

AMENDED IN ASSEMBLY MARCH 4, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 19

**Introduced by Assembly Member Leach
(Coauthors: Assembly Members Battin, Cox, and
Campbell)**

December 7, 1998

An act to amend ~~Section 23153~~ *Sections 17935, 17946, 17948.2, and 23151.2* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 19, as amended, Leach. Income and bank and corporation taxes: ~~—minimum franchise tax: capital gains dissolution or withdrawal.~~

~~The Bank 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.~~

~~This bill would exempt from the minimum franchise tax any corporation that, during the income year, has been incorporated for less than five years, as provided.~~

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

The Bank and Corporation Tax Law provides that all banks and corporations subject to tax and not otherwise exempted shall pay annually a minimum franchise tax of \$800, except as specified. The minimum tax is also imposed on limited liability companies, limited liability partnerships, and foreign limited

liability partnerships. Those entities are not subject to that tax if the entity does no business in this state during the taxable year and the taxable year is 15 days or less.

This bill would provide that if the entity is dissolved or withdraws from the state during any taxable year, it shall pay the minimum tax only for the months of the taxable year that precede the effective date of the dissolution or withdrawal, which shall be a percentage of that tax, determined pursuant to a formula, as provided.

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 17935 of the Revenue and
3 Taxation Code is amended to read:
4 17935. (a) For each taxable year beginning on or
5 after January 1, 1997, every limited partnership doing
6 business in this state (as defined by Section 23101) and
7 required to file a return under Section 18633 shall pay
8 annually to this state a tax for the privilege of doing
9 business in this state in an amount equal to the applicable
10 amount specified in Section 23153.
11 (b) (1) In addition to any limited partnership that is
12 doing business in this state and therefore is subject to the
13 tax imposed by subdivision (a), for each taxable year
14 beginning on or after January 1, 1997, every limited
15 partnership that has executed, acknowledged, and filed
16 a certificate of limited partnership with the Secretary of
17 State pursuant to Section 15621 of the Corporations Code,
18 and every foreign limited partnership that has registered
19 with the Secretary of State pursuant to Section 15692 of
20 the Corporations Code, shall pay annually the tax
21 prescribed in subdivision (a). The tax shall be paid for
22 each taxable year, or part thereof, until a certificate of
23 cancellation is filed on behalf of the limited partnership
24 with the office of the Secretary of State pursuant to
25 Section 15623 or 15696 of the Corporations Code.



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

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

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

15 (e) *A limited partnership that is dissolved or*
16 *withdraws from the state during any taxable year shall*
17 *pay a tax only for the months of the taxable year that*
18 *precede the effective date of the dissolution or*
19 *withdrawal, which shall be a percentage of the annual tax*
20 *imposed under Section 23153, determined by*
21 *ascertaining the ratio that the months of the taxable year,*
22 *preceding the effective date of dissolution or withdrawal,*
23 *bear to the months of the taxable year.*

24 SEC. 2. Section 17946 of the Revenue and Taxation
25 Code is amended to read:

26 17946. (a) A limited liability company shall not be
27 subject to the taxes and fees imposed by this chapter if the
28 limited liability company did no business in this state
29 during the taxable year and the taxable year was 15 days
30 or less.

31 (b) *A limited liability company that is dissolved or*
32 *withdraws from the state during any taxable year shall*
33 *pay a tax only for the months of the taxable year that*
34 *precede the effective date of the dissolution or*
35 *withdrawal, which shall be a percentage of the annual tax*
36 *imposed under paragraph (1) of subdivision (d) of*
37 *Section 23153, determined by ascertaining the ratio that*
38 *the months of the taxable year, preceding the effective*
39 *date of dissolution or withdrawal, bear to the months of*
40 *the taxable year.*



1 SEC. 3. Section 17948.2 of the Revenue and Taxation
2 Code is amended to read:

3 17948.2. (a) A registered limited liability partnership
4 or foreign limited liability partnership shall not be subject
5 to the taxes and fees imposed by this chapter if the
6 registered limited liability partnership or foreign limited
7 liability partnership did no business in this state during
8 the taxable year and the taxable year was 15 days or less.

9 (b) A registered limited liability partnership or
10 foreign limited liability partnership that is dissolved or
11 withdraws from the state during any taxable year shall
12 pay a tax only for the months of the taxable year that
13 precede the effective date of the dissolution or
14 withdrawal, which shall be a percentage of the annual tax
15 imposed under subdivision (b) of Section 17948,
16 determined by ascertaining the ratio that the months of
17 the taxable year, preceding the effective date of
18 dissolution or withdrawal, bear to the months of the
19 taxable year.

20 SEC. 4. Section 23151.2 of the Revenue and Taxation
21 Code is amended to read:

22 23151.2. (a) Notwithstanding Section 23151, every
23 corporation (except banks and financial corporations)
24 not exempted from taxation by the provisions of the
25 Constitution of this state or by this part which dissolves or
26 withdraws, shall pay a tax for its taxable year of dissolution
27 or withdrawal according to or measured by its net income
28 for the income year in which it ceased doing business,
29 unless that income has previously been included in the
30 measure of tax for any taxable year, to be computed at the
31 rate prescribed in Section 23151 for its taxable year of
32 dissolution or withdrawal. In any event, the tax for the
33 taxable year of its dissolution or withdrawal shall not be
34 less than the minimum tax provided for in Section 23153
35 for that taxable year.

36 (b) A corporation that is dissolved or withdraws from
37 the state during any income year shall pay a tax only for
38 the months of the income year that precede the effective
39 date of the dissolution or withdrawal, which shall be a
40 percentage of the annual tax imposed under Section



1 23153, determined by ascertaining the ratio that the
2 months of the income year, preceding the effective date
3 of dissolution or withdrawal, bear to the months of the
4 income year.

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

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly December 7, 1999. (JR 11)**

