at the*  
27 *time of renewal.*

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

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

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



1 SEC. 80. Section 24355.4 is added to the Revenue and  
2 Taxation Code, to read:

3 24355.4. For purposes of computing the depreciation  
4 deduction under Section 24349, a class life of four years  
5 shall be used for any qualified rent-to-own property as  
6 defined in Section 168(i)(14) of the Internal Revenue  
7 Code.

8 SEC. 81. Section 24357.7 of the Revenue and Taxation  
9 Code is amended to read:

10 24357.7. (a) (1) For purposes of paragraph (3) of  
11 subdivision (b) of Section 24357.2, the term “qualified  
12 conservation contribution” means a contribution—

- 13 ~~(1)~~
- 14 (A) Of a qualified real property interest,
- 15 ~~(2)~~
- 16 (B) To a qualified organization,
- 17 ~~(3)~~
- 18 (C) Exclusively for conservation purposes.

19 ~~(A)~~  
20 (2) For purposes of this subdivision, the term  
21 “qualified real property interest” means any of the  
22 following interests in real property:

- 23 (i) The entire interest of the donor other than a  
24 qualified mineral interest.
- 25 (ii) A remainder interest.
- 26 (iii) A restriction (granted in perpetuity) on the use  
27 which may be made of the real property.

28 (b) For purposes of subdivision (a), the term  
29 “qualified organization” means an organization which:

- 30 (1) Is described in subdivision (a) or (b) of Section  
31 24359, or
- 32 (2) Is described in Section 23701(d), and—
  - 33 (A) Meets the requirements of Section 509(a)(2) of  
34 the Internal Revenue Code, or
  - 35 (B) Meets the requirements of Section 509(a)(3) of  
36 the Internal Revenue Code and is controlled by an  
37 organization described in paragraph (1) or in  
38 subparagraph (A).
- 39 (c) For purposes of this section, the term  
40 “conservation purpose” means any of the following:



1 (1) The preservation of land areas for outdoor  
2 recreation by, or the education of, the general public.

3 (2) The protection of a relatively natural habitat of  
4 fish, wildlife, or plants, or similar ecosystem.

5 (3) The preservation of open space (including farm  
6 land and forest land) where ~~such~~ *that* preservation is for  
7 any of the following:

8 (A) For the scenic enjoyment of the general public.

9 (B) Pursuant to a clearly delineated federal, state, or  
10 local governmental conservation policy, and will yield a  
11 significant public benefit.

12 (C) The preservation of ~~an~~ *a* historically important  
13 land area or a certified historic structure.

14 (d) The term “certified historic structure” means any  
15 building, structure, or land area which:

16 (1) Is listed in the National Register, or

17 (2) Is located in a registered historic district (as  
18 defined in Section 47(c)(3)(B)) of the Internal  
19 Revenue Code and is certified by the Secretary of the  
20 Interior to the secretary as being of historic significance  
21 to the district.

22 A building, structure, or land area satisfies the  
23 preceding sentence if it satisfies ~~such~~ *that* sentence either  
24 at the time of the transfer or on the due date (including  
25 extensions) for filing the transferor’s return under this  
26 part for the income year in which the transfer is made.

27 (e) For purposes of this section:

28 (1) A contribution shall not be treated as exclusively  
29 for conservation purposes unless the conservation  
30 purpose is protected in perpetuity.

31 (2) (A) Except as provided in subparagraph (B), in  
32 the case of a contribution of any interest where there is  
33 a retention of a qualified mineral interest, this subdivision  
34 shall not be treated as met if at any time there may be  
35 extraction or removal of minerals by any surface mining  
36 method.

37 (B) With respect to any contribution of property in  
38 which the ownership of the surface estate and mineral  
39 interests ~~were separated before June 13, 1976, and remain~~  
40 ~~se~~ *has been and remains* separated, paragraph (1) shall be



1 treated as met if the probability of surface mining  
2 occurring on that property is so remote as to be  
3 negligible.

4 (f) For purposes of this section, the term “qualified  
5 mineral interest” means—

6 (1) Subsurface oil, gas, or other minerals; and

7 (2) The right to access to those minerals.

8 *SEC. 82. Section 24357.8 of the Revenue and Taxation*  
9 *Code is amended to read:*

10 24357.8. (a) In the case of a qualified research  
11 contribution, the amount otherwise allowed as a  
12 deduction under Section 24357, shall be reduced by that  
13 amount of the reduction provided by Section 24357.1  
14 which is no greater than the sum of the following:

15 (1) One-half of the amount computed pursuant to  
16 Section 24357.1 (computed without regard to this  
17 paragraph).

18 (2) The amount (if any) by which the charitable  
19 contribution deduction under this section for any  
20 qualified research contribution (computed by taking into  
21 account the amount determined by paragraph (1), but  
22 without regard to this paragraph) exceeds twice the basis  
23 of the property.

24 (b) For purposes of this section, “qualified research  
25 contribution” means a charitable contribution by a  
26 taxpayer of tangible personal property described in  
27 paragraph (1) of Section 1221 of the Internal Revenue  
28 Code ~~of 1954~~, but only if all of the following conditions are  
29 met:

30 (1) The contribution is to an educational organization  
31 which is described in subsection (b)(1)(A)(ii) of Section  
32 170 of the Internal Revenue Code ~~of 1954~~ and which is an  
33 institution of higher education (as defined in Section  
34 3304(f) of the Internal Revenue Code of 1954) in  
35 California.

36 (2) The contribution is made not later than two years  
37 after the date the construction of the property is  
38 substantially completed.

39 (3) The original use of the property is by the donee.



1 (4) The property is scientific equipment or apparatus  
2 substantially all of the use of which by the donee is for  
3 research or experimentation (within the meaning of  
4 Section 24365), or for research training, in physical,  
5 applied, or biological sciences, or for instructional  
6 purposes.

7 (5) The property is not transferred by the donee in  
8 exchange for money, other property, or services.

9 (6) The taxpayer receives from the donee a written  
10 statement representing that its use and disposition of the  
11 property will be in accordance with this section, and with  
12 respect to property substantially all of the use of which is  
13 for instructional purposes, the taxpayer receives from the  
14 donee a written statement representing that the  
15 property will be used as an integral part of the  
16 instructional program. In the case of a computer, the  
17 statement shall also represent that the donee has  
18 acquired or will acquire, necessary basic operational  
19 software and the means to provide trained staff to utilize  
20 the property.

21 (7) The contribution is made on or after July 1, 1983,  
22 and on or before December 31, 1993.

23 (8) The taxpayer shall report to the Franchise Tax  
24 Board, on forms prescribed by the board, the name and  
25 address of the recipient educational organization, a  
26 description of the qualified charitable contribution, the  
27 fair market value of the contribution, and the date the  
28 contribution was made. The taxpayer shall forward a copy  
29 of the forms, along with the written statements  
30 prescribed in paragraph (6), to the following:

31 (A) The President of the University of California, in  
32 the case of contributions to institutions within the  
33 University of California system.

34 (B) California Postsecondary Education Commission,  
35 in the case of contributions to private institutions.

36 (C) The Chancellor of the California State University,  
37 in the case of contributions to institutions within the  
38 California State University system.



1 (D) The Chancellor of the California Community  
2 Colleges, in the case of contributions to institutions within  
3 the California Community College system.

4 (c) For purposes of this section, the term “taxpayer”  
5 shall not include a service organization (as defined in  
6 Section 414(m)(3) of the Internal Revenue Code of  
7 1954).

8 *SEC. 83. Section 24357.9 is added to the Revenue and  
9 Taxation Code, to read:*

10 *24357.9. (a) In the case of a qualified elementary or  
11 secondary educational contribution, the amount  
12 otherwise allowed as a deduction under Section 24357  
13 shall be reduced by that amount of the reduction  
14 provided by Section 24357.1 which is no greater than the  
15 sum of the following:*

16 *(1) One-half of the amount computed pursuant to  
17 Section 24357.1 (computed without regard to this  
18 paragraph).*

19 *(2) The amount (if any) by which the charitable  
20 contribution deduction under this section for any  
21 qualified elementary or secondary educational  
22 contribution (computed by taking into account the  
23 amount determined by paragraph (1), but without  
24 regard to this paragraph) exceeds twice the basis of the  
25 property.*

26 *(b) For purposes of this section, the term “qualified  
27 elementary or secondary educational contribution”  
28 means a charitable contribution by a corporation of any  
29 computer technology or equipment, but only if all of the  
30 following apply:*

31 *(1) The contribution is to either of the following:*

32 *(A) An educational organization described in Section  
33 170(b)(1)(A)(ii) of the Internal Revenue Code.*

34 *(B) An entity described in Section 23701d and exempt  
35 from tax under Section 23701 (other than an entity  
36 described in subparagraph (A)) that is organized  
37 primarily for purposes of supporting elementary and  
38 secondary education in California.*

39 *(2) The contribution is made not later than two years  
40 after the date the taxpayer acquired the property (or in*



1 *the case of property constructed by the taxpayer, the date*  
2 *the construction of the property is substantially*  
3 *completed).*

4 *(3) The original use of the property is by the donor or*  
5 *the donee.*

6 *(4) Substantially all of the use of the property by the*  
7 *donee is for use within California for educational*  
8 *purposes in any of the grades K through 12 that are*  
9 *related to the purpose or function of the organization or*  
10 *entity.*

11 *(5) The property is not transferred by the donee in*  
12 *exchange for money, other property, or services, except*  
13 *for shipping, installation, and transfer of costs.*

14 *(6) The property will fit productively into the entity's*  
15 *educational plan.*

16 *(7) The entity's use and disposition of the property will*  
17 *be in accordance with paragraphs (4) and (5).*

18 *(c) A contribution by a corporation of any computer*  
19 *technology or equipment to a private foundation (as*  
20 *defined in Section 509 of the Internal Revenue Code)*  
21 *shall be treated as a qualified elementary or secondary*  
22 *educational contribution for purposes of this section if*  
23 *both of the following apply:*

24 *(1) The contribution to the private foundation satisfies*  
25 *the requirements of paragraphs (2) and (5) of subdivision*  
26 *(b).*

27 *(2) Within 30 days after that contribution, the private*  
28 *foundation does both of the following:*

29 *(A) Contributes the property to an entity described in*  
30 *paragraph (1) of subdivision (b) that satisfies the*  
31 *requirements of paragraphs (4) to (7), inclusive, of*  
32 *subdivision (b).*

33 *(B) Notifies the donor of that contribution.*

34 *(d) For purposes of this section, property shall be*  
35 *treated as constructed by the taxpayer only if the cost of*  
36 *the parts used in the construction of that property (other*  
37 *than parts manufactured by the taxpayer or a related*  
38 *person) do not exceed 50 percent of the taxpayer's basis*  
39 *in that property.*

40 *(e) For purposes of this section:*



1 (1) “Computer technology or equipment” means  
2 computer software (as defined by Section 197(e)(3)(B)  
3 of the Internal Revenue Code), computer or peripheral  
4 equipment (as defined by Section 168(i)(2)(B) of the  
5 Internal Revenue Code), and fiber-optic cable related to  
6 computer use.

