

**Introduced by Committee on Revenue and Taxation  
(Senators Chesbro (Chair), Alpert, Bowen, Burton,  
Johnston, McPherson, and Poochigian)**

February 26, 1999

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An act to amend Sections 18604, 19023, 19145, 19151, 23731, 23776, 23777, and 23778 of, and to repeal Section 18605 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1230, as introduced, Committee on Revenue and Taxation. Franchise and income taxes.

Existing franchise and income tax laws provide, among other things, an extension for filing certain corporation tax returns, payment of estimated taxes by corporations, and certain penalties and additions to tax.

This bill would make nonsubstantive, clarifying changes to those provisions.

The Bank and Corporation Tax Law provides for the suspension or forfeiture of certain exempt corporations.

This bill would provide that if those corporations have suffered a suspension or forfeiture, as specified, they may be required to file a new application for exemption with an application for revivor.

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

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

1 SECTION 1. Section 18604 of the Revenue and  
2 Taxation Code is amended to read:

3 18604. (a) The Franchise Tax Board may grant a  
4 reasonable extension of time for filing any return,  
5 declaration, statement, or other document required by  
6 Part 11 (commencing with Section 23001), in the manner  
7 and form as the Franchise Tax Board may determine. No  
8 extension or extensions shall aggregate more than seven  
9 months from the due date for filing the return.

10 (b) ~~An extension for the filing of the return of taxes~~  
11 ~~imposed by Part 11 (commencing with Section 23001)~~  
12 ~~shall be allowed any corporation if, in the manner and at~~  
13 ~~the time as the Franchise Tax Board may prescribe, that~~  
14 ~~corporation pays, on or before the date prescribed for~~  
15 ~~payment of the tax, the amount properly estimated as~~  
16 ~~provided in Section 19023 or 19024.~~

17 (c) ~~An extension of time granted pursuant to this~~  
18 ~~section is not an extension of time for payment of tax~~  
19 ~~required to be paid on or before the due date of the return~~  
20 ~~without regard to extension. Underpayment of tax~~  
21 ~~penalties shall be imposed as provided by law without~~  
22 ~~regard to any extension granted under this section.~~

23 SEC. 2. Section 18605 of the Revenue and Taxation  
24 Code is repealed.

25 ~~18605. A reasonable extension of time for filing a~~  
26 ~~return, statement, or other document required under~~  
27 ~~Section 23772 or 23774 may be granted by the Franchise~~  
28 ~~Tax Board whenever in its judgment good cause exists.~~  
29 ~~The Franchise Tax Board may prescribe rulings and~~  
30 ~~regulations as are necessary and reasonable to carry out~~  
31 ~~this section.~~

32 SEC. 3. Section 19023 of the Revenue and Taxation  
33 Code is amended to read:

34 19023. For purposes of this article, in the case of a  
35 corporation, other than a bank or financial corporation *or*  
36 *an organization described in Section 23731*, the term  
37 “estimated tax” means the amount which the corporation  
38 *or organization described in Section 23731* estimates as



1 the amount of the tax imposed by Part 11 (commencing  
2 with Section 23001) and the amount of its liability for the  
3 tax of each wholly owned subsidiary under Section  
4 23800.5; but in no event shall the estimated tax of a  
5 corporation subject to the tax imposed by Article 2  
6 (commencing with Section 23151) of Chapter 2 of Part 11  
7 be less than the minimum tax prescribed in Section 23153.

8 SEC. 4. Section 19145 of the Revenue and Taxation  
9 Code is amended to read:

10 19145. For purposes of Section 19142, the period of the  
11 underpayment shall run from the date the installment  
12 was required to be made to whichever of the following  
13 date is the earlier:

14 (a) The 15th day of the third month following the close  
15 of the income year, except in the case of a ~~corporation~~  
16 ~~which is an organization described in Section 23731~~  
17 subject to the tax imposed under Section 23731, in which  
18 case “fifth” shall be substituted for “third.”

19 (b) With respect to any portion of the underpayment,  
20 the date on which that portion is paid. For purposes of this  
21 subdivision, a payment of estimated tax on any  
22 installment date shall be considered a payment of any  
23 previous underpayment only to the extent the payment  
24 exceeds the amount of the installment determined under  
25 subdivision (a) of Section 19144 for the installment date.

