

AMENDED IN SENATE AUGUST 26, 2009

AMENDED IN SENATE JULY 16, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 692**

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**Introduced by Assembly Member Charles Calderon**

February 26, 2009

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An act to amend Sections 17024.5 and 23051.5 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 692, as amended, Charles Calderon. Income and corporation taxes: federal tax conformity.

The Personal Income Tax Law and the Corporation Tax Law impose income and corporation taxes in specified conformity to federal income tax laws.

This bill would clarify the applicability of specified federal income tax interpretations.

*This bill would incorporate changes proposed to both laws by this bill and AB 1580 if both bills are chaptered and this bill is chaptered last.*

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

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

SECTION 1. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

| Taxable Year                                                                                               | Specified Date of<br>Internal Revenue<br>Code Sections |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| (A) For taxable years beginning on or after<br>January 1, 1983, and on or before December<br>31, 1983..... | January 15, 1983                                       |
| (B) For taxable years beginning on or after<br>January 1, 1984, and on or before December<br>31, 1984..... | January 1, 1984                                        |
| (C) For taxable years beginning on or after<br>January 1, 1985, and on or before December<br>31, 1985..... | January 1, 1985                                        |
| (D) For taxable years beginning on or after<br>January 1, 1986, and on or before December<br>31, 1986..... | January 1, 1986                                        |
| (E) For taxable years beginning on or after<br>January 1, 1987, and on or before December<br>31, 1988..... | January 1, 1987                                        |
| (F) For taxable years beginning on or after<br>January 1, 1989, and on or before December<br>31, 1989..... | January 1, 1989                                        |
| (G) For taxable years beginning on or after<br>January 1, 1990, and on or before December<br>31, 1990..... | January 1, 1990                                        |
| (H) For taxable years beginning on or after<br>January 1, 1991, and on or before December<br>31, 1991..... | January 1, 1991                                        |
| (I) For taxable years beginning on or after                                                                |                                                        |

1 January 1, 1992, and on or before December  
2 31, 1992..... January 1, 1992  
3 (J) For taxable years beginning on or after  
4 January 1, 1993, and on or before December  
5 31, 1996..... January 1, 1993  
6 (K) For taxable years beginning on or after  
7 January 1, 1997, and on or before December  
8 31, 1997..... January 1, 1997  
9 (L) For taxable years beginning on or after  
10 January 1, 1998, and on or before December  
11 31, 2001..... January 1, 1998  
12 (M) For taxable years beginning on or after  
13 January 1, 2002, and on or before December  
14 31, 2004..... January 1, 2001  
15 (N) For taxable years beginning on or after  
16 January 1, 2005..... January 1, 2005  
17

18 (2) (A) Unless otherwise specifically provided, for federal laws  
19 enacted on or after January 1, 1987, and on or before the specified  
20 date for the taxable year, uncodified provisions that relate to  
21 provisions of the Internal Revenue Code that are incorporated for  
22 purposes of this part shall be applicable to the same taxable years  
23 as the incorporated provisions.

24 (B) In the case where Section 901 of the Economic Growth and  
25 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
26 provision of the Internal Revenue Code that is incorporated for  
27 purposes of this part, Section 901 of the Economic Growth and  
28 Tax Relief Act of 2001 shall apply for purposes of this part in the  
29 same manner and to the same taxable years as it applies for federal  
30 income tax purposes.

31 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
32 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
33 Reconciliation Act of 1990 (Public Law 101-508) modified  
34 numerous provisions of the Internal Revenue Code and provisions  
35 of prior federal acts, some of which are incorporated by reference  
36 into this part. Unless otherwise provided, the provisions described  
37 in the preceding sentence, to the extent that they modify provisions  
38 that are incorporated into this part, are declaratory of existing law  
39 and shall be applied in the same manner and for the same periods  
40 as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying any provision of the Internal Revenue Code for purposes of this part, a reference to any of the following is not applicable for purposes of this part:

(1) Except as provided in Chapter 4.5 (commencing with Section 23800) of Part 11 of Division 2, an electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign income taxes and foreign income tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) Federal tax credits and carryovers of federal tax credits.

(11) Nonresident aliens.

(12) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(13) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(14) The tax, relating to estates, imposed by Section 2001 or 2101 of the Internal Revenue Code.

(c) (1) The provisions contained in Sections 41 to 44, inclusive, and Section 172 of the Tax Reform Act of 1984 (Public Law 98-369), relating to treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(2) The provisions contained in Public Law 99-121, relating to the treatment of debt instruments, is not applicable for taxable years beginning before January 1, 1987.