7 (2) “Corporation” shall not include any of the  
8 following:

9 (A) An “S corporation.”

10 (B) A personal holding company (as defined in  
11 Section 542 of the Internal Revenue Code).

12 (C) A service organization (as defined in Section  
13 414(m)(3) of the Internal Revenue Code).

14 (f) This section shall not apply to any contribution  
15 made during any income year beginning on or after  
16 January 1, 2000.

17 SEC. 84. Section 24369.4 is added to the Revenue and  
18 Taxation Code, to read:

19 24369.4. (a) Section 198 of the Internal Revenue  
20 Code, relating to expensing of environmental  
21 remediation costs, shall apply, except as otherwise  
22 provided.

23 (b) Section 198(b)(2) is modified to refer to Sections  
24 24349 to 24355, inclusive, in lieu of Section 167 of the  
25 Internal Revenue Code.

26 (c) Section 198(f) is modified to refer to Section 24442  
27 in lieu of Section 280B of the Internal Revenue Code.

28 (d) (1) If a taxpayer has, at any time, made an election  
29 for federal purposes under Section 198(a) of the Internal  
30 Revenue Code to have Section 198 of the Internal  
31 Revenue Code apply to a qualified environmental  
32 remediation expenditure, Section 198 of the Internal  
33 Revenue Code shall apply to that qualified  
34 environmental remediation expenditure for state  
35 purposes, a separate election for state purposes shall not  
36 be allowed under paragraph (3) of subdivision (e) of  
37 Section 23051.5, and the federal election shall be binding  
38 for purposes of this part.

39 (2) If a taxpayer fails to make an election for federal  
40 purposes under Section 198(a) of the Internal Revenue



1 Code to have Section 198 of the Internal Revenue Code  
2 apply to a qualified environmental remediation  
3 expenditure, an election under Section 198(a) of the  
4 Internal Revenue Code shall not be allowed for state  
5 purposes, Section 198 of the Internal Revenue Code shall  
6 not apply to that qualified environmental remediation  
7 expenditure for state purposes, and a separate election for  
8 state purposes shall not be allowed under paragraph (3)  
9 of subdivision (e) of Section 23051.5.

10 (e) No inference as to the proper treatment for  
11 purposes of this part of qualified environmental  
12 remediation expenditures for periods before the  
13 enactment of this section shall be made.

14 SEC. 85. Section 24402 of the Revenue and Taxation  
15 Code is amended to read:

16 24402. (a) A portion of the dividends received during  
17 the income year declared from income which has been  
18 included in the measure of the taxes imposed under  
19 Chapter 2 (commencing with Section 23101), Chapter 2.5  
20 (commencing with Section 23400), or Chapter 3  
21 (commencing with Section 23501) upon the taxpayer  
22 declaring the dividends.

23 (b) The portion of dividends which may be deducted  
24 under this section shall be as follows:

25 (1) In the case of any dividend described in  
26 subdivision (a), received from a “more than 50 percent  
27 owned corporation,” 100 percent.

28 (2) In the case of any dividend described in  
29 subdivision (a), received from a “20 percent owned  
30 corporation,” 80 percent.

31 (3) In the case of any dividend described in  
32 subdivision (a), received from a corporation that is less  
33 than 20 percent owned, 70 percent.

34 (c) For purposes of this section:

35 (1) The term “more than 50 percent owned  
36 corporation” means any corporation if more than 50  
37 percent of the stock of that corporation (by vote and  
38 value) is owned by the taxpayer. For purposes of the  
39 preceding sentence, stock described in Section



1 1504(a)(4) of the Internal Revenue Code shall not be  
2 taken into account.

3 (2) The term “20 percent owned corporation” means  
4 any corporation if 20 percent or more of the stock of that  
5 corporation (by vote and value) is owned by the  
6 taxpayer. For purposes of the preceding sentence, stock  
7 described in Section 1504(a)(4) of the Internal Revenue  
8 Code shall not be taken into account.

9 *(d) (1) No deduction shall be allowed under this*  
10 *section in respect of any dividend on any share of stock:*

11 *(A) which is held by the taxpayer for 45 days or less*  
12 *during the 90-day period beginning on the date which is*  
13 *45 days before the date on which the share becomes*  
14 *ex-dividend with respect to that dividend, or*

15 *(B) to the extent that the taxpayer is under an*  
16 *obligation (whether pursuant to a short sale or otherwise)*  
17 *to make related payments with respect to positions in*  
18 *substantially similar or related property.*

19 *(2) In the case of stock having preference in dividends,*  
20 *if the taxpayer receives dividends with respect to that*  
21 *stock which are attributable to a period or periods*  
22 *aggregating in excess of 366 days, subparagraph (A) of*  
23 *paragraph (1) shall be applied as follows:*

24 *(A) By substituting “90 days” for “45 days” in each*  
25 *place it appears.*

26 *(B) By substituting “180-day period” for “90-day*  
27 *period.”*

28 *(3) For purposes of this subdivision, in determining*  
29 *the period for which the taxpayer has held any share of*  
30 *stock:*

31 *(A) the day of disposition, but not the day of*  
32 *acquisition, shall be taken into account, and*

33 *(B) Section 1223(4) of the Internal Revenue Code*  
34 *shall not apply.*

35 *(4) Section 246(c)(4) of the Internal Revenue Code,*  
36 *relating to the holding period reduced for periods where*  
37 *risk of loss diminished, shall apply, except as otherwise*  
38 *provided.*

39 *(e) (1) The amendments made by the act adding this*  
40 *subdivision shall apply to dividends received or accrued*



1 after the 30th day after the date of the enactment of the  
2 act adding this subdivision.

3 (2) The amendments made by the act adding this  
4 subdivision shall not apply to dividends received or  
5 accrued during the two-year period beginning on the  
6 date of the enactment of the act adding this subdivision  
7 if:

8 (A) the dividend is paid with respect to stock held by  
9 the taxpayer on January 1, 1998 and all times thereafter  
10 until the dividend is received,

11 (B) that stock is continuously subject to a position  
12 described in Section 246(c)(4) of the Internal Revenue  
13 Code on January 1, 1998, and all times thereafter until the  
14 dividend is received, and

15 (C) that stock and position are clearly identified in the  
16 taxpayer's records within 30 days after the date of the  
17 enactment of the act adding this subdivision.

18 (3) Stock shall not be treated as meeting the  
19 requirement of subparagraph (B) of paragraph (2) if the  
20 position is sold, closed, or otherwise terminated and  
21 reestablished.

22 SEC. 86. Section 24416 of the Revenue and Taxation  
23 Code is amended to read:

24 24416. Except as provided in Sections 24416.1 and  
25 24416.2, a net operating loss deduction shall be allowed in  
26 computing net income under Section 24341 and shall be  
27 determined in accordance with Section 172 of the  
28 Internal Revenue Code, except as otherwise provided.

29 (a) (1) Net operating losses attributable to income  
30 years beginning before January 1, 1987, shall not be  
31 allowed.

32 (2) A net operating loss shall not be carried forward to  
33 any income year beginning before January 1, 1987.

34 (b) (1) Except as provided in paragraphs (2) and (3),  
35 the provisions of Section 172(b)(2) of the Internal  
36 Revenue Code, relating to the amount of carryovers, shall  
37 be modified so that 50 percent of the entire amount of the  
38 net operating loss for any income year shall not be eligible  
39 for carryover to any subsequent income year.



1 (2) In the case of a taxpayer who has a net operating  
2 loss in an income year beginning on or after January 1,  
3 1994, and who operates a new business during that  
4 income year, each of the following shall apply to each loss  
5 incurred during the first three income years of operating  
6 the new business:

7 (A) If the net operating loss is equal to or less than the  
8 net loss from the new business, 100 percent of the net  
9 operating loss shall be carried forward as provided in  
10 paragraph (2) of subdivision (e).

11 (B) If the net operating loss is greater than the net loss  
12 from the new business, the net operating loss shall be  
13 carried over as follows:

14 (i) With respect to an amount equal to the net loss  
15 from the new business, 100 percent of that amount shall  
16 be carried forward as provided in paragraph (2) of  
17 subdivision (e).

18 (ii) With respect to the portion of the net operating  
19 loss that exceeds the net loss from the new business, 50  
20 percent of that amount shall be a net operating loss  
21 carryover to each of the five taxable years following the  
22 taxable year of the loss.

23 (C) For purposes of Section 172(b)(2) of the Internal  
24 Revenue Code, the amount described in clause (ii) of  
25 subparagraph (B) shall be absorbed before the amount  
26 described in clause (i) of subparagraph (B).

27 (3) In the case of a taxpayer who has a net operating  
28 loss in an income year beginning on or after January 1,  
29 1994, and who operates an eligible small business during  
30 that income year, each of the following shall apply:

31 (A) If the net operating loss is equal to or less than the  
32 net loss from the eligible small business, 100 percent of the  
33 net operating loss shall be carried forward to the income  
34 years specified in paragraph (1) of subdivision (e).

35 (B) If the net operating loss is greater than the net loss  
36 from the eligible small business, the net operating loss  
37 shall be carried over as follows:

38 (i) With respect to an amount equal to the net loss  
39 from the eligible small business, 100 percent of that



1 amount shall be carried forward to each of the five  
2 income years following the income year of the loss.

3 (ii) With respect to the portion of the net operating  
4 loss that exceeds the net loss from the eligible small  
5 business, 50 percent of that amount shall be a net  
6 operating loss carryover to each of the five income years  
7 following the income year of the loss.

8 (C) For purposes of Section 172(b)(2) of the Internal  
9 Revenue Code, the amount described in clause (ii) of  
10 subparagraph (B) shall be absorbed before the amount  
11 described in clause (i) of subparagraph (B).

12 (4) In the case of a taxpayer who has a net operating  
13 loss in an income year beginning on or after January 1,  
14 1994, and who operates a business that qualifies as both a  
15 new business and an eligible small business under this  
16 section, that business shall be treated as a new business for  
17 the first three income years of the new business.

18 (5) In the case of a taxpayer who has a net operating  
19 loss in an income year beginning on or after January 1,  
20 1994, and who operates more than one business, and more  
21 than one of those businesses qualifies as either a new  
22 business or an eligible small business under this section,  
23 paragraph (2) shall be applied first, except that if there  
24 is any remaining portion of the net operating loss after  
25 application of clause (i) of subparagraph (B) of  
26 paragraph (2), paragraph (3) shall be applied to the  
27 remaining portion of the net operating loss as though that  
28 remaining portion of the net operating loss constituted  
29 the entire net operating loss.

30 (6) For purposes of this section, “net loss” means the  
31 amount of net loss after application of Sections 465 and  
32 469 of the Internal Revenue Code.

33 (c) For any income year in which the taxpayer has in  
34 effect a water’s-edge election under Section 25110, the  
35 deduction of a net operating loss carryover shall be  
36 denied to the extent that the net operating loss carryover  
37 was determined by taking into account the income and  
38 factors of an affiliated corporation in a combined report  
39 whose income and apportionment factors would not have  
40 been taken into account if a water’s-edge election under



1 Section 25110 had been in effect for the income year in  
2 which the loss was incurred.

3 (d) Net operating loss carrybacks shall not be allowed.

