

Senate Bill No. 94

Passed the Senate September 9, 1999

Secretary of the Senate

Passed the Assembly September 7, 1999

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 17053.5, 18533, 18534, 18624, 19008, 19034, 19041, 19045, 19064, 19067, 19084, 19109, 19323, 19504, 19705, 19717, 21013, and 21016 of, to add Sections 17085.7, 18673, 19116, 19117, 19187, 19226, 19236, 19443, 19504.5, 19504.7, 19542.3, and 19546.5 to, and to repeal Section 19052 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 94, Chesbro. Income and bank and corporation taxes: IRS restructuring and reform.

The Personal Income Tax Law and the Bank and Corporation Tax Law impose taxes on income and, among other things, provide for specified conformity to federal income tax laws. In this connection, the federal Internal Revenue Service Restructuring and Reform Act of 1998 provides for, among other things, changes to the way the Internal Revenue Service (IRS) is organized, additional taxpayer rights, including a shifting of the burden of proof, and changes to the rules as to how taxes are computed.

This bill would provide for specified conformity to that federal act with respect to awarding costs and fees, liens, suspension of interest, penalties, notices, abatement of interest, collections, financial status audits, trade secrets (including a criminal penalty for divulging or making known software), motion to quash, levies, assessments, waivers, seizure of property, installment agreements, explanation of disallowance, whistle-blower disclosure, identification of return preparer, innocent spouse rules, and correction to rules relating to the proration of the exclusion in the case where a taxpayer does not meet the ownership and use requirements pertaining to a sale of his or her principal residence. This bill would also provide the Franchise Tax Board with the authority to compromise a tax debt, modify rules pertaining to taxpayer tax credit and employer deficiency assessments



for the issuance of an earnings withholding order for taxes, and modify or clarify specified operative date language. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate certain changes to laws proposed by both this bill and SB 299 if this bill and SB 299 are enacted and become effective, as provided.

This bill would take effect immediately as a tax levy.

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

SECTION 1. This act shall be known and may be cited as the “Taxpayer’s Bill of Rights Act of 1999.”

SEC. 3. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) (1) For a qualified renter, there shall be allowed a credit against his or her “net tax”(as defined in Section 17039). The amount of the credit shall be as follows:

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

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

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

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or



all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

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

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

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

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

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

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

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

(3) An individual who has been granted or whose spouse has been granted the homeowners’ property tax exemption during the taxable year. This paragraph does not apply to an individual whose spouse has been granted



the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) Any otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

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

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

(h) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. The credit is not allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.

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

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

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to that



portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

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

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

SEC. 4. Section 17085.7 is added to the Revenue and Taxation Code, to read:

17085.7. (a) In the case of any distribution made on account of a notice to withhold (pursuant to Section 18670 or 18670.5) on a qualified retirement plan, no additional tax shall be imposed in accordance with Section 72(t) of the Internal Revenue Code.

(b) This section shall apply to distributions after December 31, 1999.

SEC. 5. Section 18533 of the Revenue and Taxation Code is amended to read:

18533. (a) (1) Notwithstanding subdivision (a) and the first sentence of subdivision (b) of Section 19006:

(A) An individual who has made a joint return may elect to seek relief under the procedures prescribed under subdivision (b), and

(B) If the individual is eligible to elect the application of subdivision (c), the individual may, in addition to any election under subparagraph (A), elect to limit the individual's liability for any deficiency with respect to the joint return in the manner prescribed under subdivision (c).

(2) Any determination under this section shall be made without regard to community property laws.

(b) (1) Under procedures prescribed by the Franchise Tax Board, if—



(A) A joint return has been made under this chapter for a taxable year,

(B) On that return there is an understatement of tax attributable to erroneous items of one individual filing the joint return,

(C) The other individual filing the joint return establishes that in signing the return he or she did not know of, and had no reason to know of, that understatement,

(D) Taking into account all facts and circumstances, it is inequitable to hold the other individual liable for the deficiency in tax for that taxable year attributable to that understatement, and

(E) The other individual elects (in the form and manner as the Franchise Tax Board may prescribe) the benefits of this subdivision not later than the date that is two years after the date the Franchise Tax Board has begun collection activities with respect to the individual making the election,

then the other individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable to that understatement.

(2) If an individual who, but for subparagraph (C) of paragraph (1), would be relieved of liability under paragraph (1), establishes that in signing the return the individual did not know, and had no reason to know, the extent of the understatement, then the individual shall be relieved of liability for tax (including interest, penalties, and other amounts) for that taxable year to the extent that the liability is attributable to the portion of the understatement of which that individual did not know and had no reason to know.

(3) For purposes of this subdivision, the term “understatement” has the meaning given to that term by Section 6662(d)(2)(A) of the Internal Revenue Code.

(c) (1) Except as provided in this subdivision, if an individual who has made a joint return for any taxable year elects the application of this subdivision, the individual’s liability for any deficiency which is assessed



with respect to the return shall not exceed the portion of the deficiency properly allocable to the individual under subdivision (d).

(2) Except as provided in clause (ii) of subparagraph (A) of paragraph (3) or subparagraph (C) of paragraph (3), each individual who elects the application of this subdivision shall have the burden of proof with respect to establishing the portion of any deficiency allocable to that individual.

(3) (A) (i) An individual shall only be eligible to elect the application of this subdivision if—

(I) At the time the election is filed, that individual is no longer married to, or is legally separated from, the individual with whom that individual filed the joint return to which the election relates, or

(II) That individual was not a member of the same household as the individual with whom the joint return was filed at any time during the 12-month period ending on the date the election is filed.

(ii) If the Franchise Tax Board demonstrates that assets were transferred between individuals filing a joint return as part of a fraudulent scheme by those individuals, an election under this subdivision by either individual shall be invalid (and subdivision (a) and the first sentence of subdivision (b) of Section 19006 shall apply to the joint return).

(B) An election under this subdivision for any taxable year shall be made not later than two years after the date on which the Franchise Tax Board has begun collection activities with respect to the individual making the election.

(C) If the Franchise Tax Board demonstrates that an individual making an election under this subdivision had actual knowledge, at the time the individual signed the return, of any item giving rise to a deficiency (or portion thereof) which is not allocable to the individual under subdivision (d), that election shall not apply to that deficiency (or portion). This subparagraph shall not apply where the individual with actual knowledge



establishes that the individual signed the return under duress.

(4) (A) Notwithstanding any other provision of this subdivision, the portion of the deficiency for which the individual electing the application of this subdivision is liable (without regard to this paragraph) shall be increased by the value of any disqualified asset transferred to the individual.

(B) For purposes of this paragraph—

(i) The term “disqualified asset” means any property or right to property transferred to an individual making the election under this subdivision with respect to a joint return by the other individual filing the joint return if the principal purpose of the transfer was the avoidance of tax or payment of tax.

(ii) (I) For purposes of clause (i), except as provided in subclause (II), any transfer that is made after the date that is one year before the date on which the first notice of proposed assessment under Article 3 (commencing with Section 19031) of Chapter 4 is sent shall be presumed to have as its principal purpose the avoidance of tax or payment of tax.

(II) Subclause (I) shall not apply to any transfer pursuant to a decree of divorce or separate maintenance or a written instrument incident to that decree or to any transfer that an individual establishes did not have as its principal purpose the avoidance of tax or payment of tax.

(d) For purpose of subdivision (c)—

(1) The portion of any deficiency on a joint return allocated to an individual shall be the amount which bears the same ratio to the deficiency as the net amount of items taken into account in computing the deficiency and allocable to the individual under paragraph (3) bears to the net amount of all items taken into account in computing the deficiency.

(2) If a deficiency (or portion thereof) is attributable to—

(A) The disallowance of a credit, or

(B) Any tax (other than tax imposed by Section 17041 or 17062) required to be included with the joint return,



and the item is allocated to one individual under paragraph (3), that deficiency (or portion) shall be allocated to that individual. Any item so allocated shall not be taken into account under paragraph (1).

(3) For purposes of this subdivision—

(A) Except as provided in paragraphs (4) and (5), any item giving rise to a deficiency on a joint return shall be allocated to individuals filing the return in the same manner as it would have been allocated if the individuals had filed separate returns for the taxable year.

(B) Under rules prescribed by the Franchise Tax Board, an item otherwise allocable to an individual under subparagraph (A) shall be allocated to the other individual filing the joint return to the extent the item gave rise to a tax benefit on the joint return to the other individual.