(3) For each taxable year beginning on or after January 1, 1987, the provisions referred to by paragraphs (1) and (2) shall be

1 applicable for purposes of this part in the same manner and with  
2 respect to the same obligations as the federal provisions, except  
3 as otherwise provided in this part.

4 (d) (1) When applying the Internal Revenue Code for purposes  
5 of this part, regulations promulgated in final form or issued as  
6 temporary regulations by “the secretary” shall be applicable as  
7 regulations under this part to the extent that they do not conflict  
8 with this part or with regulations issued by the Franchise Tax  
9 Board.

10 (2) (A) Federal administrative guidance regarding an  
11 interpretation of a provision of the Internal Revenue Code that is  
12 applicable for purposes of this part shall be applicable as  
13 administrative guidance issued by the Franchise Tax Board under  
14 this part to the extent it does not conflict with this part or with  
15 regulations issued by the Franchise Tax Board.

16 (B) For purposes of this paragraph, “federal administrative  
17 guidance” means federal revenue rulings, notices, revenue  
18 procedures, announcements, and other published administrative  
19 guidance promulgated by the Commissioner of Internal Revenue  
20 or the Chief Counsel of the Internal Revenue Service, but does not  
21 include a private letter ruling or any other administrative guidance  
22 issued by the Commissioner of Internal Revenue or the Chief  
23 Counsel of the Internal Revenue Service with respect to a particular  
24 taxpayer.

25 (3) Unless otherwise specifically provided, final or temporary  
26 federal regulations and any federal administrative guidance shall  
27 not apply for purposes of this part prior to the applicable specified  
28 date in subdivision (a).

29 (4) For purposes of this subdivision, the phrase “conflict with  
30 this part” shall include, but not be limited to, any temporary or  
31 final federal regulation or any federal administrative guidance that,  
32 except as otherwise specifically provided in this part, constitutes  
33 a substantive change in federal law that is inconsistent with the  
34 statute or statutes to which such advice relates or is beyond the  
35 scope of the Secretary of the Treasury’s authority.

36 (e) Whenever this part allows a taxpayer to make an election,  
37 the following rules shall apply:

38 (1) A proper election filed with the Internal Revenue Service  
39 in accordance with the Internal Revenue Code or regulations issued  
40 by “the secretary” shall be deemed to be a proper election for

1 purposes of this part, unless otherwise provided in this part or in  
2 regulations issued by the Franchise Tax Board.

3 (2) A copy of that election shall be furnished to the Franchise  
4 Tax Board upon request.

5 (3) (A) Except as provided in subparagraph (B), in order to  
6 obtain treatment other than that elected for federal purposes, a  
7 separate election shall be filed at the time and in the manner  
8 required by the Franchise Tax Board.

9 (B) (i) If a taxpayer makes a proper election for federal income  
10 tax purposes prior to the time that taxpayer becomes subject to the  
11 tax imposed under this part or Part 11 (commencing with Section  
12 23001), that taxpayer is deemed to have made the same election  
13 for purposes of the tax imposed by this part, Part 10.2 (commencing  
14 with Section 18401), and Part 11 (commencing with Section  
15 23001), as applicable, and that taxpayer may not make a separate  
16 election for California tax purposes unless that separate election  
17 is expressly authorized by this part, Part 10.2 (commencing with  
18 Section 18401), or Part 11 (commencing with Section 23001), or  
19 by regulations issued by the Franchise Tax Board.

20 (ii) If a taxpayer has not made a proper election for federal  
21 income tax purposes prior to the time that taxpayer becomes subject  
22 to tax under this part or Part 11 (commencing with Section 23001),  
23 that taxpayer may not make a separate California election for  
24 purposes of this part, Part 10.2 (commencing with Section 18401),  
25 or Part 11 (commencing with Section 23001), unless that separate  
26 election is expressly authorized by this part, Part 10.2 (commencing  
27 with Section 18401), or Part 11 (commencing with Section 23001),  
28 or by regulations issued by the Franchise Tax Board.

29 (iii) This subparagraph applies only to the extent that the  
30 provisions of the Internal Revenue Code or the regulation issued  
31 by “the secretary” authorizing an election for federal income tax  
32 purposes apply for purposes of this part, Part 10.2 (commencing  
33 with Section 18401) or Part 11 (commencing with Section 23001).

34 (f) Whenever this part allows or requires a taxpayer to file an  
35 application or seek consent, the rules set forth in subdivision (e)  
36 shall be applicable with respect to that application or consent.