4 (e) (1) Except as provided in paragraphs (2), (3), and  
5 (4), for each income year beginning on or after January  
6 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue  
7 Code, relating to years to which net operating losses may  
8 be carried, is modified to substitute “five income years”  
9 in lieu of ~~“15~~ “20 taxable years.”

10 (2) In the case of a “new business,” the “five income  
11 years” referred to in paragraph (1) shall be modified to  
12 read as follows:

13 (A) “Eight income years” for a net operating loss  
14 attributable to the first income year of that new business.

15 (B) “Seven income years” for a net operating loss  
16 attributable to the second income year of that new  
17 business.

18 (C) “Six income years” for a net operating loss  
19 attributable to the third income year of that new business.

20 (3) For any carryover of a net operating loss for which  
21 a deduction is denied by Section 24416.3, the carryover  
22 period specified in this subdivision shall be extended as  
23 follows:

24 (A) By one year for a net operating loss attributable to  
25 income years beginning in 1991.

26 (B) By two years for a net operating loss attributable  
27 to income years beginning prior to January 1, 1991.

28 (4) The net operating loss attributable to income years  
29 beginning on or after January 1, 1987, and before January  
30 1, 1994, shall be a net operating loss carryover to each of  
31 the 10 income years following the year of the loss if it is  
32 incurred by a corporation that was either of the following:

33 (A) Under the jurisdiction of the court in a Title 11 or  
34 similar case at any time prior to January 1, 1994. The loss  
35 carryover provided in the preceding sentence shall not  
36 apply to any loss incurred in an income year after the  
37 income year during which the corporation is no longer  
38 under the jurisdiction of the court in a Title 11 or similar  
39 case.



1 (B) In receipt of assets acquired in a transaction that  
2 qualifies as a tax-free reorganization under Section  
3 368(a)(1)(G) of the Internal Revenue Code.

4 (f) For purposes of this section:

5 (1) “Eligible small business” means any trade or  
6 business that has gross receipts, less returns and  
7 allowances, of less than one million dollars (\$1,000,000)  
8 during the income year.

9 (2) Except as provided in subdivision (g), “new  
10 business” means any trade or business activity that is first  
11 commenced in this state on or after January 1, 1994.

12 (3) “Title 11 or similar case” shall have the same  
13 meaning as in Section 368(a)(3) of the Internal Revenue  
14 Code.

15 (4) In the case of any trade or business activity  
16 conducted by a partnership or an S corporation,  
17 paragraphs (1) and (2) shall be applied to the partnership  
18 or S corporation.

19 (g) For purposes of this section, in determining  
20 whether a trade or business activity qualifies as a new  
21 business under paragraph (2) of subdivision (e), the  
22 following rules shall apply:

23 (1) In any case where a taxpayer purchases or  
24 otherwise acquires all or any portion of the assets of an  
25 existing trade or business (irrespective of the form of  
26 entity) that is doing business in this state (within the  
27 meaning of Section 23101), the trade or business  
28 thereafter conducted by the taxpayer (or any related  
29 person) shall not be treated as a new business if the  
30 aggregate fair market value of the acquired assets  
31 (including real, personal, tangible, and intangible  
32 property) used by the taxpayer (or any related person)  
33 in the conduct of its trade or business exceeds 20 percent  
34 of the aggregate fair market value of the total assets of the  
35 trade or business being conducted by the taxpayer (or  
36 any related person). For purposes of this paragraph only,  
37 the following rules shall apply:

38 (A) The determination of the relative fair market  
39 values of the acquired assets and the total assets shall be  
40 made as of the last day of the first income year in which



1 the taxpayer (or any related person) first uses any of the  
2 acquired trade or business assets in its business activity.

3 (B) Any acquired assets that constituted property  
4 described in Section 1221(1) of the Internal Revenue  
5 Code in the hands of the transferor shall not be treated as  
6 assets acquired from an existing trade or business, unless  
7 those assets also constitute property described in Section  
8 1221(1) of the Internal Revenue Code in the hands of the  
9 acquiring taxpayer (or related person).

10 (2) In any case where a taxpayer (or any related  
11 person) is engaged in one or more trade or business  
12 activities in this state, or has been engaged in one or more  
13 trade or business activities in this state within the  
14 preceding 36 months (“prior trade or business activity”),  
15 and thereafter commences an additional trade or  
16 business activity in this state, the additional trade or  
17 business activity shall only be treated as a new business if  
18 the additional trade or business activity is classified under  
19 a different division of the Standard Industrial  
20 Classification (SIC) Manual published by the United  
21 States Office of Management and Budget, 1987 edition,  
22 than are any of the taxpayer’s (or any related person’s)  
23 current or prior trade or business activities.

24 (3) In any case where a taxpayer, including all related  
25 persons, is engaged in trade or business activities wholly  
26 outside of this state and the taxpayer first commences  
27 doing business in this state (within the meaning of Section  
28 23101) after December 31, 1993 (other than by purchase  
29 or other acquisition described in paragraph (1)), the  
30 trade or business activity shall be treated as a new  
31 business under paragraph (2) of subdivision (e).

32 (4) In any case where the legal form under which a  
33 trade or business activity is being conducted is changed,  
34 the change in form shall be disregarded and the  
35 determination of whether the trade or business activity  
36 is a new business shall be made by treating the taxpayer  
37 as having purchased or otherwise acquired all or any  
38 portion of the assets of an existing trade or business under  
39 the rules of paragraph (1) of this subdivision.



1 (5) “Related person” shall mean any person that is  
2 related to the taxpayer under either Section 267 or 318 of  
3 the Internal Revenue Code.

4 (6) “Acquire” shall include any transfer, whether or  
5 not for consideration.

6 (7) (A) For income years beginning on or after  
7 January 1, 1997, the term “new business” shall include any  
8 taxpayer that is engaged in biopharmaceutical activities  
9 or other biotechnology activities that are described in  
10 Codes 2833 to 2836, inclusive, of the Standard Industrial  
11 Classification (SIC) Manual published by the United  
12 States Office of Management and Budget, 1987 edition,  
13 and as further amended, and that has not received  
14 regulatory approval for any product from the United  
15 States Food and Drug Administration.

16 (B) For purposes of this paragraph:

17 (i) “Biopharmaceutical activities” means those  
18 activities which use organisms or materials derived from  
19 organisms, and their cellular, subcellular, or molecular  
20 components, in order to provide pharmaceutical  
21 products for human or animal therapeutics and  
22 diagnostics. Biopharmaceutical activities make use of  
23 living organisms to make commercial products, as  
24 opposed to pharmaceutical activities which make use of  
25 chemical compounds to produce commercial products.

26 (ii) “Other biotechnology activities” means activities  
27 consisting of the application of recombinant DNA  
28 technology to produce commercial products, as well as  
29 activities regarding pharmaceutical delivery systems  
30 designed to provide a measure of control over the rate,  
31 duration, and site of pharmaceutical delivery.

32 (h) For purposes of corporations whose net income is  
33 determined under Chapter 17 (commencing with  
34 Section 25101), Section 25108 shall apply to each of the  
35 following:

36 (1) The amount of net operating loss incurred in any  
37 income year which may be carried forward to another  
38 income year.

39 (2) The amount of any loss carry forward which may  
40 be deducted in any income year.



1 (i) The provisions of Section ~~172(b)(1)(K)~~  
2 *172(b)(1)(D)* of the Internal Revenue Code, relating to  
3 bad debt losses of commercial banks, shall not be  
4 applicable.

5 (j) The Franchise Tax Board may prescribe  
6 appropriate regulations to carry out the purposes of this  
7 section, including any regulations necessary to prevent  
8 the avoidance of the purposes of this section through  
9 splitups, shell corporations, partnerships, tiered  
10 ownership structures, or otherwise.

11 (k) The Franchise Tax Board may reclassify any net  
12 operating loss carryover determined under either  
13 paragraph (2) or (3) of subdivision (b) as a net operating  
14 loss carryover under paragraph (1) of subdivision (b)  
15 upon a showing that the reclassification is necessary to  
16 prevent evasion of the purposes of this section.

17 (l) The amendments made by the act adding this  
18 subdivision shall be operative for income years beginning  
19 on or after January 1, 1997.

20 *SEC. 87. Section 24424 of the Revenue and Taxation*  
21 *Code is amended to read:*

22 24424. (a) No deduction shall be allowed for—

23 (1) ~~Premiums paid on any life insurance policy~~  
24 ~~covering the life of any officer or employee, or of any~~  
25 ~~person financially interested in any trade or business~~  
26 ~~carried on by the taxpayer, when the, or endowment or~~  
27 ~~annuity contract, if the taxpayer is directly or indirectly~~  
28 a beneficiary under that policy or contract.

29 (2) Any amount paid or accrued on indebtedness  
30 incurred to purchase or carry a single premium life  
31 insurance, endowment, or annuity contract. This  
32 paragraph shall apply with respect to annuity contracts  
33 only as to contracts purchased after December 31, 1954.

34 (3) Except as provided in subdivision (c), any amount  
35 paid or accrued on indebtedness incurred or continued to  
36 purchase or carry a life insurance, endowment, or annuity  
37 contract (other than a single premium contract or a  
38 contract treated as a single premium contract) pursuant  
39 to a plan of purchase which contemplates the systematic  
40 direct or indirect borrowing of part or all of the increases



1 in the cash value of that contract (either from the insurer  
2 or otherwise). This paragraph shall apply only with  
3 respect to contracts purchased after August 6, 1963.

4 (4) Except as provided in subdivision (d), any interest  
5 paid or accrued on any indebtedness with respect to one  
6 or more insurance policies owned by the taxpayer  
7 covering the life of any individual, or any endowment or  
8 annuity contracts owned by the taxpayer covering any  
9 individual, ~~who is an officer or employee of, or is~~  
10 ~~financially interested in, any trade or business carried on~~  
11 ~~by the taxpayer.~~

12 This paragraph shall apply with respect to contracts  
13 purchased after June 20, 1986.

14 (b) *Paragraph (1) of subdivision (a) shall not apply to*  
15 *either of the following:*

16 (1) *Any annuity contract described in Section*  
17 *72(s)(5) of the Internal Revenue Code.*

18 (2) *Any annuity contract to which Section 72(u) of the*  
19 *Internal Revenue Code applies.*

20 (c) For purposes of paragraph (2) of subdivision (a),  
21 a contract shall be treated as a single premium contract  
22 if either of the following conditions exist:

23 (1) Substantially all the premiums on the contract are  
24 paid within a period of four years from the date on which  
25 the contract is purchased.

26 (2) An amount is deposited after December 31, 1954,  
27 with the insurer for payment of a substantial number of  
28 future premiums on the contract.

29 ~~(e)~~

30 (d) Paragraph (3) of subdivision (a) shall not apply to  
31 any amount paid or accrued by a person during an  
32 income year on indebtedness incurred or continued as  
33 part of a plan referred to in paragraph (3) of subdivision  
34 (a) if any of the following is applicable:

35 (1) No part of four of the annual premiums due during  
36 the seven-year period (beginning with the date the first  
37 premium on the contract to which that plan relates was  
38 paid) is paid under that plan by means of indebtedness.

