

AMENDED IN SENATE JUNE 15, 1999
AMENDED IN ASSEMBLY JUNE 2, 1999
AMENDED IN ASSEMBLY MARCH 23, 1999
AMENDED IN ASSEMBLY MARCH 1, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 10

Introduced by ~~Assembly Members Correa, Davis, and
Ducheny~~

~~(Principal coauthors: Assembly Members Hertzberg and
Nakano)~~ *Assembly Members Correa, Florez, Havice, Rod
Pacheco, Jackson, Nakano, Reyes, Soto, Wayne, and Maddox
and Senators Johnson, Brulte, Ortiz, Karnette, and Speier*

December 7, 1998

~~An act to amend Sections 23153 and 23221 of the Revenue
and Taxation Code, relating to taxation, to take effect
immediately, tax levy. An act to amend Section 23153 of, and
to amend, repeal, and add Section 23221 of, the Revenue and
Taxation Code, relating to taxation, to take effect
immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 10, as amended, Correa. Bank and corporation taxes:
minimum franchise tax.

*The Bank and Corporation Tax Law generally imposes a
franchise tax on corporations doing business within the limits*

of this state, including a minimum franchise tax on specified banks and corporations, except as provided, and provides, for income years beginning on or after January 1, 1999, for a minimum franchise tax of \$500 for the 2nd taxable year for any corporation, except as specified, that has gross receipts, less returns and allowances reportable to this state, of less than \$1,000,000 for the income year. The reduced tax applies to any corporation that is a qualified new corporation, as defined, incorporated on or after January 1, 1999.

This bill would provide that for income years beginning on or after January 1, 2000, every corporation, except as specified, that qualifies to do business in this state on or after January 1, 2000, shall not be subject to the minimum franchise tax for its first and second taxable years.

The Bank and Corporation Tax Law provides that a corporation that incorporates under the laws of this state or qualifies to transact interstate business in this state shall prepay a specified minimum franchise tax of \$800, except as provided. That law also provides that, for income years commencing on or after January 1, 1999, the amount of the prepaid minimum franchise tax for a qualified new corporation, as defined, shall be \$300, unless its gross receipts, as specified, or its tax liability, exceeds specified amounts.

This bill would provide that every corporation that incorporates under the laws of this state or qualifies to do business in this state on or after January 1, 2000, and before January 1, 2001, shall not be subject to the prepayment of that minimum franchise tax, except as provided. This bill would eliminate the prepayment of minimum franchise tax provisions on January 1, 2001, except as provided.

This bill would take effect immediately as a tax levy.

~~The Bank and Corporation Tax Law generally imposes a franchise tax on corporations doing business within the limits of this state, including a minimum franchise tax on specified banks and corporations, except as provided, and provides, for income years beginning on or after January 1, 1999, for a minimum franchise tax of \$500 for the 2nd taxable year for any corporation, except as specified, that has gross receipts, less returns and allowances reportable to this state, of less than \$1,000,000 for the income year. The reduced tax applies to any~~



~~corporation that is a qualified new corporation, as defined, incorporated on or after January 1, 1999.~~

~~This bill would provide that for income years beginning on or after January 1, 2000, every qualified new corporation shall not be subject to the minimum franchise tax for the 2nd taxable year.~~

~~The Bank and Corporation Tax Law provides that a corporation that incorporates under the laws of this state or qualifies to transact interstate business in this state shall prepay a specified minimum franchise tax of \$800, except as provided. That law also provides that, for income years commencing on or after January 1, 1999, the amount of the prepaid minimum franchise tax for a qualified new corporation, as defined, shall be \$300, unless its gross receipts, as specified, or its tax liability, exceeds specified amounts.~~

~~This bill would provide that, for income years commencing on or after January 1, 2000, the amount of the prepaid minimum franchise tax for a qualified new corporation shall be \$0 for its first taxable year.~~