(C) The Franchise Tax Board may provide for an allocation of any item in a manner not prescribed by subparagraph (A) if the Franchise Tax Board establishes that the allocation is appropriate due to fraud of one or both individuals.

(4) If an item of deduction or credit is disallowed in its entirety solely because a separate return is filed, the disallowance shall be disregarded and the item shall be computed as if a joint return had been filed and then allocated between the spouses appropriately.

(5) If the liability of a child of a taxpayer is included on a joint return, that liability shall be disregarded in computing the separate liability of either spouse and that liability shall be allocated appropriately between the spouses.

(e) (1) In the case of an individual who elects to have subdivision (b) or (c) apply—

(A) (i) The determination of the Franchise Tax Board as to whether the liability is to be revised as to one individual filing the joint return shall be made not less than 30 days after notification of the other individual filing the joint return.

(ii) Any action taken under this section shall be treated as though it were action on a protest taken under



Section 19044 and shall become final upon the expiration of 30 days from the date that notice of the action is mailed to both individuals filing the joint return, unless, within that 30-day period, the individual making the election under subdivision (b) or (c) appeals the determination to the board as provided in clause (iii) or the other individual filing the joint return appeals the determination to the board as provided in Section 19045.

(iii) The individual making the election under subdivision (b) or (c) may appeal the determination of the Franchise Tax Board of the appropriate relief available to the individual under this section if that appeal is filed during the 30-day period prescribed in clause (ii) and the appeal shall be treated as an appeal to the board under Section 19045. Notwithstanding the preceding sentence, the individual making the election under subdivision (b) or (c) may appeal to the board at any time after the date which is six months after the date the election is filed with the Franchise Tax Board and before the close of the 30-day period prescribed in clause (ii).

(B) Except as otherwise provided in Section 19081 or 19082, no levy or proceeding in court shall be made, begun, or prosecuted against the individual making an election under subdivision (b) or (c) for collection of any assessment to which the election relates until the expiration of the 30-day period described in clause (ii) of subparagraph (A), or, if an appeal to the board has been filed under clause (iii) or Section 19045, until the decision of the board has become final.

(2) The running of the period of limitations in Section 19371 on the collection of the assessment to which the petition under subparagraph (A) of paragraph (1) relates shall be suspended for the period during which the Franchise Tax Board is prohibited by subparagraph (B) of paragraph (1) from collecting by levy or a proceeding in court and for 60 days thereafter.

(3) (A) Except as provided in subparagraph (B), notwithstanding any other law or rule of law (other than Article 6 (commencing with Section 19441) of Chapter



6), a credit or refund shall be allowed or made to the extent attributable to the application of this section.

(B) In the case of any election under subdivision (b) or (c), if a decision of the board in any prior proceeding for the same taxable year has become final, that decision shall be conclusive except with respect to the qualification of the individual for relief which was not an issue in that proceeding. The exception contained in the preceding sentence shall not apply if the board determines that the individual participated meaningfully in the prior proceeding.

(f) Under procedures prescribed by the Franchise Tax Board, if taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either), and relief is not available to the individual under subdivision (b) or (c), the Franchise Tax Board may relieve the individual of that liability.

(g) (1) The Franchise Tax Board may prescribe regulations providing methods for allocation of items other than the methods under paragraph (3) of subdivision (d).

(2) It is the intent of the Legislature that, in construing this section and any other sections which are specifically cross-referenced in this section, any regulations that may be promulgated by the Secretary of the Treasury under Section 6015 of the Internal Revenue Code, as amended by Public Law 105-206, shall apply to the extent that those regulations do not conflict with this section or with any regulations that may be promulgated by the Franchise Tax Board.

(h) (1) Except as provided in paragraph (2), the amendments made by the act adding this subdivision shall apply to any liability for tax arising after the effective date of the act adding this subdivision and any liability for tax arising on or before that date but remaining unpaid as of that date.

(2) The four-year period under subparagraph (E) of paragraph (1) of subdivision (b) or subparagraph (B) of paragraph (3) of subdivision (c) shall not expire before



the date which is four years after the date of the first collection activity after the effective date of the act adding this subdivision.

SEC. 6. Section 18534 of the Revenue and Taxation Code is amended to read:

18534. (a) Under regulations prescribed by the Franchise Tax Board, if:

(1) An individual does not file a joint return for any taxable year,

(2) That individual does not include in gross income for that taxable year an item of community income properly includable therein,

(3) The individual establishes that he or she did not know of, and had no reason to know of, that item of community income, and

(4) Taking into account all facts and circumstances, it is inequitable to include that item of community income in that individual's gross income, then, for purposes of Part 10 (commencing with Section 17001) and this part, that item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual).

Under procedures prescribed by the Franchise Tax Board, if, taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency (or any portion of either) attributable to any item for which relief is not available under the preceding sentence, the Franchise Tax Board may relieve the individual of that liability.

(b) The Franchise Tax Board may disallow the benefits of any community property law to any taxpayer with respect to any income if that taxpayer acted as if solely entitled to that income and failed to notify the taxpayer's spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of that income.

(c) It is the intent of the Legislature that, in construing this section, any regulations that may be promulgated by the Secretary of the Treasury under Section 66(c) of the



Internal Revenue Code, as amended by Public Law 105-206, shall apply to the extent that those regulations do not conflict with this section or with any regulations that may be promulgated by the Franchise Tax Board.

(d) The amendments made by the act adding this subdivision shall apply to any liability for tax arising after the effective date of the act adding this subdivision and any liability for tax arising on or before that date but remaining unpaid as of that date.

SEC. 7. Section 18624 of the Revenue and Taxation Code is amended to read:

18624. (a) Section 6109 of the Internal Revenue Code, relating to identifying numbers, shall apply, except as otherwise provided.

(b) Identifying numbers shall be required on state tax returns, statements, or other documents in the form and manner as the Franchise Tax Board may require.

(c) Section 6109(h) of the Internal Revenue Code, relating to identifying information required with respect to certain seller-provided financing, shall not apply.

(d) The amendments made to Section 6109(a) of the Internal Revenue Code, relating to identifying number of income tax return preparer, by Public Law 105-206 shall apply.

(e) The amendments made by the act adding this subdivision shall be operative on the effective date of the act adding this subdivision.

SEC. 8. Section 18673 is added to the Revenue and Taxation Code, to read:

18673. (a) Notwithstanding Article 7 (commencing with Section 706.151) of Chapter 5 of Title 9 of Part II of the Code of Civil Procedure, if the Franchise Tax Board determines upon receiving information from the taxpayer that his or her employer withheld earnings for taxes pursuant to Article 4 (commencing with Section 19251) of Chapter 5 and failed to remit the withheld earnings to the Franchise Tax Board, the employer shall be liable for the amount not remitted. The Franchise Tax Board's determination shall be based on payroll



documents or other substantiating evidence furnished by the taxpayer.

(b) Upon its determination, the Franchise Tax Board shall mail notice to the employer at its last known address that upon failure to remit the withheld earnings to the Franchise Tax Board within 15 days of the date of its notice to the employer, the employer shall be liable for that amount which was withheld and not remitted.

(c) If the employer fails to remit the amount withheld to the Franchise Tax Board upon notice, that amount for which the employer is liable shall be assessed, collected, and paid as though it were a tax deficiency. The amount may be assessed at any time prior to seven years from the first day that the unremitted amount, in the aggregate, was first withheld. Interest shall accrue on that amount from the first day that the unremitted amount, in the aggregate, was first withheld.

(d) When the assessment against the employer is final and due and payable, the taxpayer's account shall be immediately credited with an amount equal to that assessed amount as though it were a payment received by the Franchise Tax Board on the first date that the unremitted amount, in the aggregate, was first withheld by the employer.

(e) Collection against the taxpayer is stayed for both the following amount and period:

(1) An amount equal to the amount determined by the Franchise Tax Board under subdivision (a).

(2) The earlier of the time the credit is applied to the taxpayer's account pursuant to subdivision (d) or the assessment against the employer is withdrawn or revised and the taxpayer is notified by the Franchise Tax Board thereof.

(f) If under this section an amount that was withheld and not remitted to the Franchise Tax Board is final and due and payable by the employer and credited to the taxpayer's account, this remedy shall be the exclusive remedy for the taxpayer to recover that amount from the employer.