39 (2) The total of the amounts paid or accrued by that  
40 person during that income year for which (without



1 regard to this paragraph) no deduction would be  
2 allowable by reason of paragraph (3) of subdivision (a)  
3 does not exceed one hundred dollars (\$100).

4 (3) That amount was paid or accrued on indebtedness  
5 incurred because of an unforeseen substantial loss of  
6 income or unforeseen substantial increase in its financial  
7 obligations.

8 (4) That indebtedness was incurred in connection  
9 with its trade or business.

10 For purposes of applying paragraph (1), if there is a  
11 substantial increase in the premiums on a contract, a new  
12 seven-year period described in that paragraph with  
13 respect to that contract shall commence on the date the  
14 first increased premium is paid.

15 ~~(d)~~

16 (e) (1) Paragraph (4) of subdivision (a) shall not  
17 apply to any interest paid or accrued on any indebtedness  
18 with respect to policies or contracts covering an  
19 individual who is a key person to the extent that the  
20 aggregate amount of that indebtedness with respect to  
21 policies and contracts covering that individual does not  
22 exceed fifty thousand dollars (\$50,000).

23 (2) (A) No deduction shall be allowed by reason of  
24 paragraph (1) or the last sentence of subdivision (a) with  
25 respect to interest paid or accrued for any month  
26 beginning after December 31, 1995, to the extent the  
27 amount of that interest exceeds the amount which would  
28 have been determined if the applicable rate of interest  
29 were used for that month.

30 (B) For purposes of subparagraph (A):

31 (i) The applicable rate of interest for any month is the  
32 rate of interest described as Moody's Corporate Bond  
33 Yield Average-Monthly Average Corporates, as  
34 published by Moody's Investors Service, Inc., or any  
35 successor thereto, for that month.

36 (ii) In the case of indebtedness on a contract  
37 purchased on or before June 20, 1986, all of the following  
38 shall apply:

39 (I) If the contract provides a fixed rate of interest, the  
40 applicable rate of interest for any month shall be the



1 Moody's rate described in clause (i) for the month in  
2 which the contract was purchased.

3 (II) If the contract provides a variable rate of interest,  
4 the applicable rate of interest for any month in an  
5 applicable period shall be the Moody's rate described in  
6 clause (i) for the third month preceding the first month  
7 in that period.

8 (III) For purposes of subclause (II), ~~the taxpayer shall~~  
9 ~~elect an applicable period for the contract on its return~~  
10 ~~of tax imposed by this part for its~~ *the term "applicable*  
11 *period" means the 12-month period beginning on the*  
12 *date the policy is issued (and each successive 12-month*  
13 *period thereafter) unless the taxpayer elects a number of*  
14 *months (not greater than 12) other than that 12-month*  
15 *period to be its applicable period. That election shall be*  
16 *made not later than the 90th day after the date of the*  
17 *enactment of the act adding this sentence and, if made,*  
18 *shall apply to the taxpayer's first income year ending on*  
19 *or after December 31, 1995. That applicable period shall*  
20 *be for any number of months (not greater than 12)*  
21 *specified in the election and may not be changed by the*  
22 *taxpayer without 1995, and all subsequent income years,*  
23 *unless revoked with the consent of the Franchise Tax*  
24 *Board.*

25 (3) For purposes of paragraph (1), "key person"  
26 means an officer or 20-percent owner, except that the  
27 number of individuals who may be treated as key persons  
28 with respect to any taxpayer shall not exceed the greater  
29 of:

30 (A) Five individuals.

31 (B) The lesser of 5 percent of the total officers and  
32 employees of the taxpayer or 20 individuals.

33 (4) For purposes of this subdivision, "20-percent  
34 owner" means both of the following:

35 (A) If the taxpayer is a corporation, any person who  
36 ~~owns~~ directly *owns* 20 percent or more of the outstanding  
37 stock of the corporation or stock possessing 20 percent or  
38 more of the total combined voting power of all stock of  
39 the corporation.



1 (B) If the taxpayer is not a corporation, any person  
2 who owns 20 percent or more of the capital or profits  
3 interest in the ~~employer~~ taxpayer.

4 (5) (A) For purposes of subparagraph (A) of  
5 paragraph (4) and for purposes of applying the fifty  
6 thousand dollars (\$50,000) limitation in paragraph (1)  
7 both of the following shall apply:

8 (i) All members of a controlled group shall be treated  
9 as one taxpayer.

10 (ii) The limitation shall be allocated among the  
11 members of the controlled group in the manner the  
12 Franchise Tax Board may prescribe.

13 (B) For purposes of this paragraph, all persons treated  
14 as a single employer under Section 52(a) or 52(b) of the  
15 Internal Revenue Code, relating to special rules, or  
16 Section 414(m) or 414(o) of the Internal Revenue Code,  
17 relating to definitions and special rules, shall be treated  
18 as members of a controlled group.

19 *(f)(1) No deduction shall be allowed for that portion  
20 of the taxpayer's interest expense which is allocable to  
21 unborrowed policy cash values.*

22 *(2) For purposes of paragraph (1), the portion of the  
23 taxpayer's interest expense which is allocable to  
24 unborrowed policy cash values is an amount which bears  
25 the same ratio to the interest expense as:*

26 *(A) The taxpayer's average unborrowed policy cash  
27 values of life insurance policies, and annuity and  
28 endowment contracts, issued after June 8, 1997, bears to*

29 *(B) The sum of:*

30 *(i) In the case of assets of the taxpayer which are life  
31 insurance policies or annuity or endowment contracts,  
32 the average unborrowed policy cash values of those  
33 policies and contracts, and*

34 *(ii) In the case of assets of the taxpayer not described  
35 in clause (i), the average adjusted bases (within the  
36 meaning of Section 24916) of those assets.*

37 *(3) For purposes of this subdivision, the term  
38 "unborrowed policy cash value" means, with respect to  
39 any life insurance policy or annuity or endowment  
40 contract, the excess of:*



1 (A) *The cash surrender value of the policy or contract*  
2 *determined without regard to any surrender charge, over*

3 (B) *The amount of any loan with respect to that policy*  
4 *or contract.*

5 (4) (A) *Paragraph (1) shall not apply to any policy or*  
6 *contract owned by an entity engaged in a trade or*  
7 *business if the policy or contract covers only one*  
8 *individual and if that individual is (at the time first*  
9 *covered by the policy or contract):*

10 (i) *A 20-percent owner of the entity, or*

11 (ii) *An individual (not described in clause (i)) who is*  
12 *an officer, director, or employee of that trade or business.*

13 *A policy or contract covering a 20-percent owner of the*  
14 *entity shall not be treated as failing to meet the*  
15 *requirements of the preceding sentence by reason of*  
16 *covering the joint lives of the owner and the owner's*  
17 *spouse.*

18 (B) *Paragraph (1) shall not apply to any annuity*  
19 *contract to which Section 72(u) of the Internal Revenue*  
20 *Code applies.*

21 (C) *Any policy or contract to which paragraph (1)*  
22 *does not apply by reason of this paragraph shall not be*  
23 *taken into account under paragraph (2).*

24 (D) *For purposes of subparagraph (A), the term*  
25 *“20-percent owner” has the meaning given such term by*  
26 *paragraph (4) of subdivision (e).*

27 (5)(A)(i) *This subdivision shall not apply to any policy*  
28 *or contract held by a natural person.*

29 (ii) *If a trade or business is directly or indirectly the*  
30 *beneficiary under any policy or contract, the policy or*  
31 *contract shall be treated as held by that trade or business*  
32 *and not by a natural person.*

33 (iii)(I) *Clause (ii) shall not apply to any trade or*  
34 *business carried on as a sole proprietorship and to any*  
35 *trade or business performing services as an employee.*

36 (II) *The amount of the unborrowed cash value of any*  
37 *policy or contract which is taken into account by reason*  
38 *of clause (ii) shall not exceed the benefit to which the*  
39 *trade or business is directly or indirectly entitled under*  
40 *the policy or contract.*



1 (iv) A copy of the report required for federal purposes  
2 under Section 264(f) of the Internal Revenue Code shall  
3 be filed with the Franchise Tax Board at a time and in the  
4 manner specified for federal purposes and shall be  
5 treated as a statement referred to in Section 6724(d)(1)  
6 of the Internal Revenue Code.

7 (B) In the case of a partnership or S corporation, this  
8 subdivision shall be applied at the partnership and  
9 corporate levels.

10 (6)(A) If interest on any indebtedness is disallowed  
11 under subdivision (a) or Section 24425, both of the  
12 following shall apply:

13 (i) The disallowed interest shall not be taken into  
14 account for purposes of applying this subdivision.

15 (ii) The amount otherwise taken into account under  
16 subparagraph (B) of paragraph (2) shall be reduced (but  
17 not below zero) by the amount of the indebtedness.

18 (B) This subdivision shall be applied before the  
19 application of Section 263A of the Internal Revenue  
20 Code, relating to capitalization of certain expenses where  
21 taxpayer produces property.

22 (7) The term "interest expense" means the aggregate  
23 amount allowable to the taxpayer as a deduction for  
24 interest (within the meaning of Section 24344) for the  
25 income year (determined without regard to this  
26 subdivision, Section 24425, and Section 291 of the Internal  
27 Revenue Code).

28 (8) All members of a controlled group (within the  
29 meaning of subparagraph (B) of paragraph (5) of  
30 subdivision (e)) shall be treated as one taxpayer for  
31 purposes of this subdivision.

32 (g) (1) The amendments made to this section by the  
33 act adding this subdivision shall apply to interest paid or  
34 accrued after December 31, 1995.

35 (2) (A) The amendments made to this section by the  
36 act adding this subdivision shall not apply to qualified  
37 interest paid or accrued on that indebtedness after  
38 December 31, 1995, and before January 1, 1999, in the case  
39 of either of the following:

40 (i) Indebtedness incurred before January 1, 1996.



1 (ii) Indebtedness incurred before January 1, 1997, with  
2 respect to any contract or policy entered into in 1994 or  
3 1995.

4 (B) For purposes of subparagraph (A), the qualified  
5 interest with respect to any indebtedness for any month  
6 is the amount of interest (otherwise deductible) which  
7 would be paid or accrued for that month on that  
8 indebtedness if—

9 (i) In the case of any interest paid or accrued after  
10 December 31, 1995, indebtedness with respect to no more  
11 than 20,000 insured individuals were taken into account,  
12 and

13 (ii) The lesser of the following rates of interest were  
14 used for that month:

15 (I) The rate of interest specified under the terms of  
16 the indebtedness as in effect on December 31, 1995 (and  
17 without regard to modification of the terms after that  
18 date).