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

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

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

- 1 ~~SECTION 1. Section 23153 of the Revenue and~~
- 2 ~~SECTION 1. Section 23153 of the Revenue and~~
- 3 ~~Taxation Code is amended to read:~~
- 4 23153. (a) Every corporation described in
- 5 subdivision (b) shall be subject to the minimum franchise
- 6 tax specified in subdivision (d) from the earlier of the
- 7 date of incorporation, qualification, or commencing to do
- 8 business within this state, until the effective date of
- 9 dissolution or withdrawal as provided in Section 23331 or,
- 10 if later, the date the corporation ceases to do business
- 11 within the limits of this state.
- 12 (b) Unless expressly exempted by this part or the
- 13 California Constitution, subdivision (a) shall apply to
- 14 each of the following:



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

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

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

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

11 (1) Credit unions.

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

25 (d) (1) Except as provided in paragraph (2),
26 corporations subject to the minimum franchise tax shall
27 pay annually to the state a minimum franchise tax of eight
28 hundred dollars (\$800).

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

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

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



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

4 (e) Notwithstanding subdivision (a), for income years
5 beginning on or after January 1, 1999, *and before January*
6 *1, 2000*, every “qualified new corporation” shall pay
7 annually to the state a minimum franchise tax of five
8 hundred dollars (\$500) for the second taxable year. This
9 subdivision shall apply to any corporation that is a
10 qualified new corporation and is incorporated on or after
11 January 1, 1999, *and before January 1, 2000*.

12 (1) The determination of the gross receipts of a
13 corporation, for purposes of this subdivision, shall be
14 made by including the gross receipts of each member of
15 the commonly controlled group, as defined in Section
16 25105, of which the corporation is a member.

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

23 (3) “Qualified new corporation” means a corporation
24 that begins business operations at or after the time of its
25 incorporation and that reasonably estimates that it will
26 have gross receipts, less returns and allowances,
27 reportable to this state for the income year of less than
28 one million dollars (\$1,000,000). “Qualified new
29 corporation” does not include any corporation that began
30 business operations as a single proprietorship, a
31 partnership, or any other form of business entity prior to
32 its incorporation. This subdivision shall not apply to any
33 corporation that reorganizes solely for the purpose of
34 reducing its minimum franchise tax.

35 (4) This subdivision shall not apply to limited
36 partnerships, as defined in Section 17935, limited liability
37 companies, as defined in Section 17941, limited liability
38 partnerships, as defined in Section 17948, charitable
39 organizations, as described in Section 23703, regulated
40 investment companies, as defined in Section 851 of the



1 Internal Revenue Code, real estate investment trusts, as
2 defined in Section 856 of the Internal Revenue Code, real
3 estate mortgage investment conduits, as defined in
4 Section 860D of the Internal Revenue Code, financial
5 asset securitization investment trusts, as defined in
6 Section 860L of the Internal Revenue Code, qualified
7 Subchapter S subsidiaries, as defined in Section
8 1361(b)(3) of the Internal Revenue Code, or to the
9 formation of any subsidiary corporation, to the extent
10 applicable.

11 (5) For any income year beginning on or after January
12 1, 1999, and before January 1, 2000, if a corporation has
13 paid five hundred dollars (\$500) for the second taxable
14 year under this subdivision, but in its second taxable year,
15 the corporation's gross receipts, as determined under
16 paragraphs (1) and (2), exceed one million dollars
17 (\$1,000,000), an additional tax in the amount equal to
18 three hundred dollars (\$300) for the second taxable year
19 shall be due and payable by the corporation on the due
20 date of its return, without regard to extension, for that
21 year.

22 (f) (1) *Notwithstanding subdivision (a), every*
23 *corporation that incorporates or qualifies to do business*
24 *in this state on or after January 1, 2000, shall not be subject*
25 *to the minimum franchise tax for its first and second*
26 *taxable years.*

27 (2) *This subdivision shall not apply to limited*
28 *partnerships, as defined in Section 17935, limited liability*
29 *companies, as defined in Section 17941, limited liability*
30 *partnerships, as defined in Section 17948, charitable*
31 *organizations, as described in Section 23703, regulated*
32 *investment companies, as defined in Section 851 of the*
33 *Internal Revenue Code, real estate investment trusts, as*
34 *defined in Section 856 of the Internal Revenue Code, real*
35 *estate mortgage investment conduits, as defined in*
36 *Section 860D of the Internal Revenue Code, financial*
37 *asset securitization investment trusts, as defined in*
38 *Section 860L of the Internal Revenue Code, and qualified*
39 *Subchapter S subsidiaries, as defined in Section*



1 1361(b)(3) of the Internal Revenue Code, to the extent
2 applicable.