(g) This section shall not apply to debts, obligations, or other amounts for which an earnings withholding order or assignment is issued by the Franchise Tax Board pursuant to Article 5, 5.5, or 6 of Chapter 5 or Section 10878.

(h) This section shall apply to determinations made by the Franchise Tax Board on or after the effective date of the act adding this section.

SEC. 9. Section 19008 of the Revenue and Taxation Code is amended to read:

19008. (a) The Franchise Tax Board may, in cases of financial hardship, as determined by the Franchise Tax Board, allow an individual or fiduciary to enter into installment payment agreements with the Franchise Tax Board to pay taxes due, plus applicable interest and penalties over the life of the installment period. Failure by an individual or fiduciary to comply fully with the terms of the installment payment agreement shall render the agreement null and void, unless the Franchise Tax Board determines that the failure was due to a reasonable cause, and the total amount of tax, interest, and all penalties shall be immediately due and payable.

(b) In the case of a liability for tax of an individual under Part 10 (commencing with Section 17001) or this part, the Franchise Tax Board shall enter into an agreement to accept the payment of the tax in installments if, as of the date the individual offers to enter into the agreement, all of the following apply:

(1) The aggregate amount of the liability (determined without regard to interest, penalties, additions to the tax and additional amounts) does not exceed ten thousand dollars (\$10,000).

(2) The taxpayer (and, if the liability relates to a joint return, the taxpayer's spouse) has not during any of the preceding five taxable years done any of the following:

(A) Failed to file any return of tax imposed under Part 10 (commencing with Section 17001) or this part.

(B) Failed to pay any tax required to be shown on the return.



(C) Entered into an installment agreement under this section for payment of any tax imposed by Part 10 (commencing with Section 17001) or this part.

(3) The Franchise Tax Board determines that the taxpayer is financially unable to pay the liability in full when due (and the taxpayer submits any information as the Franchise Tax Board may require to make this determination).

(4) The agreement requires full payment of the liability within three years.

(5) The taxpayer agrees to comply with the provisions of this part and Part 10 (commencing with Section 17001) for the period the agreement is in effect.

(c) Except in any case where the Franchise Tax Board finds collection of the tax to which an installment payment agreement relates to be in jeopardy, or there is a mutual consent to terminate, alter, or modify the agreement, the agreement shall not be considered null and void, or otherwise terminated, unless both of the following occur:

(1) A notice of termination is provided to the individual or fiduciary not later than 30 days before the date of termination.

(2) The notice includes an explanation of why the Franchise Tax Board intends to terminate the agreement.

(d) No levy may be issued on the property or rights to property of any person with respect to any unpaid tax:

(1) During the period that an offer by the taxpayer for an installment agreement under this section for payment of the unpaid tax is pending with the Franchise Tax Board.

(2) If the offer is rejected by the Franchise Tax Board, during the 30 days thereafter (and, if a request for review of the rejection is filed within the 30 days, during the period that the review is pending).

(3) During the period that the installment agreement for payment of the unpaid tax is in effect.

(4) If the agreement is terminated by the Franchise Tax Board, during the 30 days thereafter (and, if a request



for review of the termination is filed within the 30 days, during the period that the review is pending).

(5) This subdivision shall not apply with respect to any of the following:

(A) Any unpaid tax if either of the following occurs:

(i) The taxpayer files a written notice with the Franchise Tax Board that waives the restriction imposed by this subdivision on levy with respect to the tax.

(ii) The Franchise Tax Board finds that the collection of that tax is in jeopardy.

(B) Any levy that was first issued before the date that the applicable proceeding under this subdivision commenced.

(C) At the discretion of the Franchise Tax Board, any unpaid tax for which the taxpayer makes an offer of an installment agreement subsequent to a rejection of an offer of an installment agreement with respect to that unpaid tax (or to any review thereof).

(D) The period of limitation under Section 19371 shall be suspended for the period during which the Franchise Tax Board is prohibited under this subdivision from making a levy.

(e) The Taxpayers' Rights Advocate shall establish procedures for an independent departmental administrative review for the rejection of the offer of an installment payment and for installment payment agreements that are rendered null and void, or otherwise terminated under this section, for individuals or fiduciaries who request that review. This administrative review shall not be subject to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code. Unless review is requested by the taxpayer within 30 days of the date of rejection of the offer of an installment agreement or termination of the installment agreement, this administrative review shall not stay collection of the tax to which the installment payment agreement relates.

(f) The amendments made by the act adding this subdivision are operative on the effective date of that act, except subdivision (d) shall be operative for any



proposed installment agreement submitted after December 31, 2000.

SEC. 10. Section 19034 of the Revenue and Taxation Code is amended to read:

19034. (a) Each notice shall set forth the reasons for the proposed deficiency assessment and the computation thereof.

(b) Each notice shall include the date determined by the Franchise Tax Board as the last day on which the taxpayer may file a written protest pursuant to Section 19041. Failure to include this date shall not invalidate a notice that is otherwise valid.

(c) The amendments made by the act adding this subdivision shall apply to any notice mailed after December 31, 1999.

SEC. 11. Section 19041 of the Revenue and Taxation Code is amended to read:

19041. (a) Within 60 days after the mailing of each notice of proposed deficiency assessment the taxpayer may file with the Franchise Tax Board a written protest against the proposed deficiency assessment, specifying in the protest the grounds upon which it is based.

(b) Any protest filed with the Franchise Tax Board on or before the last date specified for filing that protest by the Franchise Tax Board in the notice of proposed deficiency assessment (according to Section 19034) shall be treated as timely filed.

(c) The amendments made by the act adding this subdivision shall apply to any notice mailed after December 31, 1999.

SEC. 12. Section 19045 of the Revenue and Taxation Code is amended to read:

19045. (a) The Franchise Tax Board's action upon the protest, whether in whole or in part, is final upon the expiration of 30 days from the date when it mails notice of its action to the taxpayer, unless within that 30-day period the taxpayer appeals in writing from the action of the Franchise Tax Board to the board.

(b) (1) The Franchise Tax Board's notice of action upon protest shall include the date determined by the



Franchise Tax Board as the last day on which the taxpayer may file an appeal with the board.

(2) Any appeal to the board filed by the taxpayer on or before the date for filing an appeal specified in the notice (pursuant to paragraph (1)) shall be treated as timely filed.

(c) This section shall apply to any notice mailed after December 31, 1999.

SEC. 13. Section 19052 of the Revenue and Taxation Code is repealed.

SEC. 14. Section 19064 of the Revenue and Taxation Code is amended to read:

19064. (a) If any person initiates a motion to quash a subpoena, as provided by Sections 7465 to 7476, inclusive, of the Government Code, and that person is the person with respect to whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that person), then the running of any period of limitations under Section 19057 (relating to deficiency assessments), Section 19087 (relating to false or fraudulent returns), or Section 19704 (relating to criminal prosecutions) with respect to that person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of the subpoena is pending.

(b) In the absence of the resolution of the subpoenaed person's response to a subpoena issued under Section 19504 (power of examination), the running of any period of limitations under Section 19057 (relating to deficiency assessments), Section 19087 (relating to false or fraudulent returns), or Section 19704 (relating to criminal prosecutions) with respect to any person whose liability the subpoena was issued (other than a person taking action as provided by subdivision (a)) shall be suspended for the period beginning on the date which is six months after the service of the subpoena and ending with the final resolution of that response.

(c) The amendments made by the act adding this subdivision are operative for any subpoena served after the effective date of the act adding this subdivision.



SEC. 15. Section 19067 of the Revenue and Taxation Code is amended to read:

19067. (a) Where before the expiration of the time prescribed for the mailing of a notice of a proposed deficiency assessment, the taxpayer consents in writing to an assessment after that time, the assessment may be made at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) The Franchise Tax Board shall notify the taxpayer of the taxpayer's right to refuse to extend the expiration of the time prescribed for the mailing of a notice of a proposed deficiency assessment, or to limit that extension to a particular period of time, on each occasion when the taxpayer is requested to provide the taxpayer's consent.

(c) The amendments made by the act adding this subdivision shall apply to any request to extend the expiration of the time prescribed for the mailing of a notice of a proposed deficiency assessment made after December 31, 2000.

SEC. 16. Section 19084 of the Revenue and Taxation Code is amended to read:

19084. (a) (1) (A) Unless the Chief Counsel of the Franchise Tax Board (or the chief counsel's delegate) personally approves (in writing) the assessment or levy, no assessment shall be made under this article and no levy shall be issued less than 30 days after either of the following:

(i) A notice and demand is mailed or issued for payment pursuant to Section 19081.