19 (II) The applicable percentage of the rate of interest  
20 described as Moody's Corporate Bond Yield  
21 Average-Monthly Average Corporates as published by  
22 Moody's Investors Service, Inc., or any successor thereto,  
23 for that month. For purposes of clause (i), all persons  
24 treated as a single employer under Section 52(a) or 52(b)  
25 of the Internal Revenue Code, relating to special rules, or  
26 Section 414(m) or 414(o) of the Internal Revenue Code,  
27 relating to definitions and special rules, shall be treated  
28 as one person. Subclause (II) of clause (ii) shall not apply  
29 to any month before January 1, 1996.

30 (C) For purposes of subparagraph (B), the applicable  
31 percentage is as follows:

32 For calendar year:	The percentage is:
33 1996 .....	100 percent
34 1997 .....	90 percent
35 1998 .....	80 percent

36  
37  
38 (3) This subdivision shall not apply to any contract  
39 purchased on or before June 20, 1986, except that



1 paragraph (2) of subdivision (d) shall apply to interest  
2 paid or accrued after December 31, 1995.

3 ~~(f)~~

4 (h) (1) Any amount received under any life  
5 insurance policy or endowment or annuity contract  
6 described in paragraph (4) of subdivision (a) shall be  
7 includable in gross income (in lieu of any other inclusion  
8 in gross income) ratably over the four-income-year  
9 period beginning with the income year that amount  
10 would (but for this paragraph) be includable, upon the  
11 occurrence of either of the following:

12 (A) The complete surrender, redemption, or maturity  
13 of that policy or contract during calendar year 1996, 1997,  
14 or 1998.

15 (B) The full discharge during calendar year 1996, 1997,  
16 or 1998 of the obligation under the policy or contract  
17 which is in the nature of a refund of the consideration  
18 paid for the policy or contract.

19 (2) Paragraph (1) shall only apply to the extent the  
20 amount is includable in gross income for the income year  
21 in which the event described in subparagraph (A) or (B)  
22 of paragraph (1) occurs.

23 (3) Solely by reason of an occurrence described in  
24 subparagraph (A) or (B) of paragraph (1) or solely by  
25 reason of no additional premiums being received under  
26 the contract by reason of a lapse occurring after  
27 December 31, 1995, a contract shall not be treated as  
28 either of the following:

29 (A) Failing to meet the requirement of paragraph (1)  
30 of subdivision (c).

31 (B) A single premium contract under paragraph (1)  
32 of subdivision (b).

33 *(i) The amendments made by the act adding this*  
34 *subdivision shall apply to contracts issued after June 8,*  
35 *1997, in income years beginning on or after January 1,*  
36 *1998. For purposes of the preceding sentence, any*  
37 *material increase in the death benefit or other material*  
38 *change in the contract shall be treated as a new contract,*  
39 *except that the addition of covered lives shall be treated*  
40 *as a new contract only with respect to those additional*



1 covered lives. For purposes of this subdivision, an  
2 increase in the death benefit under a policy of contract  
3 issued in connection with a lapse described in Section  
4 501(d)(2) of the Health Insurance Portability and  
5 Accountability Act of 1996 shall not be treated as a new  
6 contract.

7 SEC. 88. Section 24611 of the Revenue and Taxation  
8 Code is amended to read:

9 24611. (a) Section 404(k) of the Internal Revenue  
10 Code, relating to dividends paid deduction, shall apply to  
11 income years beginning on or after January 1, ~~1996~~-1995.

12 (b) For income years beginning on or after January 1,  
13 1998, Section 404(a)(9) of the Internal Revenue Code,  
14 relating to certain contributions to employee ownership  
15 plans, is modified to provide that Section 404(a)(9) of the  
16 Internal Revenue Code shall not apply to an “S  
17 corporation.”

18 (c) For income years beginning on or after January 1,  
19 1998, Section 404(k)(1) of the Internal Revenue Code,  
20 relating to deduction for dividends on certain employer  
21 securities, is modified to provide that the phrase “a  
22 corporation” shall read “a C corporation.”

23 SEC. 89. Section 24652.5 of the Revenue and Taxation  
24 Code, as added by Chapter 7 of the Statutes of 1998, is  
25 amended to read:

26 24652.5. (a) (1) Section 447(i)(3) of the Internal  
27 Revenue Code, relating to reduction in account if  
28 farming business contracts, shall not apply.

29 (2) Section 447(i)(4) of the Internal Revenue Code,  
30 relating to income inclusions, shall not apply.

31 (3) (A) No suspense account may be established  
32 under Section 447(i) of the Internal Revenue Code,  
33 relating to suspense account for family corporations, by  
34 any corporation required by Section 447 of the Internal  
35 Revenue Code, relating to method of accounting for  
36 corporations engaged in farming, to change its method of  
37 accounting for any income year ending after June 8, 1997.

38 (B) (i) Each suspense account under Section 447(i) of  
39 the Internal Revenue Code shall be reduced (but not



1 below zero) for each income year beginning after June 8,  
2 1997, by an amount equal to the lesser of:

3 (I) The applicable portion of the account.

4 (II) Fifty percent of the net income of the corporation  
5 for the income year, or, if the corporation has no net  
6 income for that year, the amount of any net operating loss  
7 (as defined in Section 172 of the Internal Revenue Code  
8 and as modified for purposes of this part) for that income  
9 year.

10 For purposes of the preceding sentence, the amount of  
11 net income and net operating loss shall be determined  
12 without regard to this paragraph.

13 (ii) The amount of the applicable portion for any  
14 income year shall be reduced (but not below zero) by the  
15 amount of any reduction required for the income year  
16 under any other provision of Section 447(i) of the  
17 Internal Revenue Code.

18 (iii) Any reduction in a suspense account under this  
19 paragraph shall be included in gross income for the  
20 income year of the reduction.

21 (C) For purposes of subparagraph (B), the term  
22 “applicable portion” means, for any income year, the  
23 amount which would ratably reduce the amount in the  
24 account (after taking into account prior reductions) to  
25 zero over the period consisting of that income year and  
26 the remaining income years in those first 20 income years.

27 (D) Any amount in the account as of the close of that  
28 20th year referred to in subparagraph (C) shall be treated  
29 as the applicable portion for each succeeding year  
30 thereafter to the extent not reduced under this paragraph  
31 for any prior income year after the 20th year.

32 (b) This section shall apply to income years ending on  
33 or after December 31, 1997.

34 (c) *This section shall not apply to income years*  
35 *beginning on or after January 1, 1998.*

36 *SEC. 90. Section 24661.5 of the Revenue and Taxation*  
37 *Code, as added by Section 35 of Chapter 7 of the Statutes*  
38 *of 1998, is amended to read:*

39 24661.5. (a) Section 451(e) of the Internal Revenue  
40 Code, relating to special rule for proceeds from livestock



1 sold on account of drought, is modified by substituting the  
2 phrase “drought, flood, or other weather-related  
3 conditions, and that those conditions” in lieu of the phrase  
4 “drought conditions, and that these drought conditions”  
5 contained therein.

6 (b) This section shall apply to sales and exchanges after  
7 December 31, 1996.

8 (c) *This section shall not apply to income years*  
9 *beginning on or after January 1, 1998.*

10 SEC. 91. *Section 24673.2 of the Revenue and Taxation*  
11 *Code is amended to read:*

12 24673.2. (a) Section 460 of the Internal Revenue  
13 Code, relating to special rules for long-term contracts,  
14 shall apply, except as otherwise provided.

15 (b) (1) Section 804(d) of Public Law 99-514, relating  
16 to the effective date of modifications in the method of  
17 accounting for long-term contracts, shall apply to income  
18 years beginning on or after January 1, 1987.

19 (2) In the case of a contract entered into after  
20 February 28, 1986, during an income year beginning  
21 before January 1, 1987, an adjustment to income shall be  
22 made upon completion of the contract, if necessary, to  
23 correct any underreporting or overreporting of income,  
24 for purposes of this part, resulting from differences  
25 between state and federal law for the income year in  
26 which the contract began.

27 (c) (1) The amendments to Section 460 of the  
28 Internal Revenue Code made by Section 10203 of Public  
29 Law 100-203, relating to a reduction in the percentage of  
30 items taken into account under the completed contract  
31 method, shall apply to each income year beginning on or  
32 after January 1, 1990.

33 (2) In the case of a contract entered into after October  
34 13, 1987, during an income year beginning before January  
35 1, 1990, an adjustment to income shall be made upon  
36 completion of the contract, if necessary, to correct any  
37 underreporting or overreporting of income, for purposes  
38 of this part, resulting from differences between state and  
39 federal law for each income year beginning prior to  
40 January 1, 1990.



1 (d) (1) The amendments to Section 460 of the  
2 Internal Revenue Code made by Section 5041 of Public  
3 Law 100-647, relating to a reduction in the percentage of  
4 items taken into account under the completed contract  
5 method, shall apply to each income year beginning on or  
6 after January 1, 1990.

7 (2) In the case of a contract entered into after June 20,  
8 1988, during an income year beginning before January 1,  
9 1990, an adjustment to income shall be made upon  
10 completion of the contract, if necessary, to correct any  
11 underreporting or overreporting of income, for purposes  
12 of this part, resulting from differences between state and  
13 federal law for each income year beginning prior to  
14 January 1, 1990.

15 (e) (1) The amendments to Section 460 of the  
16 Internal Revenue Code made by Section 7621 of Public  
17 Law 101-239, relating to the repeal of the completed  
18 contract method of accounting for long-term contracts,  
19 shall apply to each income year beginning on or after  
20 January 1, 1990.

21 (2) In the case of a contract entered into after July 10,  
22 1989, during an income year beginning on or before  
23 January 1, 1990, an adjustment to income shall be made  
24 upon completion of the contract, if necessary, to correct  
25 any underreporting or overreporting of income, for  
26 purposes of this part, resulting from differences between  
27 state and federal law for each income year beginning  
28 prior to January 1, 1990.

29 (f) For purposes of applying paragraphs (2) to ~~(5)~~ (6),  
30 inclusive, of Section 460(b) of the Internal Revenue  
31 Code, relating to the look-back method, any adjustment  
32 to income computed under paragraph (2) of subdivision  
33 (b), (c), (d), or (e) shall be deemed to have been  
34 reported in the income year from which the adjustment  
35 arose, rather than the income year in which the contract  
36 was completed.

37 *SEC. 92. Section 24710 of the Revenue and Taxation*  
38 *Code is amended to read:*

39 24710. (a) For each income year beginning on or  
40 after January 1, 1997, Section 475 of the Internal Revenue

1 Code, relating to mark to market accounting method for  
2 securities dealers, as ~~added by Section 13223 of the~~  
3 ~~Revenue Reconciliation Act of 1993 (P.L. 103-66)~~, shall  
4 apply, except as otherwise provided.

5 (b) Section 13233(c)(2)(C) of the Revenue  
6 Reconciliation Act of 1993 (P.L. 103-66), relating to the  
7 effective date for changes in the mark to market  
8 accounting method for securities dealers, is modified to  
9 provide that the amount taken into account under  
10 Section 481 of the Internal Revenue Code of 1986 shall be  
11 taken into account ratably over the five-income-year  
12 period beginning with the first income year beginning on  
13 or after January 1, 1997.