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

6 (g) Notwithstanding subdivision (a), a domestic
7 corporation, as defined in Section 167 of the Corporations
8 Code, that files a certificate of dissolution in the office of
9 the Secretary of State pursuant to subdivision (c) of
10 Section 1905 of the Corporations Code and that does not
11 thereafter do business shall not be subject to the
12 minimum franchise tax for income years beginning on or
13 after the date of that filing.

14 ~~(g)~~

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

19 SEC. 2. Section 23221 of the Revenue and Taxation
20 Code is amended to read:

21 23221. (a) Except as provided under ~~subdivision (b)~~
22 ~~subdivisions (b) and (f)~~, a corporation which
23 incorporates under the laws of this state or qualifies to
24 transact intrastate business in this state shall thereupon
25 prepay the minimum tax provided in Section 23153,
26 except that any credit union shall thereupon prepay a tax
27 of twenty-five dollars (\$25). The prepayment shall be
28 made to the Secretary of State with the filing of the
29 articles of incorporation or the statement and designation
30 by a foreign corporation. The Secretary of State shall
31 transmit the amount of the prepayment to the Franchise
32 Tax Board. The Franchise Tax Board shall certify to the
33 Secretary of State on an individual or class basis those
34 domestic or foreign corporations which are exempt from
35 prepayment or for which prepayment to the Secretary of
36 State is waived.

37 (b) (1) For income years commencing on or after
38 January 1, 1997, and before January 1, 1999, the amount
39 payable by a qualified new corporation under subdivision
40 (a) shall be six hundred dollars (\$600).



1 (2) For income years commencing on or after January
2 1, 1999, and before January 1, 2000, the amount payable
3 by a qualified new corporation under subdivision (a) shall
4 be three hundred dollars (\$300).

5 (c) For purposes of this section, “qualified new
6 corporation” means a corporation that begins operation
7 at or after the time of its incorporation and that
8 reasonably estimates that, for the income year, it will have
9 both gross receipts, less returns and allowances
10 reportable to this state, of one million dollars (\$1,000,000)
11 or less and a tax liability under Section 23151 that does not
12 exceed eight hundred dollars (\$800). “Qualified new
13 corporation” does not include any corporation that began
14 business operations as a single proprietorship, a
15 partnership, or any other form of business entity prior to
16 its incorporation.

17 (1) The determination of gross receipts of a
18 corporation, for purposes of this section, shall be made by
19 including the gross receipts of each member of the
20 commonly controlled group, as defined in Section 25105,
21 of which the bank or corporation is a member.

22 (2) “Gross receipts, less returns and allowances
23 reportable to this state,” means the sum of the gross
24 receipts from the production of business income, as
25 defined in subdivision (a) of Section 25120, and the gross
26 receipts from the production of nonbusiness income, as
27 defined in subdivision (d) of Section 25120.

28 (d) Subdivision (b) shall not apply to any corporation
29 if 50 percent or more of its stock is, or will be upon the
30 initial issuance of stock, owned by another corporation.

31 (e) (1) For income years commencing on or after
32 January 1, 1997 and before January 1, 1999, if a corporation
33 paid six hundred dollars (\$600) under paragraph (1) of
34 subdivision (b), but for its first income year the
35 corporation’s tax liability under Section 23151 exceeds
36 eight hundred dollars (\$800), or the corporation’s gross
37 receipts, as determined under paragraph (2) of
38 subdivision (c), exceed one million dollars (\$1,000,000),
39 an additional tax in an amount equal to two hundred
40 dollars (\$200) shall be due and payable by the corporation



1 on the due date of its return, without regard to extension,
2 for its first income year.