(ii) Notice and demand for a return and payment is mailed or issued pursuant to Section 19082.

(B) Within five days after the day on which either a notice and demand for payment is mailed or issued pursuant to Section 19081, or notice and demand for a return and payment is mailed or issued pursuant to Section 19082, the Franchise Tax Board shall mail or issue the taxpayer a written statement of the information upon



which the Franchise Tax Board relies in issuing that notice and demand.

(2) Within 30 days after the day on which the taxpayer is furnished the written statement described in paragraph (1), or within 30 days after the last day of the period within which the statement is required to be furnished, the taxpayer may petition the Franchise Tax Board to review whether its finding pursuant to Section 19081 or 19082 is reasonable under the circumstances, specifying the grounds on which the petition is based. The filing of a petition for review shall not operate to stay collection. Collection may be stayed only as provided in Section 19083. A petition filed pursuant to this paragraph shall also be considered a protest filed pursuant to Section 19041 against the proposed additional tax.

(3) If a petition for review under paragraph (2) is not made within the 30-day period set forth in that paragraph, the finding of the Franchise Tax Board pursuant to Section 19081 or 19082 is final.

(4) After a petition for review is filed under paragraph (2), the Franchise Tax Board shall determine whether or not the issuance of notice and demand under Section 19081 or 19082 is reasonable under the circumstances. In making this determination, the Franchise Tax Board shall grant the taxpayer or authorized representative an oral hearing if the taxpayer has so requested in the petition. Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to a hearing under this paragraph. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(5) The Franchise Tax Board shall make the determination under paragraph (4) within 90 days of the filing of the petition for review unless the taxpayer requests, in writing, additional time.

(6) In making the determination required by paragraph (4), the Franchise Tax Board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of



the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(b) (1) Within 60 days after the earlier of the following days, the taxpayer may appeal the determination to the State Board of Equalization in the manner provided in Section 19085:

(A) The day the Franchise Tax Board notifies the taxpayer of the determination described in paragraph (4) of subdivision (a).

(B) One day after the time period prescribed by paragraph (5) of subdivision (a) for the Franchise Tax Board to make its determination.

(2) If an appeal is not filed before the expiration of the time periods, the Franchise Tax Board's determination is final. Filing of an appeal shall not operate to stay collection. Collection may be stayed only as provided in Section 19083.

(3) Within 60 days after an appeal is filed under paragraph (1), the board shall determine whether the issuance of notice and demand under Section 19081 or 19082 is reasonable under the circumstances. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the board determines that a jeopardy status does not apply to all or part of the assessment, the board may modify the amount of the assessment to which the jeopardy attaches. If the board does not act within the time period provided in paragraph (3) as modified by paragraph (6), the board will be deemed to have denied the taxpayer's appeal.

(5) In making the determination required by paragraph (3), the board shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it relates to whether jeopardy status exists. The burden of proof as to the



amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(6) If either party requests an extension of the 60-day period set forth in paragraph (3) and establishes reasonable grounds why the extension should be granted, the board may grant an extension of not more than 30 additional days.

(c) (1) Within 60 days after the earlier of the following days, either party may bring a civil action against the other in superior court for a judicial determination as to whether or not the issuance of the notice and demand under Section 19081 or 19082 is reasonable under the circumstances:

(A) The day the board notifies the taxpayer of its determination described in paragraph (3), as modified by paragraph (6), of subdivision (b).

(B) If the board fails to make a timely determination, then one day after the time prescribed for the board to make its determination.

(2) If a civil action under this subdivision is not commenced within the 60-day period set forth in paragraph (1), the board's determination is final. The filing of the civil action shall not operate to stay collection. Collection shall be stayed only as provided by Section 19083.

(3) Within 60 days after proper service is made, the superior court shall determine whether the issuance of notice and demand under Section 19081 or 19082 is reasonable under the circumstances. The burden of proof with respect to whether a jeopardy exists as to collection or an assessment is upon the Franchise Tax Board.

(4) If the court determines that a jeopardy status does not apply to all or part of the assessment, the court may modify the amount of the assessment to which the jeopardy attaches.

(5) In making the determination required by paragraph (3), the superior court shall consider all relevant factors, including, but not limited to, the likelihood that collection will be jeopardized, the assets of the taxpayer, and the amount of the assessment as it



relates to whether jeopardy status exists. The burden of proof as to the amount of the assessment for purposes of determining jeopardy status is upon the taxpayer.

(6) If either party in the action requests an extension of the 60-day period set forth in paragraph (3) of subdivision (c) and establishes reasonable grounds why the extension should be granted, the superior court may grant an extension of not more than 30 additional days.

(7) Actions filed pursuant to this section shall be filed in the Superior Court of the County of Los Angeles, the City and County of San Francisco, the County of San Diego, or the County of Sacramento. Sections 19387 and 19389 shall apply to those actions.

(8) The determination made by a superior court under this section shall be final and conclusive and shall not be reviewed by any other court.

(d) The amendments made by the act adding this subdivision are operative for taxes assessed and levies made after the effective date of the act adding this subdivision.

SEC. 17. Section 19109 of the Revenue and Taxation Code is amended to read:

19109. (a) If the Franchise Tax Board extends for any period the time for filing a return under Section 18572 or subdivision (a) of Section 18567 and the time for paying the tax under Section 18572 or subdivision (c) of Section 18567 (and waives any penalties relating to the failure to so file or so pay) for any individual located in a presidentially declared disaster area or any county or city in this state which is proclaimed by the Governor to be in a state of disaster who incurred a loss, the Franchise Tax Board shall, notwithstanding subdivision (b) of Section 18572, abate for that period the assessment of any interest prescribed under this article on that tax.

(b) For purposes of subdivision (a), the term “presidentially declared disaster area” means, with respect to any individual, any area which the President has determined warrants assistance by the federal government under the Disaster Relief and Emergency Assistance Act.



(c) For purposes of this section, the term “individual” shall not include any estate or trust.

(d) This section shall apply to disasters declared after December 31, 1997, with respect to taxable years beginning after December 31, 1997.

SEC. 18. Section 19116 is added to the Revenue and Taxation Code, to read:

19116. (a) In the case of an individual who files a return of tax imposed under Part 10 (commencing with Section 17001) for a taxable year on or before the due date for the return, including extensions, if the Franchise Tax Board does not provide a notice to the taxpayer specifically stating the taxpayer’s liability and the basis of the liability before the close of the notification period, the Franchise Tax Board shall suspend the imposition of any interest, penalty, addition to tax, or additional amount with respect to any failure relating to the return which is computed by reference to the period of time the failure continues to exist and which is properly allocable to the suspension period.

(b) For purposes of this section:

(1) Except as provided in subdivision (e), “notification period” means the 18-month period beginning on the later of either of the following:

(A) The date on which the return is filed.

(B) The due date of the return without regard to extensions.

(2) “Suspension period” means the period beginning on the day after the close of the notification period and ending on the date which is 15 days after the date on which notice described in subdivision (a) is provided by the Franchise Tax Board.

(c) This section shall be applied separately with respect to each item or adjustment.

(d) This section shall not apply to any of the following:

(1) Any penalty imposed by Section 19131.

(2) Any penalty imposed by Section 19132.

(3) Any interest, penalty, addition to tax, or additional amount involving fraud.



(4) Any interest, penalty, addition to tax, or additional amount with respect to any tax liability shown on the return.

(5) Any criminal penalty.

(e) For taxpayers required by subdivision (a) of Section 18622 to report a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority the following rules shall apply:

(1) The notification period under subdivision (a) shall be either of the following:

(A) One year from the date the notice required by Section 18622 is filed with the Franchise Tax Board by the taxpayer or the Internal Revenue Service, if the taxpayer or the Internal Revenue Service reports that change or correction within six months after the final federal determination.

(B) Two years from the date when the notice required by Section 18622 is filed with the Franchise Tax Board by the taxpayer or the Internal Revenue Service, if after the six-month period required in Section 18622, a taxpayer or the Internal Revenue Service reports a change or correction.

(2) The suspension period under subdivision (a) shall mean the period beginning on the day after the close of the notification period under paragraph (1) and ending on the date which is 15 days after the date on which notice described in subdivision (a) is provided by the Franchise Tax Board.