14 (c) (1) *If a taxpayer has, at any time, made an election*  
15 *for federal purposes under Section 475(e) of the Internal*  
16 *Revenue Code, relating to election of mark to market for*  
17 *dealers in commodities, to have Section 475 of the*  
18 *Internal Revenue Code apply, Section 475 of the Internal*  
19 *Revenue Code shall apply to that dealer in commodities*  
20 *for state purposes, a separate election for state purposes*  
21 *shall not be allowed under paragraph (3) of subdivision*  
22 *(e) of Section 23051.5, and the federal election shall be*  
23 *binding for purposes of this part.*

24 (2) *If a taxpayer fails to make, or has not previously*  
25 *made, an election for federal purposes under Section*  
26 *475(e) of the Internal Revenue Code, relating to election*  
27 *of mark to market for dealers in commodities, to have*  
28 *Section 475 of the Internal Revenue Code apply, an*  
29 *election under Section 475(e) of the Internal Revenue*  
30 *Code shall not be allowed for state purposes, Section 475*  
31 *of the Internal Revenue Code shall not apply to that*  
32 *dealer in commodities for state purposes, and a separate*  
33 *election for state purposes shall not be allowed under*  
34 *paragraph (3) of subdivision (e) of Section 23051.5.*

35 (d) (1) *If a taxpayer has, at any time, made an election*  
36 *for federal purposes under Section 475(f)(1) of the*  
37 *Internal Revenue Code, relating to election of mark to*  
38 *market for traders in securities, to have Section 475 of the*  
39 *Internal Revenue Code apply to a trade or business,*  
40 *Section 475 of the Internal Revenue Code shall apply to*



1 *that trader in securities for state purposes with respect to*  
2 *that trade or business, a separate election for state*  
3 *purposes with respect to that trade or business shall not*  
4 *be allowed under paragraph (3) of subdivision (e) of*  
5 *Section 23051.5, and the federal election shall be binding*  
6 *for purposes of this part.*

7 (2) *If a taxpayer fails to make, or has not previously*  
8 *made, an election for federal purposes under Section*  
9 *475(f)(1) of the Internal Revenue Code, relating to*  
10 *election of mark to market for traders in securities, to*  
11 *have Section 475 of the Internal Revenue Code apply to*  
12 *a trade or business, an election under Section 475(f)(1)*  
13 *of the Internal Revenue Code shall not be allowed for*  
14 *state purposes with respect to that trade or business,*  
15 *Section 475 of the Internal Revenue Code shall not apply*  
16 *to that trader in securities for state purposes with respect*  
17 *to that trade or business, and a separate election for state*  
18 *purposes shall not be allowed under paragraph (3) of*  
19 *subdivision (e) of Section 23051.5.*

20 (e) (1) *If a taxpayer has, at any time, made an election*  
21 *for federal purposes under Section 475(f)(2) of the*  
22 *Internal Revenue Code, relating to election of mark to*  
23 *market for traders in commodities, to have Section 475 of*  
24 *the Internal Revenue Code apply to a trade or business,*  
25 *Section 475 of the Internal Revenue Code shall apply to*  
26 *that trader in commodities for state purposes with respect*  
27 *to that trade or business, a separate election for state*  
28 *purposes with respect to that trade or business shall not*  
29 *be allowed under paragraph (3) of subdivision (e) of*  
30 *Section 23051.5, and the federal election with respect to*  
31 *that trade or business shall be binding for purposes of this*  
32 *part.*

33 (2) *If a taxpayer fails to make, or has not previously*  
34 *made, an election for federal purposes under Section*  
35 *475(f)(2) of the Internal Revenue Code, relating to*  
36 *election of mark to market for traders in commodities, to*  
37 *have Section 475 of the Internal Revenue Code apply to*  
38 *a trade or business, an election under Section 475(f)(2)*  
39 *of the Internal Revenue Code shall not be allowed for*  
40 *state purposes with respect to that trade or business,*



1 Section 475 of the Internal Revenue Code shall not apply  
2 to that trader in commodities for state purposes with  
3 respect to that trade or business, and a separate election  
4 for state purposes with respect to that trade or business  
5 shall not be allowed under paragraph (3) of subdivision  
6 (e) of Section 23051.5.

7 (f) (1) An election under Section 475(e) or (f) of the  
8 Internal Revenue Code made for federal purposes with  
9 respect to an income year beginning before January 1,  
10 1998, shall be treated as having been made for state  
11 purposes with respect to the first income year beginning  
12 on or after January 1, 1998.

13 (2) Section 1001(d)(4)(B) of the Taxpayer Relief Act  
14 of 1997 (P.L. 105-34), relating to the effective date for  
15 election of mark to market by securities traders and  
16 traders and dealers in commodities, is modified to  
17 provide that the requirement for timely identification  
18 shall be treated as timely made for state purposes if that  
19 identification is treated as timely made for federal  
20 purposes, and the amount taken into account under  
21 Section 481 of the Internal Revenue Code of 1986 shall be  
22 taken into account ratably over the four-income-year  
23 period beginning with the first income year beginning on  
24 or after January 1, 1998.

25 SEC. 93. Section 24871.5 of the Revenue and Taxation  
26 Code, as added by Chapter 7 of the Statutes of 1998, is  
27 amended to read:

28 24871.5. (a) Section 851(b)(3) of the Internal  
29 Revenue Code shall not apply.

30 (b) This section shall apply in determining whether an  
31 entity qualifies as a regulated investment company for  
32 income years of that entity beginning after August 5, 1997.

33 (c) This section shall not apply to income years  
34 beginning on or after January 1, 1998.

35 SEC. 94. Section 24872.4 of the Revenue and Taxation  
36 Code, as added by Chapter 7 of the Statutes of 1998, is  
37 amended to read:

38 24872.4. (a) ~~(1) Section 856(a)(6) of the Internal~~  
39 ~~Revenue Code is modified by substituting the phrase~~



1 ~~“subject to the provisions of paragraph (2), which is not”~~  
2 ~~for the phrase “which is not.”~~

3 ~~(2) Section 856 of the Internal Revenue Code is~~  
4 ~~modified to additionally provide that a corporation, trust,~~  
5 ~~or association that meets both of the following~~  
6 ~~requirements, shall be treated as having met the~~  
7 ~~requirement of Section 856(a)(6) of the Internal~~  
8 ~~Revenue Code for the income year:~~

9 ~~(A) For an income year that meets the requirements~~  
10 ~~of paragraph (2) of subdivision (a) of Section 24872.7.~~

11 ~~(B) Does not know, or exercising reasonable diligence~~  
12 ~~would not have known, whether the entity failed to meet~~  
13 ~~the requirement of Section 856(a)(6) of the Internal~~  
14 ~~Revenue Code.~~

15 ~~(b) (1) Section 856(d)(2)(C) of the Internal~~  
16 ~~Revenue Code shall not apply.~~

17 ~~(2) Section 856(d)(2) of the Internal Revenue Code is~~  
18 ~~modified to additionally provide that the term “rents~~  
19 ~~from real property” does not include “impermissible~~  
20 ~~tenant service income.”~~

21 ~~(A) The term “impermissible tenant service income”~~  
22 ~~means, with respect to any real or personal property, any~~  
23 ~~amount received or accrued directly or indirectly by the~~  
24 ~~real estate investment trust for either of the following:~~

25 ~~(i) Services furnished or rendered by the trust to the~~  
26 ~~tenants of the property.~~

27 ~~(ii) Managing or operating that property.~~

28 ~~(B) If the amount described in subparagraph (A) with~~  
29 ~~respect to a property for any income year exceeds one~~  
30 ~~percent of all amounts received or accrued during the~~  
31 ~~income year directly or indirectly by the real estate~~  
32 ~~investment trust with respect to that property, the~~  
33 ~~impermissible tenant service income of the trust with~~  
34 ~~respect to the property shall include all those amounts.~~

35 ~~(C) For purposes of subparagraph (A):~~

36 ~~(i) Services furnished or rendered, or management or~~  
37 ~~operation provided, through an independent contractor~~  
38 ~~from whom the trust itself does not derive or receive any~~  
39 ~~income shall not be treated as furnished, rendered, or~~  
40 ~~provided by the trust.~~



1 ~~(ii) There shall not be taken into account any amount~~  
2 ~~which would be excluded from unrelated business taxable~~  
3 ~~income under Section 512(b)(3) of the Internal Revenue~~  
4 ~~Code if Section 856(d)(7)(C)(ii) of the Internal Revenue~~  
5 ~~Code is modified by substituting the phrase “if received~~  
6 ~~by an organization described in subdivision (b) of Section~~  
7 ~~17651 of Part 10 or Section 23731. 23731” for the phrase “if~~  
8 ~~received by an organization described in section~~  
9 ~~511(a)(2).”~~

10 ~~(D) For purposes of subparagraph (A), the amount~~  
11 ~~treated as received for any service (or management or~~  
12 ~~operation) shall not be less than 150 percent of the direct~~  
13 ~~cost of the trust in furnishing or rendering the service (or~~  
14 ~~providing the management or operation).~~

15 ~~(E) For purposes of Sections 856(e)(2) and (3) of the~~  
16 ~~Internal Revenue Code, amounts described in~~  
17 ~~subparagraph (A) shall be included in the gross income~~  
18 ~~of the corporation, trust, or association.~~

19 ~~(c) (1) Section 856(d)(5) of the Internal Revenue~~  
20 ~~Code, relating to constructive ownership of stock, is~~  
21 ~~modified to additionally provide that in determining the~~  
22 ~~ownership of stock under Section 318(a) of the Internal~~  
23 ~~Revenue Code, Section 318(a)(3)(A) of the Internal~~  
24 ~~Revenue Code shall be applied in the case of a~~  
25 ~~partnership by taking into account only partners who~~  
26 ~~own (directly or indirectly) 25 percent or more of the~~  
27 ~~capital interest, or the profits interest, in the partnership.~~

28 ~~(d) Section 856(e) of the Internal Revenue Code,~~  
29 ~~relating to special rules for foreclosure property, is~~  
30 ~~modified as follows:~~

31 ~~(1) By substituting in Section 856(e)(2) of the Internal~~  
32 ~~Revenue Code the phrase “as of the close of the third~~  
33 ~~income year following the income year in which the trust~~  
34 ~~acquired such property” for the phrase “on the date~~  
35 ~~which is two years after the date the trust acquired such~~  
36 ~~property.”~~

37 ~~(2) By substituting in Section 856(e)(3) of the Internal~~  
38 ~~Revenue Code.~~

39 ~~(A) The phrase “one extension” for the phrase “one or~~  
40 ~~more extensions.”~~



1 ~~(B) The phrase “beyond the close of the third income~~  
2 ~~year following the last income year in the period under~~  
3 ~~Section 856(e)(2) of the Internal Revenue Code” for the~~  
4 ~~phrase “beyond the date which is six years after the date~~  
5 ~~such trust acquired such property.”~~