3 (2) For income years commencing on or after January
4 1, 1999, *and before January 1, 2000*, if a corporation paid
5 three hundred dollars (\$300) under paragraph (2) of
6 subdivision (b), but for its first income year the
7 corporation's tax liability under Section 23151 exceeds
8 eight hundred dollars (\$800), or the corporation's gross
9 receipts, as determined under paragraphs (1) and (2) of
10 subdivision (c), exceed one million dollars (\$1,000,000),
11 an additional tax in an amount equal to five hundred
12 dollars (\$500) shall be due and payable by the corporation
13 on the due date of its return, without regard to extension,
14 for its first income year.

15 ~~(f) The amendments made by the act adding this~~
16 ~~subdivision shall apply to income years commencing on~~
17 ~~or after January 1, 1999. Every corporation that~~
18 ~~incorporates under the laws of this state or qualifies to~~
19 ~~transact intrastate business in this state on or after~~
20 ~~January 1, 2000, and before January 1, 2001, shall not be~~
21 ~~subject to the amount payable under subdivision (a),~~
22 ~~except that any credit union shall thereupon prepay a tax~~
23 ~~of twenty-five dollars (\$25).~~

24 (g) *This section shall remain in effect only until*
25 *January 1, 2001, and as of that date is repealed.*

26 SEC. 3. *Section 23221 of the Revenue and Taxation*
27 *Code is added to read:*

28 23221. (a) *Any credit union that incorporates under*
29 *the laws of this state or qualifies to transact intrastate*
30 *business in this state shall thereupon prepay a tax of*
31 *twenty-five dollars (\$25) as provided in Section 23153.*
32 *The prepayment shall be made to the Secretary of State*
33 *with the filing of the articles of incorporation or the*
34 *statement and designation by a foreign corporation. The*
35 *Secretary of State shall transmit the amount of the*
36 *prepayment to the Franchise Tax Board. The Franchise*
37 *Tax Board shall certify to the Secretary of State on an*
38 *individual or class basis those domestic or foreign*
39 *corporations that are exempt from prepayment or for*
40 *which prepayment to the Secretary of State is waived.*

1 (b) This section shall become operative and apply
2 beginning on or after January 1, 2001.

3 SEC. 4. This act provides for a tax levy within the
4 meaning of Article IV of the Constitution and shall go into
5 immediate effect.

6 Taxation Code is amended to read:

7 23153. (a) Every ~~corporation~~ described in
8 subdivision (b) shall be subject to the minimum franchise
9 tax specified in subdivision (d) from the earlier of the
10 date of incorporation, qualification, or commencing to do
11 business within this state, until the effective date of
12 dissolution or withdrawal as provided in Section 23331 or,
13 if later, the date the corporation ceases to do business
14 within the limits of this state.

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

18 (1) Every corporation that is incorporated under the
19 laws of this state.

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

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

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

28 (1) Credit unions.

29 (2) Nonprofit ~~cooperative~~ associations organized
30 pursuant to Chapter 1 (commencing with Section 54001)
31 of Division 20 of the Food and Agricultural Code that
32 have been issued the certificate of the board of
33 supervisors prepared pursuant to Section 54042 of the
34 Food and Agricultural Code. The association shall be
35 exempt from the minimum franchise tax for five
36 consecutive income years, commencing with the first
37 income year for which the certificate is issued pursuant
38 to subdivision (b) of Section 54042 of the Food and
39 Agricultural Code. This paragraph only applies to



1 ~~nonprofit cooperative associations organized on or after~~
2 ~~January 1, 1994.~~

3 ~~(d) (1) Except as provided in paragraph (2),~~
4 ~~corporations subject to the minimum franchise tax shall~~
5 ~~pay annually to the state a minimum franchise tax of eight~~
6 ~~hundred dollars (\$800).~~