37 (g) When applying the Internal Revenue Code for purposes of  
38 determining the statute of limitations under this part, any reference  
39 to a period of three years shall be modified to read four years for  
40 purposes of this part.

1 (h) When applying, for purposes of this part, any section of the  
2 Internal Revenue Code or any applicable regulation thereunder,  
3 all of the following shall apply:

4 (1) References to “adjusted gross income” shall mean the  
5 amount computed in accordance with Section 17072, except as  
6 provided in paragraph (2).

7 (2) (A) Except as provided in subparagraph (B), references to  
8 “adjusted gross income” for purposes of computing limitations  
9 based upon adjusted gross income, shall mean the amount required  
10 to be shown as adjusted gross income on the federal tax return for  
11 the same taxable year.

12 (B) In the case of registered domestic partners and former  
13 registered domestic partners, adjusted gross income, for the  
14 purposes of computing limitations based upon adjusted gross  
15 income, shall mean the adjusted gross income on a federal tax  
16 return computed as if the registered domestic partner or former  
17 registered domestic partner was treated as a spouse or former  
18 spouse, respectively, for federal income tax purposes, and used  
19 the same filing status that was used on the state tax return for the  
20 same taxable year.

21 (3) Any reference to “subtitle” or “chapter” shall mean this part.

22 (4) The provisions of Section 7806 of the Internal Revenue  
23 Code, relating to construction of title, shall apply.

24 (5) Any provision of the Internal Revenue Code that becomes  
25 operative on or after the specified date for that taxable year shall  
26 become operative on the same date for purposes of this part.

27 (6) Any provision of the Internal Revenue Code that becomes  
28 inoperative on or after the specified date for that taxable year shall  
29 become inoperative on the same date for purposes of this part.

30 (7) Due account shall be made for differences in federal and  
31 state terminology, effective dates, substitution of “Franchise Tax  
32 Board” for “secretary” when appropriate, and other obvious  
33 differences.

34 (i) Any reference to a specific provision of the Internal Revenue  
35 Code shall include modifications of that provision, if any, in this  
36 part.

37 *SEC. 1.5. Section 17024.5 of the Revenue and Taxation Code*  
38 *is amended to read:*

39 17024.5. (a) (1) Unless otherwise specifically provided, the  
40 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”

or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto as enacted on the specified date for the applicable taxable year as follows:

|                                                                                                            | Specified Date of<br>Internal Revenue<br>Code Sections |
|------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Taxable Year                                                                                               |                                                        |
| (A) For taxable years beginning on or after<br>January 1, 1983, and on or before December<br>31, 1983..... | January 15, 1983                                       |
| (B) For taxable years beginning on or after<br>January 1, 1984, and on or before December<br>31, 1984..... | January 1, 1984                                        |
| (C) For taxable years beginning on or after<br>January 1, 1985, and on or before December<br>31, 1985..... | January 1, 1985                                        |
| (D) For taxable years beginning on or after<br>January 1, 1986, and on or before December<br>31, 1986..... | January 1, 1986                                        |
| (E) For taxable years beginning on or after<br>January 1, 1987, and on or before December<br>31, 1988..... | January 1, 1987                                        |
| (F) For taxable years beginning on or after<br>January 1, 1989, and on or before December<br>31, 1989..... | January 1, 1989                                        |
| (G) For taxable years beginning on or after<br>January 1, 1990, and on or before December<br>31, 1990..... | January 1, 1990                                        |
| (H) For taxable years beginning on or after<br>January 1, 1991, and on or before December<br>31, 1991..... | January 1, 1991                                        |
| (I) For taxable years beginning on or after<br>January 1, 1992, and on or before December<br>31, 1992..... | January 1, 1992                                        |
| (J) For taxable years beginning on or after<br>January 1, 1993, and on or before December<br>31, 1996..... | January 1, 1993                                        |
| (K) For taxable years beginning on or after                                                                |                                                        |

1 January 1, 1997, and on or before December  
2 31, 1997..... January 1, 1997  
3 (L) For taxable years beginning on or after  
4 January 1, 1998, and on or before December  
5 31, 2001..... January 1, 1998  
6 (M) For taxable years beginning on or after  
7 January 1, 2002, and on or before December  
8 31, 2004..... January 1, 2001  
9 (N) For taxable years beginning on or after  
10 January 1, 2005, *and on or before December*  
11 *31, 2008*..... January 1, 2005  
12 (O) For taxable years beginning on or after January 1,  
13 2009..... January 1, 2009  
14

15 (2) (A) Unless otherwise specifically provided, for federal laws  
16 enacted on or after January 1, 1987, and on or before the specified  
17 date for the taxable year, uncodified provisions that relate to  
18 provisions of the Internal Revenue Code that are incorporated for  
19 purposes of this part shall be applicable to the same taxable years  
20 as the incorporated provisions.