(f) This section shall apply to taxable years ending after the effective date of the act adding this section.

SEC. 19. Section 19117 is added to the Revenue and Taxation Code, to read:

19117. (a) The Franchise Tax Board shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by the taxpayer under this part information with respect to the section under which interest is imposed and a description of how the interest is computed. Upon the request of the



taxpayer, the Franchise Tax Board shall also provide a computation of the interest.

(b) This section shall apply to any notice issued after December 31, 2001.

SEC. 20. Section 19187 is added to the Revenue and Taxation Code, to read:

19187. (a) The Franchise Tax Board shall include with each notice imposing a penalty under this part information that contains the name of the penalty, the section of this part under which the penalty is imposed, and a description of the computation of the penalty. Upon the request of the taxpayer, the Franchise Tax Board shall also provide a computation of the penalty imposed.

(b) (1) No penalty under this part shall be imposed unless the initial determination of the imposition of the penalty is personally approved in writing by the immediate supervisor of the individual making that determination or a higher level official as designated by the executive officer, or his or her delegee.

(2) Paragraph (1) shall not apply to any of the following:

(A) Any addition to tax under Sections 19131, 19132, 19136, or 19142.

(B) Any other penalty automatically calculated through electronic means.

(C) Any penalty resulting from a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority required to be reported under subdivision (a) of Section 18622.

(c) For purposes of this section, “penalty” includes any addition to tax or any additional amount.

(d) This section shall apply to notices issued and penalties imposed after December 31, 2001.

SEC. 21. Section 19226 is added to the Revenue and Taxation Code, to read:

19226. (a) At the request of the owner whose property is subject to any lien under Section 19221, the Franchise Tax Board shall issue a release of lien from that property if the owner is not the person whose unsatisfied



liability gave rise to the lien and the owner does either of the following:

(1) Deposits with the Franchise Tax Board an amount of money equal to the value of the interest of the state (as determined by the Franchise Tax Board) in the property.

(2) Furnishes a bond acceptable to the Franchise Tax Board in a like amount.

(b) The Franchise Tax Board shall refund the amount so deposited, pay interest at the overpayment rate under Section 19521, and release the bond, to the extent the Franchise Tax Board determines that either of the following apply:

(1) The unsatisfied liability giving rise to the lien can be satisfied from a source other than the property for which the deposit or bond is made.

(2) The value of the interest of the state in the property is less than the Franchise Tax Board's prior determination of the value.

(c) If no request is made under subdivision (d), within the period prescribed, the Franchise Tax Board shall do both of the following within 60 days after the expiration of the period:

(1) Apply the amount deposited or collected on the bond, to the extent necessary to satisfy the unsatisfied liability secured by the lien.

(2) Refund (with interest at the overpayment rate under Section 19521) any portion of the amount deposited which is not used to satisfy the liability.

(d) If a release is issued pursuant to this section, the owner may, within 60 days after the day on which the release is issued, request the Franchise Tax Board as provided under subdivision (f) to determine whether the value of the interest of the state (if any) is less than the Franchise Tax Board's prior determination of the value. No other action may be brought by the owner for a determination.

(e) This section shall not limit the circumstances in which the Franchise Tax Board may release a lien under any circumstances to facilitate the collection of the tax liability or, if that release is in the best interest of the



taxpayer and the state, take any action associated with the release of that lien it deems appropriate.

(f) The Taxpayers' Rights Advocate shall establish procedures for an independent departmental administrative review for requests made under subdivision (d). This administrative review shall not be subject to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code. If the administrative review determines that the Franchise Tax Board's previous determination of the value of the interest of the state in the property for purposes of this section exceeds the actual value of the state's interest, the board shall provide a refund of the amount deposited and a release of the bond, to the extent that the aggregate of the amounts thereof exceeds the value so determined. In the case of a refund issued pursuant to this subdivision, interest shall be allowed at the rate prescribed for overpayments from the date the Franchise Tax Board receives the amount to the date of refund.

(g) This section shall be operative on the effective date of the act adding this section.

SEC. 22. Section 19236 is added to the Revenue and Taxation Code, to read:

19236. For purposes of issuing a warrant pursuant to this article:

(a) (1) No levy may be issued on any property or right to property to be sold in accordance with the Code of Civil Procedure until a thorough investigation of the status of the property has been completed by the Franchise Tax Board.

(2) For purposes of paragraph (1), an investigation of the status of any property shall include all of the following:

(A) A verification of the taxpayer's liability.

(B) The completion of an analysis to determine whether the expense of the sale process to the state exceeds the liability for which the levy would be issued.

(C) The determination that the equity in the property is sufficient to yield net proceeds from the sale of the property to apply to the liability.



(D) A thorough consideration of alternative collection methods.

(b) If the amount of the levy does not exceed five thousand dollars (\$5,000), no levy may be issued on either of the following:

(1) Any real property used as a residence by the taxpayer.

(2) Any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

(c) Notwithstanding the investigation required under subdivision (a):

(1) The principal residence of the taxpayer may not be sold except in accordance with Article 4 (commencing with Section 704.710) of Chapter 4 of Division 2 of Title 9 of the Code of Civil Procedure, which requires a court order for sale.

(2) Tangible personal property or real property (other than real property which is rented or a principal residence) used in the trade or business of an individual taxpayer shall not be exempt from levy unless:

(A) The levy is approved in writing by the assistant executive officer for collection (or delegate), or

(B) The Franchise Tax Board finds that collection of tax is in jeopardy. The officer, or delegate, may not approve a levy under subparagraph (A) unless the officer determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

(d) This section shall be operative for any warrant issued on or after the effective date of the act adding this section.

SEC. 24. Section 19323 of the Revenue and Taxation Code is amended to read:

19323. (a) If the Franchise Tax Board disallows any claim for refund, it shall notify the taxpayer accordingly and provide an explanation for the disallowance.

(b) The amendments made by the act adding this subdivision shall apply to disallowances after the 180th



day after the effective date of the act adding this subdivision.

SEC. 25. Section 19443 is added to the Revenue and Taxation Code, to read:

19443. (a) (1) The executive officer and chief counsel of the Franchise Tax Board, jointly, or their delegates, may compromise any final tax liability in which the reduction of tax is seven thousand five hundred dollars (\$7,500) or less.

(2) Except as provided in paragraph (3), the Franchise Tax Board, upon recommendation by its executive officer and chief counsel, jointly, may compromise a final tax liability involving a reduction in tax in excess of seven thousand five hundred dollars (\$7,500). Any recommendation for approval of an offer in compromise that is not either approved or disapproved by the Franchise Tax Board, itself, within 45 days of the submission of the recommendation shall be deemed approved.

(3) The Franchise Tax Board, itself, may by resolution delegate to the executive officer and the chief counsel, jointly, the authority to compromise a final tax liability in which the reduction of tax is in excess of seven thousand five hundred dollars (\$7,500) but less than ten thousand dollars (\$10,000).

(b) For purposes of this section, “a final tax liability” means any final tax liability arising under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) or related interest, additions to tax, penalties, or other amounts assessed under this part.

(c) For an amount to be compromised under this section, the following conditions shall exist:

(1) The taxpayer shall establish that the:

(A) Amount offered in payment is the most that can be expected to be paid or collected from the taxpayer’s present assets or income, and

(B) Taxpayer does not have reasonable prospects of acquiring increased income or assets that would enable the taxpayer to satisfy a greater amount of the liability



than the amount offered, within a reasonable period of time.

(2) The Franchise Tax Board shall have determined that acceptance of the compromise is in the best interest of the state.

(d) A determination by the Franchise Tax Board that it would not be in the best interest of the state to accept an offer in compromise in satisfaction of a final tax liability shall not be subject to administrative appeal or judicial review.

(e) When an offer in compromise is either accepted or rejected, or the terms and conditions of a compromise agreement are fulfilled, the Franchise Tax Board shall notify the taxpayer in writing.

(f) In the case of a joint and several liability, the acceptance of an offer in compromise from one liable spouse shall not relieve the other spouse from paying the entire liability. However, the amount of the liability shall be reduced by the amount of the accepted offer.

(g) Whenever a compromise of tax or penalties or total tax and penalties in excess of five hundred dollars (\$500) is approved, there shall be placed on file for at least one year in the office of the executive officer of the Franchise Tax Board a public record with respect to that compromise. The public record shall include all of the following information:

(1) The name of the taxpayer.