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

9 ~~(A) A corporation formed under the laws of this state~~
10 ~~whose principal business when formed was gold mining,~~
11 ~~which is inactive and has not done business within the~~
12 ~~limits of the state since 1950.~~

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

18 ~~(3) For purposes of paragraph (2), a corporation shall~~
19 ~~not be considered to have done business if it engages in~~
20 ~~other than mining.~~

21 ~~(e) Notwithstanding subdivision (a), for income years~~
22 ~~beginning on or after January 1, 1999, every "qualified~~
23 ~~new corporation" shall pay annually to the state a~~
24 ~~minimum franchise tax of five hundred dollars (\$500) for~~
25 ~~the second taxable year, and for income years~~
26 ~~commencing on or after January 1, 2000, every qualified~~
27 ~~new corporation shall not be subject to the minimum~~
28 ~~franchise tax for the second taxable year. This subdivision~~
29 ~~shall apply to any corporation that is a qualified new~~
30 ~~corporation and is incorporated on or after January 1,~~
31 ~~1999.~~

32 ~~(1) The determination of the gross receipts of a~~
33 ~~corporation, for purposes of this subdivision, shall be~~
34 ~~made by including the gross receipts of each member of~~
35 ~~the commonly controlled group, as defined in Section~~
36 ~~25105, of which the corporation is a member.~~

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



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

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

15 (4) This subdivision shall not apply to limited
16 partnerships, as defined in Section 17935, limited liability
17 companies, as defined in Section 17941, limited liability
18 partnerships, as defined in Section 17948, charitable
19 organizations, as described in Section 23703, regulated
20 investment companies, as defined in Section 851 of the
21 Internal Revenue Code, real estate investment trusts, as
22 defined in Section 856 of the Internal Revenue Code, real
23 estate mortgage investment conduits, as defined in
24 Section 860D of the Internal Revenue Code, financial
25 asset securitization investment trusts, as defined in
26 Section 860L of the Internal Revenue Code, qualified
27 Subchapter S subsidiaries, as defined in Section
28 1361(b)(3) of the Internal Revenue Code, or to the
29 formation of any subsidiary corporation, to the extent
30 applicable.

31 (5) For any income year beginning on or after January
32 1, 1999, if a corporation has paid five hundred dollars
33 (\$500) for the second taxable year under this subdivision,
34 but in its second taxable year, the corporation’s gross
35 receipts, as determined under paragraphs (1) and (2),
36 exceed one million dollars (\$1,000,000), an additional tax
37 in the amount equal to three hundred dollars (\$300) for
38 the second taxable year shall be due and payable by the
39 corporation on the due date of its return, without regard
40 to extension, for that year.



1 ~~(f) Notwithstanding subdivision (a), a domestic~~
2 ~~corporation, as defined in Section 167 of the Corporations~~
3 ~~Code, that files a certificate of dissolution in the office of~~
4 ~~the Secretary of State pursuant to subdivision (e) of~~
5 ~~Section 1905 of the Corporations Code and that does not~~
6 ~~thereafter do business shall not be subject to the~~
7 ~~minimum franchise tax for income years beginning on or~~
8 ~~after the date of that filing.~~

9 ~~(g) The minimum franchise tax imposed by paragraph~~
10 ~~(1) of subdivision (d) shall not be increased by the~~
11 ~~Legislature by more than 10 percent during any calendar~~
12 ~~year.~~

13 ~~SEC. 2. Section 23221 of the Revenue and Taxation~~
14 ~~Code is amended to read:~~

15 ~~23221. (a) Except as provided under subdivision (b),~~
16 ~~a corporation which incorporates under the laws of this~~
17 ~~state or qualifies to transact intrastate business in this~~
18 ~~state shall thereupon prepay the minimum tax provided~~
19 ~~in Section 23153, except that any credit union shall~~
20 ~~thereupon prepay a tax of twenty five dollars (\$25). The~~
21 ~~prepayment shall be made to the Secretary of State with~~
22 ~~the filing of the articles of incorporation or the statement~~
23 ~~and designation by a foreign corporation. The Secretary~~
24 ~~of State shall transmit the amount of the prepayment to~~
25 ~~the Franchise Tax Board. The Franchise Tax Board shall~~
26 ~~certify to the Secretary of State on an individual or class~~
27 ~~basis those domestic or foreign corporations which are~~
28 ~~exempt from prepayment or for which prepayment to~~
29 ~~the Secretary of State is waived.~~