6 ~~(3) Section 856(e)(4) of the Internal Revenue Code is~~  
7 ~~modified to additionally provide that for purposes of~~  
8 ~~Section 856(e)(4)(C) of the Internal Revenue Code,~~  
9 ~~property shall not be treated as used in a trade or business~~  
10 ~~by reason of any activities of the real estate investment~~  
11 ~~trust with respect to that property to the extent that those~~  
12 ~~activities would not result in amounts received or~~  
13 ~~accrued, directly or indirectly, with respect to that~~  
14 ~~property being treated as other than rents from real~~  
15 ~~property.~~

16 ~~(4) (A) The last sentence in Section 856(e)(5) of the~~  
17 ~~Internal Revenue Code shall not apply.~~

18 ~~(B) (i)~~

19 ~~(b) (1) An election under Section 856(e)(5) of the~~  
20 ~~Internal Revenue Code (as amended by Section 1257 of~~  
21 ~~the Public Law 105-34) for federal purposes shall be~~  
22 ~~treated for purposes of this part as an election made by~~  
23 ~~the real estate investment trust under this subdivision~~  
24 ~~Section 856 (e)(5) of the Internal Revenue Code for state~~  
25 ~~purposes and a separate election under paragraph (3) of~~  
26 ~~subdivision (e) of Section 23051.5 shall not be allowed.~~

27 ~~(ii)~~

28 ~~(2) Any revocation of an election under Section~~  
29 ~~856(e)(5) of the Internal Revenue Code (as amended by~~  
30 ~~Section 1257 of Public Law 105-34) for federal purposes~~  
31 ~~shall be treated for purposes of this part as a revocation~~  
32 ~~of the election made by the real estate investment trust~~  
33 ~~under this subdivision Section 856(e)(5) of the Internal~~  
34 ~~Revenue Code for state purposes and a separate election~~  
35 ~~under paragraph (3) of subdivision (e) of Section 23051.5~~  
36 ~~shall not be allowed with respect to the property for any~~  
37 ~~subsequent income year.~~

38 ~~(3) If the real estate investment trust fails to make an~~  
39 ~~election under Section 856(e)(5) of the Internal Revenue~~  
40 ~~Code for federal purposes with respect to any property,~~



1 that property shall not be treated for purposes of this part  
2 as foreclosure property, an election under Section  
3 856(e)(5) of the Internal Revenue Code for state  
4 purposes with respect to that property shall not be  
5 allowed, and a separate election under paragraph (3) of  
6 subdivision (e) of Section 23051.5 shall not be allowed  
7 with respect to that property.

8 ~~(e) Section 856(i)(2) of the Internal Revenue Code,~~  
9 ~~relating to qualified REIT subsidiary, is modified by~~  
10 ~~substituting the phrase “is held by the real estate~~  
11 ~~investment trust” for the phrase “is held by the real estate~~  
12 ~~investment trust at all times during the period such~~  
13 ~~corporation was in existence.”~~

14 ~~(f) (1) Section 856(j) of the Internal Revenue Code,~~  
15 ~~relating to treatment of shared appreciation mortgages,~~  
16 ~~is modified to additionally provide that for purposes of~~  
17 ~~Section 857(b)(6)(C) of the Internal Revenue Code, if a~~  
18 ~~real estate investment trust is treated as having sold~~  
19 ~~secured property under Section 856(j)(3)(A) of the~~  
20 ~~Internal Revenue Code, the trust shall be treated as~~  
21 ~~having held the property for at least four years if all of the~~  
22 ~~following apply:~~

23 ~~(A) The secured property is sold or otherwise disposed~~  
24 ~~of pursuant to a case under title 11 of the United States~~  
25 ~~Code.~~

26 ~~(B) The seller is under the jurisdiction of the court in~~  
27 ~~that case.~~

28 ~~(C) The disposition is required by the court or is~~  
29 ~~pursuant to a plan approved by the court.~~

30 ~~(2) Paragraph (1) shall not apply if either of the~~  
31 ~~following applies:~~

32 ~~(A) The secured property was acquired by the seller~~  
33 ~~with the intent to evict or foreclose.~~

34 ~~(B) The trust knew or had reason to know that default~~  
35 ~~on the obligation described in Section 856(j)(4)(A) of the~~  
36 ~~Internal Revenue Code would occur.~~

37 ~~(g) Section 856(j)(4)(A)(ii) of the Internal Revenue~~  
38 ~~Code is modified to read “which entitles the real estate~~  
39 ~~investment trust to receive a specified portion of any gain~~  
40 ~~realized on the sale or exchange of that real property (or~~



1 ~~of any gain which would be realized if the property were~~  
2 ~~sold on a specified date) or appreciation in value as of any~~  
3 ~~specified date.”~~

4 ~~(h)~~

5 (c) This section shall apply to income years beginning  
6 after August 5, 1997.

7 (d) *The amendments made to this section by the act*  
8 *adding this subdivision shall apply to income years*  
9 *beginning on or after January 1, 1998.*

10 SEC. 95. *Section 24872.5 of the Revenue and Taxation*  
11 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
12 *amended to read:*

13 24872.5. (a) Section 856(c)(4) of the Internal  
14 Revenue Code shall not apply.

15 (b) (1) Section 856(c)(6)(G) of the Internal  
16 Revenue Code shall not apply and in lieu thereof  
17 paragraph (2) shall apply.

18 (2) Except to the extent provided by regulations of the  
19 Secretary of the Treasury under Section 856(c)(5)(G) of  
20 the Internal Revenue Code (as redesignated and  
21 amended by Public Law 105-34), both of the following  
22 shall be treated as income qualifying under Section  
23 856(c)(2) of the Internal Revenue Code:

24 (A) Any payment to a real estate investment trust  
25 under an interest rate swap or cap agreement, option,  
26 futures contract, forward rate agreement, or any similar  
27 financial instrument, entered into by the trust in a  
28 transaction to reduce the interest rate risks with respect  
29 to any indebtedness incurred or to be incurred by the  
30 trust to acquire or carry real estate assets.

31 (B) Any gain from the sale or other disposition of any  
32 such investment.

33 (c) This section shall apply in determining whether an  
34 entity qualifies as a real estate investment trust for  
35 income years of that entity beginning after August 5, 1997.

36 (d) *This section shall not apply to income years*  
37 *beginning on or after January 1, 1998.*

38 SEC. 96. *Section 24872.7 of the Revenue and Taxation*  
39 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
40 *amended to read:*



1 24872.7. (a) (1) ~~Section 857(a)(2) of the Internal~~  
2 ~~Revenue Code shall not apply.~~

3 (2) ~~Section 857 of the Internal Revenue Code is~~  
4 ~~modified to additionally provide that each real estate~~  
5 ~~investment trust shall for each income year comply with~~  
6 ~~regulations prescribed by the Secretary of the Treasury~~  
7 ~~under Section 857(f) of the Internal Revenue Code (as~~  
8 ~~added by Section 1251 of Public Law 105-34) for the~~  
9 ~~purposes of ascertaining the actual ownership of the~~  
10 ~~outstanding shares, or certificates of beneficial interest, of~~  
11 ~~that trust.~~

12 (3)-(A) Whenever a penalty is imposed *for federal*  
13 *purposes* under Section 857(f)(2)(A) or (B) of the  
14 Internal Revenue Code ~~(as added by Public Law 105-34),~~  
15 whichever is applicable, it shall be deemed that the real  
16 estate investment trust has failed to comply with the  
17 requirements of ~~paragraph (2) Section 857(f)(2)(A) or~~  
18 ~~(B) of the Internal Revenue Code, whichever is~~  
19 ~~applicable, for state purposes~~ for that income year and a  
20 penalty equal to the penalty determined *for federal*  
21 *purposes* under Section 857(f)(2)(A) or (B) of the  
22 Internal Revenue Code ~~(as added by Public Law 105-34),~~  
23 whichever is applicable, shall be imposed and shall be  
24 paid on notice and demand and in the same manner as  
25 tax.

26 (B) No penalty shall be imposed under this paragraph  
27 if the Secretary of the Treasury, under Section  
28 857(f)(2)(D) of the Internal Revenue Code ~~(as added by~~  
29 ~~Public Law 105-34),~~ has determined that the failure to  
30 comply is due to reasonable cause and not to willful  
31 neglect.

32 (4)

33 (2) (A) Whenever a penalty is imposed *for federal*  
34 *purposes* under Section 857(f)(2)(C) of the Internal  
35 Revenue Code ~~(as added by Public Law 105-34)~~ it shall  
36 be deemed that the real estate investment trust has failed  
37 to comply with the requirements of ~~paragraph (2)~~  
38 ~~Section 857(f)(2)(C) of the Internal Revenue Code for~~  
39 ~~state purposes~~ for that income year and an additional  
40 penalty equal to the penalty determined *for federal*



1 *purposes* under Section 857(f)(2)(C) of the Internal  
2 Revenue Code ~~(as added by Public Law 105-34)~~ shall be  
3 imposed and shall be paid on notice and demand and in  
4 the same manner as tax.

5 (B) No penalty shall be imposed under this paragraph  
6 if the Secretary of the Treasury, under Section  
7 857(f)(2)(D) of the Internal Revenue Code ~~(as added by~~  
8 ~~Public Law 105-34)~~, has determined that the failure to  
9 comply is due to reasonable cause and not to willful  
10 neglect.

11 ~~(b) Section 857(b)(6)(C)(iii) of the Internal Revenue~~  
12 ~~Code is modified by substituting the phrase “(other than~~  
13 ~~sales of foreclosure property or sales to which Section 1033~~  
14 ~~of the Internal Revenue Code applies)” for the phrase~~  
15 ~~“(other than foreclosure property)” in each place in~~  
16 ~~which it appears.~~

17 ~~(e) Section 857(d) of the Internal Revenue Code is~~  
18 ~~modified to additionally provide that any distribution~~  
19 ~~which is made in order to comply with the requirements~~  
20 ~~of Section 857(a)(3)(B) of the Internal Revenue Code:~~

21 ~~(1) Shall be treated for purposes of Section 857(d) of~~  
22 ~~the Internal Revenue Code and Section 857(a)(3)(B) of~~  
23 ~~the Internal Revenue Code as made from the earliest~~  
24 ~~accumulated earnings and profits (other than earnings~~  
25 ~~and profits to which Section 857(a)(3)(A) of the Internal~~  
26 ~~Revenue Code applies) rather than the most recently~~  
27 ~~accumulated earnings and profits.~~

28 ~~(2) To the extent treated under paragraph (1) as made~~  
29 ~~from accumulated earnings and profits, shall not be~~  
30 ~~treated as a distribution for purposes of Section~~  
31 ~~857(b)(2)(B) of the Internal Revenue Code.~~

32 ~~(d) (1) Section 857(e)(2)(B) of the Internal Revenue~~  
33 ~~Code shall not apply.~~

34 ~~(2) Section 857(e)(2) of the Internal Revenue Code is~~  
35 ~~modified to additionally provide that the amount~~  
36 ~~determined under that paragraph shall include the~~  
37 ~~amount (if any) by which the amounts includible in gross~~  
38 ~~income with respect to instruments to which Section~~  
39 ~~860E(a) or 1272 of the Internal Revenue Code applies;~~  
40 ~~exceed the amount of money and the fair market value~~



1 of other property received during the income year under  
2 those instruments.