(2) The amount of unpaid tax, and related penalties, additions to tax, interest, or other amounts involved.

(3) The amount offered.

(4) A summary of the reason why the compromise is in the best interest of the state.

The public record shall not include any information that relates to any trade secret, patent, process, style of work, apparatus, business secret, or organizational structure, that if disclosed, would adversely affect the taxpayer or the national defense. No list shall be prepared and no releases distributed by the Franchise Tax Board in connection with these statements.



(h) Any compromise made under this section may be rescinded, all compromised liabilities may be reestablished (without regard to any statute of limitations that otherwise may be applicable), and no portion of the amount offered in compromise refunded, if either of the following occurs:

(1) The Franchise Tax Board determines that any person did any of the following acts regarding the making of the offer:

(A) Concealed from the Franchise Tax Board any property belonging to the estate of any taxpayer or other person liable for the tax;

(B) Received, withheld, destroyed, mutilated, or falsified any book, document, or record or made any false statement, relating to the estate or financial condition of the taxpayer or other person liable for the tax;

(2) The taxpayer fails to either:

(A) Comply with any of the terms and conditions relative to the offer;

(B) File subsequent required returns and pay subsequent final tax liabilities within 20 days after the Franchise Tax Board issues notice and demand to the person stating that the continued failure to file or pay the tax may result in rescission of the compromise.

(i) This section shall become operative on the effective date of the act adding this section without regard to the taxable or income year at issue.

SEC. 26. Section 19504 of the Revenue and Taxation Code is amended to read:

19504. (a) The Franchise Tax Board, for the purpose of administering its duties under this part, including ascertaining the correctness of any return; making a return where none has been made; determining or collecting the liability of any person in respect of any liability imposed by Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part (or the liability at law or in equity of any transferee in respect of that liability); shall have the power to require by demand, that an entity of any kind including, but not limited to, employers, persons, or financial



institutions provide information or make available for examination or copying at a specified time and place, or both, any book, papers, or other data which may be relevant to that purpose. Any demand to a financial institution shall comply with the California Right to Financial Privacy Act set forth in Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code. Information which may be required upon demand includes, but is not limited to, any of the following:

(1) Addresses and telephone numbers of persons designated by the Franchise Tax Board.

(2) Information contained on Federal Form W-2 (Wage and Tax Statement), Federal Form W-4 (Employee's Withholding Allowance Certificate), or State Form DE-4 (Employee's Withholding Allowance Certificate).

(b) The Franchise Tax Board may require the attendance of the taxpayer or of any other person having knowledge in the premises and may take testimony and require material proof for its information and administer oaths to carry out this part.

(c) The Franchise Tax Board may issue subpoenas or subpoenas duces tecum, which subpoenas must be signed by any member of the Franchise Tax Board and may be served on any person for any purpose.

(d) Obedience to subpoenas or subpoenas duces tecum issued in accordance with this section may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) When examining a return, the Franchise Tax Board shall not use financial status or economic reality examination techniques to determine the existence of unreported income of any taxpayer unless the Franchise Tax Board has a reasonable indication that there is a likelihood of unreported income.

(f) The amendments made by the act adding this subdivision shall apply to any examination beginning on or after the effective date of this act.



SEC. 27. Section 19504.5 is added to the Revenue and Taxation Code, to read:

19504.5. (a) (1) Except as provided in subdivision (b), no subpoena may be issued under this part and the Franchise Tax Board may not begin any action under Article 2 (commencing with Section 1180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code to enforce any subpoena to produce or analyze any tax-related computer software source code.

(2) Any software and related materials that are provided to the Franchise Tax Board under this part shall be subject to the safeguards under subdivision (c).

(b) (1) Paragraph (1) of subdivision (a) shall not apply to any portion, item, or component of the tax-related computer software source code if all of the following apply:

(A) The Franchise Tax Board is unable to otherwise reasonably ascertain the correctness of any item on a return from either of the following:

(i) The taxpayer's books, papers, records, or other data.

(ii) The computer software executable code (and any modifications thereof) to which the source code relates and any associated data which, when executed, produces the output to ascertain the correctness of the item.

(B) The Franchise Tax Board identifies with reasonable specificity the portion, item, or component of the source code needed to verify the correctness of the item on the return.

(C) The Franchise Tax Board determines that the need for the portion, item, or component of the source code with respect to the item outweighs the risks of unauthorized disclosure of trade secrets.

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

(A) Any inquiry into any offense connected with the administration or enforcement of this part, Part 10 (commencing with Section 17001), Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).



(B) Any tax-related computer software source code acquired or developed by the taxpayer or related person primarily for internal use by the taxpayer or that person rather than for commercial distribution.

(C) Any communications between the owner of the tax-related computer software source code and the taxpayer or related persons.

(D) Any tax-related computer software source code which is required to be provided or made available pursuant to any other provision of this part, Part 10 (commencing with Section 17001), Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(3) For purposes of paragraph (1), the Franchise Tax Board shall be treated as meeting the requirements of subparagraphs (A) and (B) of that paragraph if all of the following apply:

(A) The Franchise Tax Board determines that it is not feasible to determine the correctness of an item without access to the computer software executable code and associated data described in clause (ii) of subparagraph (A) of paragraph (1).

(B) The Franchise Tax Board makes a formal request to the taxpayer for the code and data and to the owner of the computer software source code for the executable code.

(C) The code and data are not provided within 180 days of that request.

(4) In any proceeding brought under Article 2 (commencing with Section 1180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code to enforce a subpoena issued under the authority of this subdivision, the court shall, at the request of any party, hold a hearing to determine whether the applicable requirements of this section have been met.

(c) (1) In any court proceeding to enforce a subpoena for any portion of software, the court may receive evidence and issue any order necessary to prevent the disclosure of trade secrets or other confidential information with respect to that software, including



requiring that any information be placed under seal to be opened only as directed by the court.

(2) Notwithstanding any other provision of this section, and in addition to any protections ordered pursuant to paragraph (1), in the case of software that comes into the possession or control of the Franchise Tax Board in the course of any examination with respect to any taxpayer, all of the following shall apply:

(A) The software may be used only in connection with the examination of that taxpayer's return, any protest or appeal by the taxpayer, any judicial proceeding and any appeals therefrom, or any inquiry into any offense connected with the administration or enforcement of this part, Part 10 (commencing with Section 17001), Part 10.7 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

(B) The Franchise Tax Board shall provide, in advance, to the taxpayer and the owner of the software a written list of the names of all individuals who will analyze or otherwise have access to the software.

(C) (i) The software shall be maintained in a secure area or place, and in the case of computer software source code, shall not be removed from the owner's place of business unless the owner permits, or a court orders, that removal.

(ii) For purposes of clause (i), the owner shall make available any necessary equipment or materials for analysis of computer software source code required to be conducted on the owner's premises.

(D) The software may not be copied except as necessary to perform an analysis, and the Franchise Tax Board shall number all copies made and certify in writing that no other copies have been or will be made.

(E) At the end of the period during which the software may be used under subparagraph (A), both of the following apply:

(i) The software and all copies thereof shall be returned to the person from whom they were obtained and any copies thereof made under subparagraph (D) on



the hard drive of a machine or other mass storage device shall be permanently deleted.

(ii) The Franchise Tax Board shall obtain from any person who analyzes or otherwise had access to that software a written certification under penalty of perjury that all copies and related materials have been returned and that no copies were made of them.

(F) The software may not be decompiled or disassembled.

(G) (i) The Franchise Tax Board shall provide to the taxpayer and the owner of any interest in the software, as the case may be, a written agreement, between the Franchise Tax Board and any person who is not an officer or employee of the State of California and who will analyze or otherwise have access to that software, which provides that the person agrees not to do either of the following:

(I) Disclose the software to any person other than persons to whom the information could be disclosed for tax administration purposes under Section 19542.

(II) Participate for two years in the development of software which is intended for a similar purpose as the software examined.

(ii) The owner of any interest in the software shall be considered a party to any agreement described in clause (i).

(H) The software shall be treated as return information for purposes of Section 19542.

(d) For purposes of this section:

(1) "Software" includes computer software source code and computer software executable code.

(2) "Computer software source code" means all of the following:

(A) The code written by a programmer using a programming language which is comprehensible to appropriately trained persons and is not capable of directly being used to give instructions to a computer.

(B) Related programmers' notes, design documents, memoranda, and similar documentation.

