

AMENDED IN SENATE JUNE 23, 1999

AMENDED IN SENATE MAY 18, 1999

AMENDED IN SENATE MAY 6, 1999

**SENATE BILL**

**No. 1293**

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**Introduced by Senator ~~Schiff~~ Chesbro**

February 26, 1999

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An act to ~~add Section 5171 to~~ amend Sections 24410 and 25139 of, and to amend the heading of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1293, as amended, ~~Schiff~~ Chesbro. ~~Property taxation: suit for refund: evidence~~ Bank and corporation taxes.

*The Bank and Corporation Tax Law includes, among other provisions, the Uniform Division of Income for Tax Purposes Act.*

*This bill would change that title to the Uniform Division of Income for Purposes of Taxation Act, and would make a conforming change to other bank and corporation tax provisions.*

~~Existing property tax law requires a trial court in a suit for the refund of state-assessed property taxes to conduct an independent review of evidence relevant to valuation issues.~~

~~This bill would, for purposes of an action for the refund of locally assessed taxes, require a trial court, in reviewing findings of fact presented by either party, to exercise its~~

~~independent judgment pursuant to a specified statutory provision.~~

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

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

1 SECTION 1. ~~Section 5171 is added to the Revenue~~  
2 SECTION 1. Section 24410 of the Revenue and  
3 Taxation Code is amended to read:  
4 24410. (a) Dividends received by a corporation  
5 commercially domiciled in California, during the income  
6 year from an insurance company subject to tax imposed  
7 by Part 7 (commencing with Section 12001) ~~of this~~  
8 ~~division~~ at the time of the payment of the dividends and  
9 at least 80 percent of each class of its stock then being  
10 owned by the corporation receiving the dividend.  
11 (b) The deduction under this section ~~shall be~~ is limited  
12 to that portion of the dividends received which are  
13 determined to be paid from income from California  
14 sources determined pursuant to subdivision (c).  
15 (c) Dividends paid from California sources shall be  
16 determined by multiplying the amount of the dividends  
17 by an apportionment factor equal to the ratio of gross  
18 income from California sources to all gross income of the  
19 company. Gross income from California sources equals  
20 total gross income less dividends from other insurance  
21 companies multiplied by the average of the following  
22 three factors:  
23 (1) A gross receipts factor, the denominator of which  
24 ~~shall include~~ includes all receipts, other than dividends  
25 from another insurance company, regardless of the  
26 nature or source from which derived. ~~The;~~ and the  
27 numerator of which ~~shall include~~ includes all gross  
28 receipts, other than dividends from another insurance  
29 company, derived from or attributable to this state. With  
30 respect to premiums, only receipts ~~which~~ that were  
31 subject to tax under Part 7 (commencing with Section  
32 12001) of this division, shall be included in the numerator,  
33 and with respect to income from intangibles they shall be



1 attributable to the commercial domicile of the insurance  
2 company.

3 (2) A payroll factor determined under the provisions  
4 of the Uniform Division of Income for ~~Tax~~ Purposes of  
5 ~~Taxation Act, Chapter 17, Article 2 of this part~~ (*Article 2*  
6 *(commencing with Section 25120) of Chapter 17*).

7 (3) A property factor, determined under the  
8 provisions of the Uniform Division of Income for Tax  
9 Purposes Act provided for in Article 2 (commencing with  
10 Section 25120) of Chapter 17 of this part, provided that for  
11 the purposes of this paragraph the property factor shall  
12 include all intangible investment property, which  
13 intangible property shall be allocated to the commercial  
14 domicile of ~~such~~ *the* insurance company.

15 (4) Plus the portion of the dividends received from  
16 another insurance company determined to be paid from  
17 California source income pursuant to the formula set  
18 forth in paragraphs (1) ~~through~~ *to* (3), *inclusive*, based  
19 upon the receipts, payroll and property of ~~such~~ *the* other  
20 insurance company.

21 (d) The insurance company from which the dividends  
22 are received shall furnish ~~such~~ *that* information as the  
23 Franchise Tax Board may require to determine the  
24 allocation formula and the Franchise Tax Board may  
25 adopt such regulations as it deems necessary to effectuate  
26 the purpose of this section.

27 (e) Nothing in this section shall be construed to limit  
28 or affect in any manner any other provisions of this part.

29 *SEC. 2. The heading of Article 2 (commencing with*  
30 *Section 25120) of Chapter 17 of Part 11 of Division 2 of the*  
31 *Revenue and Taxation Code is amended to read:*

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33 Article 2. Uniform Division of Income for ~~Tax~~  
34 Purposes of Taxation Act

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36 *SEC. 3. Section 25139 of the Revenue and Taxation*  
37 *Code is amended to read:*

38 ~~25139. Sections 25120 to 25139, inclusive, This article~~  
39 ~~may be cited as the Uniform Division of Income for ~~Tax~~~~  
40 ~~Purposes of Taxation Act.~~



1 ~~and Taxation Code, to read:~~

2 ~~5171. (a) In a suit for refund of locally assessed~~  
3 ~~property taxes, the trial court shall, in reviewing findings~~  
4 ~~of fact presented by either party, exercise its independent~~  
5 ~~judgment on the evidence in accordance with subdivision~~  
6 ~~(c) of Section 1094.5 of the Code of Civil Procedure.~~

7 ~~(b) No provision of this section shall be construed to~~  
8 ~~change existing law as it applies to judicial review of legal~~  
9 ~~issues raised in assessment appeals.~~