21 (B) In the case where Section 901 of the Economic Growth and  
22 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
23 provision of the Internal Revenue Code that is incorporated for  
24 purposes of this part, Section 901 of the Economic Growth and  
25 Tax Relief Act of 2001 shall apply for purposes of this part in the  
26 same manner and to the same taxable years as it applies for federal  
27 income tax purposes.

28 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
29 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
30 Reconciliation Act of 1990 (Public Law 101-508) modified  
31 numerous provisions of the Internal Revenue Code and provisions  
32 of prior federal acts, some of which are incorporated by reference  
33 into this part. Unless otherwise provided, the provisions described  
34 in the preceding sentence, to the extent that they modify provisions  
35 that are incorporated into this part, are declaratory of existing law  
36 and shall be applied in the same manner and for the same periods  
37 as specified in the Revenue Reconciliation Act of 1990.

38 (b) Unless otherwise specifically provided, when applying any  
39 provision of the Internal Revenue Code for purposes of this part,

1 a reference to any of the following is not applicable for purposes  
2 of this part:

3 (1) Except as provided in Chapter 4.5 (commencing with Section  
4 23800) of Part 11 of Division 2, an electing small business  
5 corporation, as defined in Section 1361(b) of the Internal Revenue  
6 Code.

7 (2) Domestic international sales corporations (DISC), as defined  
8 in Section 992(a) of the Internal Revenue Code.

9 (3) A personal holding company, as defined in Section 542 of  
10 the Internal Revenue Code.

11 (4) A foreign personal holding company, as defined in Section  
12 552 of the Internal Revenue Code.

13 (5) A foreign investment company, as defined in Section 1246(b)  
14 of the Internal Revenue Code.

15 (6) A foreign trust, as defined in Section 679 of the Internal  
16 Revenue Code.

17 (7) Foreign income taxes and foreign income tax credits.

18 (8) Section 911 of the Internal Revenue Code, relating to United  
19 States citizens living abroad.

20 (9) A foreign corporation, except that Section 367 of the Internal  
21 Revenue Code shall be applicable.

22 (10) Federal tax credits and carryovers of federal tax credits.

23 (11) Nonresident aliens.

24 (12) Deduction for personal exemptions, as provided in Section  
25 151 of the Internal Revenue Code.

26 (13) The tax on generation-skipping transfers imposed by  
27 Section 2601 of the Internal Revenue Code.

28 (14) The tax, relating to estates, imposed by Section 2001 or  
29 2101 of the Internal Revenue Code.

30 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
31 and Section 172 of the Tax Reform Act of 1984 (Public Law  
32 98-369), relating to treatment of debt instruments, is not applicable  
33 for taxable years beginning before January 1, 1987.

34 (2) The provisions contained in Public Law 99-121, relating to  
35 the treatment of debt instruments, is not applicable for taxable  
36 years beginning before January 1, 1987.

37 (3) For each taxable year beginning on or after January 1, 1987,  
38 the provisions referred to by paragraphs (1) and (2) shall be  
39 applicable for purposes of this part in the same manner and with

1 respect to the same obligations as the federal provisions, except  
2 as otherwise provided in this part.

3 (d) (1) When applying the Internal Revenue Code for purposes  
4 of this part, regulations promulgated in final form or issued as  
5 temporary regulations by “the secretary” shall be applicable as  
6 regulations under this part to the extent that they do not conflict  
7 with this part or with regulations issued by the Franchise Tax  
8 Board.