(C) Related customer communications.



(3) “Computer software executable code” means both of the following:

(A) Any object code, machine code, or other code readable by a computer when loaded into its memory and used directly by the computer to execute instructions.

(B) Any related user manuals.

(4) “Owner” includes, with respect to any software, the developer of the software.

(5) A person shall be treated as related to another person if the persons are related persons under Section 267 or 707(b) of the Internal Revenue Code.

(6) “Tax-related computer software source code” means the computer source code for any computer software program intended for accounting, tax return preparation or compliance, or tax planning.

(e) This section and Section 19542.3 shall not apply to any software acquired or developed for internal use by the Franchise Tax Board.

(f) This section shall apply to subpoenas issued, and software acquired, after the effective date of the act adding this section. In the case of any software acquired on or before the effective date of the act adding this section, the requirements of paragraph (2) of subdivision (a) shall apply after the 90th day after the effective date of the act adding this section. The preceding sentence shall not apply to the requirement under clause (ii) of subparagraph (G) of paragraph (2) of subdivision (c).

SEC. 28. Section 19504.7 is added to the Revenue and Taxation Code, to read:

19504.7. (a) An officer or employee of the Franchise Tax Board may not contact any person other than the taxpayer with respect to the determination or collection of the tax liability of the taxpayer without providing reasonable notice in advance to the taxpayer that contacts with persons other than the taxpayer may be made. The notice shall explain that a request may be made as provided in subdivision (b). A notice shall be valid for any third-party contacts made during the 12 months following the date of the notice. For any third-party contacts made after the expiration of the 12



months, an additional preliminary notice must be provided. This subdivision shall not apply if mail to the same address is returned undeliverable with no forwarding address. The notice shall not be required if the unpaid tax for which notice would otherwise be required under this paragraph is consolidated for collection purposes with a preexisting unpaid tax for which notice has been given under this paragraph with respect to that described preexisting unpaid tax of the person.

(b) The Franchise Tax Board shall provide, upon request from the taxpayer, a record of persons contacted during that 12-month period by the Franchise Tax Board with respect to the determination or collection of the tax liability of the taxpayer. The taxpayer's request shall be made no later than 60 days after the 12-month period has expired.

(c) This section shall not apply:

(1) To any contact which the taxpayer has authorized.

(2) If the Franchise Tax Board determines for good cause shown that the notice would jeopardize collection of any tax or the notice may involve reprisal against any person.

(3) With respect to any pending criminal investigation.

(d) This section shall be operative for contacts made after 180 days after the effective date of the act adding this section.

SEC. 30. Section 19542.3 is added to the Revenue and Taxation Code, to read:

19542.3. Any person who willfully divulges or makes known software, as defined in paragraph (1) of subdivision (d) of Section 19504.5, to any person in violation of Section 19504.5 is punishable by imprisonment in the county jail not to exceed one year, or in the state prison not to exceed five years, at the discretion of the court or by fine of not more than five thousand dollars (\$5,000), or by both the fines and imprisonment, at the discretion of the court, together with the costs of investigation and prosecution.



SEC. 31. Section 19546.5 is added to the Revenue and Taxation Code, to read:

19546.5. Any person who otherwise has or had access to any return or return information may disclose the return or return information to a committee appointed by the Assembly or Senate, or both, or any member, clerk, or other officer or employee thereof, if the person believes the return or return information may relate to possible board misconduct, maladministration, or taxpayer abuse.

SEC. 32. Section 19705 of the Revenue and Taxation Code is amended to read:

19705. (a) Any person who does any of the following shall be guilty of a felony and, upon conviction, shall be fined not more than fifty thousand dollars (\$50,000) or imprisoned not more than three years, or both, together with the costs of investigation and prosecution:

(1) Willfully makes and subscribes any return, statement, or other document, that contains or is verified by a written declaration that it is made under penalty of perjury, and he or she does not believe to be true and correct as to every material matter.

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Personal Income Tax Law or the Bank and Corporation Tax Law, of a return, affidavit, claim, or other document, that is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document.

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Personal Income Tax Law or the Bank and Corporation Tax Law, or by any regulation pursuant to that law, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution.

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or



commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 5 (commencing with Section 19201); or Chapter 8 (commencing with Section 688.010) of Division 1 of, and Chapter 5 (commencing with Section 706.010) of Division 2 of, Title 9 of the Code of Civil Procedure, with intent to evade or defeat the assessment or collection of any tax, additions to tax, penalty, or interest imposed by Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(5) In connection with any settlement under Section 19442, or offer of that settlement, or in connection with any closing agreement under Section 19441 or offer to enter into that agreement, or compromise under Section 19443, or offer of that compromise, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax.

(b) In the case of a corporation, the fifty thousand dollars (\$50,000) limitation specified in subdivision (a) shall be increased to two hundred thousand dollars (\$200,000).

(c) The fact that an individual's name is signed to a return, statement, or other document filed, including a return, statement, or other document filed using electronic technology pursuant to Section 18621.5, shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him or her.

(d) For purposes of this section, "person" means the taxpayer, any member of the taxpayer's family, any corporation, agent, fiduciary, or representative of, or any other individual or entity acting on behalf of, the taxpayer, or any other corporation or entity owned or



controlled by the taxpayer, directly or indirectly, or which owns or controls the taxpayer, directly or indirectly.

(e) The changes made to this section by the act adding this subdivision apply to offers made on or after January 1, 1999.

SEC. 33. Section 19717 of the Revenue and Taxation Code is amended to read:

19717. (a) The prevailing party may be awarded a judgment for reasonable litigation costs incurred, in the case of any civil proceeding brought by or against the State of California in a court of record of this state in connection with the determination, collection, or refund of any tax, interest, or penalty under this part.

(b) (1) A judgment for reasonable litigation costs shall not be awarded under subdivision (a) unless the court determines that the prevailing party has exhausted all administrative remedies available to that party under this part, including the filing of an appeal as provided in Section 19324. Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence.

(2) An award under subdivision (a) shall be made only for reasonable litigation costs which are allocable to the State of California and not to any other party to the action or proceeding.

(3) No award for reasonable litigation costs may be made under subdivision (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted that proceeding.

(c) For purposes of this section:

(1) "Reasonable litigation costs" includes any of the following:

(A) Reasonable court costs.

(B) Based upon prevailing market rates for the kind or quality of services furnished, any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no



expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of one hundred twenty-five dollars (\$125) per hour unless the court determines that a special factor, such as the limited availability of qualified attorneys for the proceeding, the difficulty of the issues presented in the case, or the local availability of tax expertise justifies a higher rate. In the case of each calendar year beginning with calendar year 2001, the Franchise Tax Board shall recompute the dollar amount referred to in the preceding sentence. That computation shall be made by increasing the amount in this clause by an amount equal to the cost-of-living adjustment determined under subdivision (h) of Section 17041. If any resulting dollar amount is not a multiple of ten dollars (\$10), that dollar amount shall be rounded to the nearest multiple of ten dollars (\$10).

(iv) The court may award reasonable attorney fees under subdivision (a) in excess of the attorney fees paid or incurred if the fees are less than the reasonable attorneys' fees because the attorney is representing the prevailing party for no fee or for a fee which (taking into account all the facts and circumstances) is no more than a nominal fee. This clause shall apply only if the award is paid to the attorney or the attorney's employer.

(2) (A) "Prevailing party" means any party to any proceeding described in subdivision (a) (other than the State of California or any creditor of the taxpayer involved) that meets either of the following criteria:

(i) Has substantially prevailed with respect to the amount in controversy.

(ii) Has substantially prevailed with respect to the most significant issue or set of issues presented.



(B) (i) A party shall not be treated as the prevailing party in a proceeding to which subdivision (a) applies if the State of California establishes that its position in the proceeding was substantially justified.

(ii) For purposes of clause (i), the position of the State of California shall be presumed not to be substantially justified if the Franchise Tax Board did not follow its applicable published guidance in the administrative proceeding. This presumption may be rebutted.

(iii) For purposes of clause (ii), the term “applicable published guidance” means either of the following:

(I) A regulation, legal ruling, notice, information release, or announcement.

(II) Any chief counsel ruling or determination letter issued to the taxpayer.

(iv) For purposes of clause (i), in determining whether the position of the Franchise Tax Board was substantially justified, the court shall take into account whether the Franchise Tax Board has lost in any California Court of Appeal in another district on substantially similar issues, as reflected in a decision certified for publication.