3 ~~(3) Section 857(e)(2) of the Internal Revenue Code is~~  
4 ~~modified to additionally provide that the amount~~  
5 ~~determined under that paragraph shall include amounts~~  
6 ~~includible in income by reason of cancellation of~~  
7 ~~indebtedness.~~

8 (e)

9 (b) This section shall apply to income years beginning  
10 after August 5, 1997.

11 (c) *The amendments made to this section by the act*  
12 *adding this subdivision shall apply to income years*  
13 *beginning on or after January 1, 1998.*

14 *SEC. 97. Section 24875.5 of the Revenue and Taxation*  
15 *Code, as added by Chapter 7 of the Statutes of 1998, is*  
16 *amended to read:*

17 24875.5. (a) Section 860L(b)(1)(A) of the Internal  
18 Revenue Code is modified by substituting the phrase “on  
19 or after the startup date” for the phrase “after the startup  
20 date.”

21 (b) Section 860L(d)(2) of the Internal Revenue Code  
22 is modified by substituting a reference to Section  
23 860I(b)(2) of the Internal Revenue Code in lieu of the  
24 reference to Section 860I(c)(2) of the Internal Revenue  
25 Code.

26 (c) This section shall apply on and after September 1,  
27 1997.

28 (d) *This section shall not apply to income years*  
29 *beginning on or after January 1, 1998.*

30 *SEC. 98. Section 24949.1 of the Revenue and Taxation*  
31 *Code, as added by Section 42 of Chapter 7 of the Statutes*  
32 *of 1998, is amended to read:*

33 24949.1. (a) Section 1033(e) of the Internal Revenue  
34 Code, relating to livestock sold on account of drought, is  
35 modified by substituting the phrase “on account of  
36 drought, flood, or other weather-related conditions” in  
37 lieu of the phrase “on account of drought” contained  
38 therein.

39 (b) This section shall apply to sales and exchanges after  
40 December 31, 1996.



1 (c) This section shall not apply to income years  
2 beginning on or after January 1, 1998.

3 SEC. 99. Section 24954 of the Revenue and Taxation  
4 Code, as added by Chapter 604 of the Statutes of 1997, is  
5 repealed.

6 ~~24954. Section 1042 of the Internal Revenue Code,~~  
7 ~~relating to sales of stock to employee stock ownership~~  
8 ~~plans or certain cooperatives, shall apply to income years~~  
9 ~~beginning on or after January 1, 1996.~~

10 SEC. 100. Section 24954 of the Revenue and Taxation  
11 Code, as added by Chapter 611 of the Statutes of 1997, is  
12 amended to read:

13 24954. For income years beginning on or after  
14 January 1, ~~1996-1995~~, Section 1042 of the Internal Revenue  
15 Code, relating to sales of stock to employee stock  
16 ownership plans or certain cooperatives, shall apply,  
17 except as otherwise provided.

18 SEC. 101. Section 24954.1 is added to the Revenue and  
19 Taxation Code, to read:

20 24954.1. Section 1042(g) of the Internal Revenue  
21 Code, relating to application of section to sales of stock in  
22 agricultural refiners and processors to eligible farm  
23 cooperatives, shall not apply.

24 SEC. 102. Section 24994 of the Revenue and Taxation  
25 Code is amended to read:

26 24994. Section 1272 of the Internal Revenue Code  
27 shall be modified as follows:

28 (a) For income years beginning on or after January 1,  
29 1987, and before the income year in which the debt  
30 obligation matures or is sold, exchanged, or otherwise  
31 disposed, the amount included in gross income under this  
32 part shall be the same as the amount included in gross  
33 income on the federal tax return.

34 (b) The difference between the amount included in  
35 gross income on the federal return and the amount  
36 included in gross income under this part, with respect to  
37 obligations issued after December 31, 1984, for income  
38 years beginning before January 1, 1987, shall be included  
39 in gross income in the income year in which the debt



1 obligation matures or is sold, exchanged, or otherwise  
2 disposed.

3 (c) A taxpayer may elect, in the form and manner as  
4 the Franchise Tax Board may prescribe,

5 (1) To recognize the difference specified in  
6 subdivision (b) ratably in each of the first four income  
7 years beginning on or after January 1, 1987, rather than  
8 at the time the debt obligation matures, is sold,  
9 exchanged, or otherwise disposed, or

10 (2) To apply the provisions of Section 1272 of the  
11 Internal Revenue Code to obligations issued on or after  
12 the first day of the taxpayer's income years beginning on  
13 or after January 1, 1987.

14 (d) *Section 1004(b) of the Taxpayer Relief Act of 1997*  
15 *(P.L. 105-34), relating to the effective date for*  
16 *determination of original issue discount where pooled*  
17 *debt obligations are subject to acceleration, is modified to*  
18 *provide that the changes to Section 1272(a)(6) of the*  
19 *Internal Revenue Code made by the act adding this*  
20 *subdivision shall apply to income years beginning on or*  
21 *after January 1, 1998, and the amount taken into account*  
22 *under Section 481 of the Internal Revenue Code shall be*  
23 *taken into account ratably over the four-income-year*  
24 *period beginning with the first income year beginning on*  
25 *or after January 1, 1998.*

26 *SEC. 103. Section 9551.1 is added to the Vehicle Code,*  
27 *to read:*

28 *9551.1. (a) When an application is made for a*  
29 *renewal or initial registration of a vehicle, the*  
30 *department shall apply the amount of the offset as*  
31 *established by paragraph (1) of subdivision (a) of Section*  
32 *10754 of the Revenue and Taxation Code. The*  
33 *department shall alter its billing notices for vehicle*  
34 *license fees to indicate a total amount to be paid that*  
35 *reflects the amount of the offset. The Department of*  
36 *Motor Vehicles shall, as required by Section 11000.1 of the*  
37 *Revenue and Taxation Code, provide information to the*  
38 *Controller with respect to the amount of the offsets*  
39 *subject to this subdivision.*



1 (b) (1) For purposes of this section, “department”  
2 means the Department of Motor Vehicles and the  
3 Department of Housing and Community Development.

4 (2) This section is inoperative on the date Section  
5 9551.2 becomes operative, and is repealed on July 1, 1999.

6 SEC. 104. Section 9551.2 is added to the Vehicle Code,  
7 to read:

8 9551.2. (a) When an application is made for a  
9 renewal or initial registration of a vehicle, the  
10 department shall apply the amount of any operative  
11 offset established by subdivision (a) of Section 10754 of  
12 the Revenue and Taxation Code. The department shall  
13 alter its billing notice for vehicle license fees to indicate  
14 the amount of the vehicle license fee for each vehicle as  
15 calculated under Section 10752 or 10752.1 of the Revenue  
16 and Taxation Code, or under Section 18115 of the Health  
17 and Safety Code, and the amount of the applicable offset  
18 as required by subdivision (a) of Section 10754 of the  
19 Revenue and Taxation Code. The amount of the offset  
20 shall be identified on the billing notice as the “VLF  
21 Offset.” The Department of Motor Vehicles shall, as  
22 required by Section 11000 of the Revenue and Taxation  
23 Code, provide information to the Controller with respect  
24 to the amount of offsets subject to this subdivision.

25 (b) This section shall become operative on July 1, 1999,  
26 or on that earlier date that is determined by both the  
27 director of the department, and the Director of the  
28 Department of Housing and Community Development,  
29 to be feasible for the implementation of this section.

30 SEC. 105. Section 9554.1 is added to the Vehicle Code,  
31 to read:

32 9554.1. The amount of any penalty calculated  
33 pursuant to Section 9554 or subdivision (b) of Section  
34 18116 of the Health and Safety Code shall be reduced by  
35 the amount of any offset implemented pursuant to  
36 Section 10754 of the Revenue and Taxation Code, or any  
37 portion of the amount of that offset.

38 SEC. 106. (a) The amendments made by this act to  
39 subdivision (a) of Section 18042 of, and to Sections 24611  
40 and 24954 of, the Revenue and Taxation Code shall be



1 *operative for taxable and income years beginning on or*  
2 *after January 1, 1995.*

3 *(b) The Legislature finds and declares that the*  
4 *retroactive changes in taxation made by this act*  
5 *constitute a public purpose of statewide interest and*  
6 *concern because of all of the following:*

7 *(1) Employee stock ownership plans have broadened*  
8 *employee ownership of California businesses.*

9 *(2) Allowing taxpayers that offer employee stock*  
10 *ownership plan benefits to claim tax benefits in 1995 aids*  
11 *both California workers and businesses.*

12 *(3) The lack of conformity to federal tax law would*  
13 *otherwise subject taxpayers to undue recordkeeping*  
14 *burdens and costs of compliance, and because without*  
15 *that conformity employees in this state would be unable*  
16 *to obtain an ownership interest in their company.*  
17 *Moreover, continued conformity will ensure that*  
18 *incentives for the formation and maintenance of*  
19 *employee stock ownership plans in this state are*  
20 *provided.*

21 *SEC. 107. (a) It is the intent of the Legislature that*  
22 *in the case of Sections 17088.5, 17088.6, 17760.5, 18510,*  
23 *19184, 23800.5, 24652.5, 24871.5, 24872.4, 27872.5, 24872.7,*  
24 *and 24875.5 of the Revenue and Taxation Code, which*  
25 *were added or amended by Chapter 7 of the Statutes of*  
26 *1998 and amended by this act, the following rules shall*  
27 *apply in determining the applicability of these sections:*

28 *(1) For taxable and income years beginning before*  
29 *January 1, 1998, the section as contained in Chapter 7 of*  
30 *the Statutes of 1998 shall apply.*

31 *(2) For taxable and income years beginning on or after*  
32 *January 1, 1998, the section as contained in this act shall*  
33 *apply.*

34 *(b) Except as provided in paragraph (3), Sections*  
35 *17062, 17132.6, 17559, 18037.3, 18572, 23456, 24661.5, and*  
36 *24949.1 of the Revenue and Taxation Code which are*  
37 *contained in both this act and Chapter 7 of the Statutes*  
38 *of 1998 shall be applied in the following manner:*



1 (1) For transactions occurring before January 1, 1998,  
2 the sections contained in Chapter 7 of the Statutes of 1998  
3 shall apply.

4 (2) For transactions occurring on or after January 1,  
5 1998, the sections contained in this act shall apply.

6 (3) This amendment to subparagraph (A) of  
7 paragraph (1) of subdivision (c) Section 17062 of the  
8 Revenue and Taxation Code made this act consistent with  
9 the intent of Chapter 7 of the Statutes of 1998, and as such,  
10 shall apply as provided in that act.

11 SEC. 108. It is the intent of the Legislature in enacting  
12 this act to better understand the relationship of directed  
13 tax credits to the creation of jobs in California.

14 SEC. 109. This act provides for a tax levy within the  
15 meaning of Article IV of the Constitution and shall go into  
16 immediate effect.

17 \_\_\_\_\_

18 CORRECTIONS

19 **Heading — Lines 4, 6 & 8.**

20 **Digest — Page 2.**

21 **Text — Page 131.**

22 \_\_\_\_\_

23