30 ~~(b) (1) For income years commencing on or after~~
31 ~~January 1, 1997, and before January 1, 1999, the amount~~
32 ~~payable by a qualified new corporation under subdivision~~
33 ~~(a) shall be six hundred dollars (\$600).~~

34 ~~(2) For income years commencing on or after January~~
35 ~~1, 1999, and before January 1, 2000, the amount payable~~
36 ~~by a qualified new corporation under subdivision (a) shall~~
37 ~~be three hundred dollars (\$300).~~

38 ~~(3) For income years commencing on or after January~~
39 ~~1, 2000, the amount payable by a qualified new~~



1 corporation under subdivision (a) shall be zero dollars
2 (\$0).

3 (e) For purposes of this section, “qualified new
4 corporation” means a corporation that begins operation
5 at or after the time of its incorporation and that
6 reasonably estimates that, for the income year, it will have
7 both gross receipts, less returns and allowances
8 reportable to this state, of one million dollars (\$1,000,000)
9 or less and a tax liability under Section 23151 that does not
10 exceed eight hundred dollars (\$800). “Qualified new
11 corporation” does not include any corporation that began
12 business operations as a single proprietorship, a
13 partnership, or any other form of business entity prior to
14 its incorporation.

15 (1) The determination of gross receipts of a
16 corporation, for purposes of this section, shall be made by
17 including the gross receipts of each member of the
18 commonly controlled group, as defined in Section 25105,
19 of which the bank or corporation is a member.

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

26 (d) Subdivision (b) shall not apply to any corporation
27 if 50 percent or more of its stock is, or will be upon the
28 initial issuance of stock, owned by another corporation.

29 (e) (1) For income years commencing on or after
30 January 1, 1997, and before January 1, 1999, if a
31 corporation paid six hundred dollars (\$600) under
32 paragraph (1) of subdivision (b), but for its first income
33 year the corporation’s tax liability under Section 23151
34 exceeds eight hundred dollars (\$800), or the
35 corporation’s gross receipts, as determined under
36 paragraph (2) of subdivision (e), exceed one million
37 dollars (\$1,000,000), an additional tax in an amount equal
38 to two hundred dollars (\$200) shall be due and payable by
39 the corporation on the due date of its return, without
40 regard to extension, for its first income year.



1 ~~(2) For income years commencing on or after January~~
2 ~~1, 1999, if a corporation paid three hundred dollars (\$300)~~
3 ~~under paragraph (2) of subdivision (b), but for its first~~
4 ~~income year the corporation's tax liability under Section~~
5 ~~23151 exceeds eight hundred dollars (\$800), or the~~
6 ~~corporation's gross receipts, as determined under~~
7 ~~paragraphs (1) and (2) of subdivision (c), exceed one~~
8 ~~million dollars (\$1,000,000), an additional tax in an~~
9 ~~amount equal to five hundred dollars (\$500) shall be due~~
10 ~~and payable by the corporation on the due date of its~~
11 ~~return, without regard to extension, for its first income~~
12 ~~year.~~

13 ~~(f) The amendments made by the act adding this~~
14 ~~subdivision shall apply to income years commencing on~~
15 ~~or after January 1, 1999.~~

16 ~~SEC. 3. The Secretary of State shall report to the~~
17 ~~Legislature by January 31, 2002, the number of new small~~
18 ~~businesses incorporated in each of the previous calendar~~
19 ~~years since 1996 and the length of time those businesses~~
20 ~~continued to do business.~~

21 ~~SEC. 4. This act provides for a tax levy within the~~
22 ~~meaning of Article IV of the Constitution and shall go into~~
23 ~~immediate effect.~~

24