(C) Any determination under this paragraph as to whether a party is a prevailing party shall be made by either of the following:

(i) The court.

(ii) An agreement of the parties.

(3) The term “civil proceeding” includes a civil action.

(d) For purposes of this section, in the case of multiple actions which could have been joined or consolidated, or a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court, the actions or cases shall be treated as one civil proceeding regardless of whether the joinder or consolidation actually occurs, unless the court in which the action is brought determines, in its discretion, that it would be inappropriate to treat the actions or cases as joined or consolidated for purposes of this section.



(e) An order granting or denying an award for reasonable litigation costs under subdivision (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

(f) For purposes of this section, “position of the State of California” includes either of the following:

(1) The position taken by the State of California in the civil proceeding.

(2) Any administrative action or inaction by the Franchise Tax Board (and all subsequent administrative action or inaction) upon which that proceeding is based.

(g) The amendments made by the act amending this subdivision are effective for costs incurred and services performed more than 180 days after the effective date of the act amending this subdivision.

SEC. 34. Section 21013 of the Revenue and Taxation Code is amended to read:

21013. (a) (1) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to an appeal before the State Board of Equalization if all of the following conditions are met:

(A) The taxpayer files a claim for the fee and expenses with the State Board of Equalization.

(B) The State Board of Equalization, in its sole discretion, finds that the action taken by the Franchise Tax Board staff was unreasonable.

(2) For purposes of this section:

(A) Fees and expenses related to an appeal before the State Board of Equalization do not include fees and expenses incurred in cases where an appeal has been filed, but resolved before the Franchise Tax Board’s written statement of its position has been submitted to the State Board of Equalization.

(B) Fees may be awarded in excess of the fees paid or incurred if the fees are less than the reasonable fees because an individual representing the taxpayer is entitled to be reimbursed for no fee or for a fee which, taking into account all the facts and circumstances, is no more than a nominal fee. This subparagraph shall apply



only if the award is paid to the individual or the individual's employer.

(b) (1) To determine whether the Franchise Tax Board staff has been unreasonable, the State Board of Equalization shall consider whether the Franchise Tax Board has established that its position in the appeal was substantially justified.

(2) For purposes of paragraph (1), the position of the Franchise Tax Board shall be presumed not to be substantially justified if its staff did not follow its applicable published guidance in the appeal. This presumption may be rebutted.

(3) For purposes of paragraph (2), the term "applicable published guidance" means either of the following:

(A) A regulation, legal ruling, notice, information release, or announcement.

(B) Any chief counsel ruling or determination letter issued to a taxpayer.

(c) The amount of reimbursed fees and expenses shall be determined by the State Board of Equalization and shall be limited to the following:

(1) Fees and expenses incurred after the date of a notice of proposed deficiency assessment or jeopardy assessment, or a denial of a claim for refund.

(2) If the State Board of Equalization finds that the Franchise Tax Board staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those which relate to the issues where the Franchise Tax Board staff was unreasonable.

(d) Any proposed determination by the State Board of Equalization pursuant to this section shall be available as a public record for at least 10 days prior to the effective date of that determination.

(e) The amendments made by the act amending this subdivision are effective for fees and expenses incurred more than 180 days after the effective date of the act amending this subdivision.



SEC. 34.5. Section 21013 of the Revenue and Taxation Code is amended to read:

21013. (a) (1) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to an appeal before the State Board of Equalization if all of the following conditions are met:

(A) The taxpayer files a claim for the fee and expenses with the State Board of Equalization.

(B) The State Board of Equalization, in its sole discretion, finds that the action taken by the Franchise Tax Board staff was unreasonable.

(2) For purposes of this section:

(A) Fees and expenses related to an appeal before the State Board of Equalization do not include fees and expenses incurred in cases where an appeal has been filed, but resolved before the Franchise Tax Board's written statement of its position has been submitted to the State Board of Equalization.

(B) Fees may be awarded in excess of the fees paid or incurred if the fees are less than the reasonable fees because an individual representing the taxpayer is entitled to be reimbursed for no fee or for a fee which, taking into account all the facts and circumstances, is no more than a nominal fee. This subparagraph shall apply only if the award is paid to the individual or the individual's employer.

(b) (1) To determine whether the Franchise Tax Board staff has been unreasonable, the State Board of Equalization shall consider whether the Franchise Tax Board has established that its position in the appeal was substantially justified.

(2) For purposes of paragraph (1), the position of the Franchise Tax Board shall be presumed not to be substantially justified if its staff did not follow its applicable published guidance in the appeal. This presumption may be rebutted.

(3) For purposes of paragraph (2), the term "applicable published guidance" means either of the following:



(A) A regulation, legal ruling, notice, information release, or announcement.

(B) Any chief counsel ruling or determination letter issued to a taxpayer.

(c) The amount of reimbursed fees and expenses shall be determined by the State Board of Equalization and shall be limited to the following:

(1) Fees and expenses incurred after the date of a notice of proposed deficiency assessment or jeopardy assessment, or a denial of a claim for refund, including fees and expenses incurred at the hearing specified in subdivision (e).

(2) If the State Board of Equalization finds that the Franchise Tax Board staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those which relate to the issues where the Franchise Tax Board staff was unreasonable.

(d) Any proposed determination by the State Board of Equalization pursuant to this section shall be available as a public record for at least 10 days prior to the effective date of that determination.

(e) Every taxpayer who files a claim for reimbursement of fees and expenses under this section shall be granted an oral hearing before the State Board of Equalization, unless that taxpayer has waived the oral hearing in writing, or unless the State Board of Equalization or the Franchise Tax Board concedes the underlying tax appeal and agrees to the reimbursement of fees and expenses. The State Board of Equalization shall give the taxpayer 60 days' notice of the time and place of the hearing. The State Board of Equalization may continue the hearing from time to time as may be necessary.

(f) (1) Except as provided in paragraph (2), the amendments made by the act adding this subdivision are effective for fees and expenses incurred more than 180 days after the effective date of the act adding this subdivision.



(2) Subdivision (e), relating to the oral hearing before the State Board of Equalization, shall be operative for fees and expenses related to appeals filed on or after January 1, 2000.

SEC. 35. Section 21016 of the Revenue and Taxation Code is amended to read:

21016. (a) The board shall release any levy issued pursuant to Part 10.2 (commencing with Section 18401) on any property in the event of any circumstances deemed appropriate by the board, including, but not limited to, the following:

(1) The expense of the sale process to the state exceeds the liability for which the levy is made.

(2) The Taxpayers' Rights Advocate orders the release of the levy upon his or her finding that the levy threatens the health or welfare of the taxpayer or his or her spouse and dependents or family.

(3) The proceeds from the sale would not result in a reasonable reduction of the debt.

(4) The levy was issued not in accordance with administrative procedures.

(5) The taxpayer has entered into an installment payment agreement under Section 19008 to satisfy the tax liability for which the levy was made, unless that or another agreement allows for the levy.

(6) The release of the levy will facilitate the collection of the tax liability or will be in the best interest of the taxpayer and the state.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment authorized by Article 5 (commencing with Section 19081) of Chapter 4 of Part 10.2.

(d) In the case of a levy on salary or wages payable to or received by the taxpayer, in accordance with Chapter 5 (commencing with Section 706.010) of Division 2 of



Title 9 of the Code of Civil Procedure, upon agreement with the taxpayer that the tax is not collectible, the board shall release the levy as soon as practicable. This subdivision shall not apply if the debt for which the levy is issued has been discharged from collectibility pursuant to Section 16301.6 of the Government Code, except if the debt is satisfied.

(e) The amendments made by the act adding this subdivision are operative for salary or wages subject to levy on or after the effective date of the act adding this subdivision.

SEC. 36. The amendments made by this act to Section 17053.5 of the Revenue and Taxation Code and the repeal of Section 19052 of the Revenue and Taxation Code shall be operative for taxable years beginning on or after January 1, 1998.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 39. Section 34.5 of this bill incorporates amendments to Section 21013 of the Revenue and Taxation Code proposed by both this bill and SB 299. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 21013 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 299, in which case Section 21013 of the Revenue and Taxation Code, as amended by Section 34 of this bill, shall remain operative only until the operative date of SB 299, at which time Section 34.5 of this bill shall become operative.



SEC. 40. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.



Approved _____, 1999

Governor

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