26 SEC. 5. Section 19151 of the Revenue and Taxation  
27 Code is amended to read:

28 19151. Notwithstanding Sections 19142 to 19150,  
29 inclusive, the addition to the tax with respect to  
30 underpayment of any installment shall not be imposed on  
31 an exempt ~~corporation~~ *organization described in Section*  
32 *23731* whose exemption is retroactively revoked unless  
33 the ~~corporation~~ *organization described in Section 23731*  
34 has notice that the estimated tax should have been paid.  
35 The denial of the organization’s exemption application or  
36 the revocation of its exemption by the Internal Revenue  
37 Service normally satisfies the notice requirement.

38 SEC. 6. Section 23731 of the Revenue and Taxation  
39 Code is amended to read:



1 23731. Every organization or trust exempt under this  
2 chapter, except as provided in this article, is subject to the  
3 tax imposed upon its unrelated business taxable income,  
4 as defined in Section 23732, *as follows*:

5 (a) Corporations (other than banks and financial  
6 corporations), associations, and business trusts are subject  
7 to the tax ~~rates~~ imposed under ~~Section 23151~~ or Section  
8 23501.

9 (b) Trusts ~~will be~~ *are* subject to the tax ~~rates~~ imposed  
10 by subdivision (e) of Section 17041.

11 This section applies to income years beginning after  
12 December 31, 1970.

13 SEC. 7. Section 23776 of the Revenue and Taxation  
14 Code is amended to read:

15 23776. (a) Any organization which has suffered the  
16 suspension or forfeiture provided for in Section 23775  
17 may, in accordance with Section 23305a, be relieved  
18 therefrom upon the ~~filing of~~

19 ~~(a) filing of all of the following~~:

20 (1) An application for ~~revivor and payment of a filing~~  
21 ~~fee of ten dollars (\$10); and~~

22 ~~(b) revivor.~~

23 (2) When required by the Franchise Tax Board, a new  
24 application for ~~exemption; and~~

25 ~~(c) exemption under Section 23701.~~

26 (3) Any ~~information~~ returns, statements, notifications,  
27 or amounts due under Sections 23772, 23774, or 23775  
28 which were not previously submitted or paid and which  
29 resulted in the suspension or ~~forfeiture; and~~

30 ~~(d) forfeiture.~~

31 (4) An information return or statement and the  
32 amounts specified under Section 23772 for each year, or  
33 part thereof, during the period of suspension or forfeiture  
34 in which the organization conducted any activities or  
35 received income, grants, gifts or any other asset.

36 (b) Any organization exempt from tax under Section  
37 23701 which has suffered the suspension or forfeiture  
38 provided for in Section 23301 or 23301.5 may be required  
39 by the Franchise Tax Board to file a new application for



1 *exemption in connection with an application for revivor*  
2 *under Section 23305.*

3 SEC. 8. Section 23777 of the Revenue and Taxation  
4 Code is amended to read:

5 23777. The exemption granted to any organization  
6 under the provisions of Article 1 (commencing with  
7 Section 23701) of this chapter may be revoked by the  
8 Franchise Tax Board if the organization fails to—

9 (a) ~~File the annual return or statement required~~  
10 ~~under Section 23772 or 23774 or pay any amount required~~  
11 ~~under Section 23703 or 23772 any return required under~~  
12 ~~this chapter or pay any amount due under this part or Part~~  
13 ~~10.2 (commencing with Section 18401) on or before the~~  
14 ~~last day of the 12th month following the close of the~~  
15 ~~income year;~~

16 (b) Comply with Section 19504 (relating to powers of  
17 the Franchise Tax Board to examine records and  
18 subpoena witnesses); or

19 (c) Confine its activities to those permitted by the  
20 section under which the exemption was granted.

21 SEC. 9. Section 23778 of the Revenue and Taxation  
22 Code is amended to read:

23 23778. An organization whose exemption was  
24 revoked under Section 23777 may be reestablished as an  
25 exempt organization ~~upon the filing of—upon:~~

26 (a) *The filing or payment of:*

27 (1) A new application for exemption and payment of  
28 the filing fee required under Section 23701;

29 (b) ~~—~~

30 (2) Any ~~information~~ returns, statements, ~~notifications,~~  
31 or ~~payment of any~~ amounts due under ~~Section 23772,~~  
32 ~~23774, or 23775~~ this part or Part 10.2 (commencing with  
33 Section 18401) which were not previously submitted or  
34 paid and which resulted in the ~~revocation; and~~

35 (c) ~~—revocation.~~

36 (b) When revocation occurred under subdivision (c)  
37 of Section 23777, satisfactory proof that—

38 (1) The organization has corrected its nonexempt  
39 activities; and



- 1 (2) That it will operate in an exempt manner in the
- 2 future; and
- 3 (3) The payment of any tax for periods the
- 4 organization was not qualified for exemption.

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