9 (2) (A) *Federal administrative guidance regarding an*  
10 *interpretation of a provision of the Internal Revenue Code that is*  
11 *applicable for purposes of this part shall be applicable as*  
12 *administrative guidance issued by the Franchise Tax Board under*  
13 *this part to the extent it does not conflict with this part or with*  
14 *regulations issued by the Franchise Tax Board.*

15 (B) *For purposes of this paragraph, “federal administrative*  
16 *guidance” means federal revenue rulings, notices, revenue*  
17 *procedures, announcements, and other published administrative*  
18 *guidance promulgated by the Commissioner of Internal Revenue*  
19 *or the Chief Counsel of the Internal Revenue Service, but does not*  
20 *include a private letter ruling or any other administrative guidance*  
21 *issued by the Commissioner of Internal Revenue or the Chief*  
22 *Counsel of the Internal Revenue Service with respect to a particular*  
23 *taxpayer.*

24 (3) *Unless otherwise specifically provided, final or temporary*  
25 *federal regulations and any federal administrative guidance shall*  
26 *not apply for purposes of this part prior to the applicable specified*  
27 *date in subdivision (a).*

28 (4) *For purposes of this subdivision, the phrase “conflict with*  
29 *this part” shall include, but not be limited to, any temporary or*  
30 *final federal regulation or any federal administrative guidance*  
31 *that, except as otherwise specifically provided in this part,*  
32 *constitutes a substantive change in federal law that is inconsistent*  
33 *with the statute or statutes to which such advice relates or is*  
34 *beyond the scope of the Secretary of the Treasury’s authority.*

35 (e) Whenever this part allows a taxpayer to make an election,  
36 the following rules shall apply:

37 (1) A proper election filed with the Internal Revenue Service  
38 in accordance with the Internal Revenue Code or regulations issued  
39 by “the secretary” shall be deemed to be a proper election for

1 purposes of this part, unless otherwise provided in this part or in  
2 regulations issued by the Franchise Tax Board.

3 (2) A copy of that election shall be furnished to the Franchise  
4 Tax Board upon request.

5 (3) (A) Except as provided in subparagraph (B), in order to  
6 obtain treatment other than that elected for federal purposes, a  
7 separate election shall be filed at the time and in the manner  
8 required by the Franchise Tax Board.

9 (B) (i) If a taxpayer makes a proper election for federal income  
10 tax purposes prior to the time that taxpayer becomes subject to the  
11 tax imposed under this part or Part 11 (commencing with Section  
12 23001), that taxpayer is deemed to have made the same election  
13 for purposes of the tax imposed by this part, Part 10.2 (commencing  
14 with Section 18401), and Part 11 (commencing with Section  
15 23001), as applicable, and that taxpayer may not make a separate  
16 election for California tax purposes unless that separate election  
17 is expressly authorized by this part, Part 10.2 (commencing with  
18 Section 18401), or Part 11 (commencing with Section 23001), or  
19 by regulations issued by the Franchise Tax Board.

20 (ii) If a taxpayer has not made a proper election for federal  
21 income tax purposes prior to the time that taxpayer becomes subject  
22 to tax under this part or Part 11 (commencing with Section 23001),  
23 that taxpayer may not make a separate California election for  
24 purposes of this part, Part 10.2 (commencing with Section 18401),  
25 or Part 11 (commencing with Section 23001), unless that separate  
26 election is expressly authorized by this part, Part 10.2 (commencing  
27 with Section 18401), or Part 11 (commencing with Section 23001),  
28 or by regulations issued by the Franchise Tax Board.

29 (iii) This subparagraph applies only to the extent that the  
30 provisions of the Internal Revenue Code or the regulation issued  
31 by “the secretary” authorizing an election for federal income tax  
32 purposes apply for purposes of this part, Part 10.2 (commencing  
33 with Section 18401) or Part 11 (commencing with Section 23001).

34 (f) Whenever this part allows or requires a taxpayer to file an  
35 application or seek consent, the rules set forth in subdivision (e)  
36 shall be applicable with respect to that application or consent.

37 (g) When applying the Internal Revenue Code for purposes of  
38 determining the statute of limitations under this part, any reference  
39 to a period of three years shall be modified to read four years for  
40 purposes of this part.

1 (h) When applying, for purposes of this part, any section of the  
2 Internal Revenue Code or any applicable regulation thereunder,  
3 all of the following shall apply:

4 (1) References to “adjusted gross income” shall mean the  
5 amount computed in accordance with Section 17072, except as  
6 provided in paragraph (2).

7 (2) (A) Except as provided in subparagraph (B), references to  
8 “adjusted gross income” for purposes of computing limitations  
9 based upon adjusted gross income, shall mean the amount required  
10 to be shown as adjusted gross income on the federal tax return for  
11 the same taxable year.

12 (B) In the case of registered domestic partners and former  
13 registered domestic partners, adjusted gross income, for the  
14 purposes of computing limitations based upon adjusted gross  
15 income, shall mean the adjusted gross income on a federal tax  
16 return computed as if the registered domestic partner or former  
17 registered domestic partner was treated as a spouse or former  
18 spouse, respectively, for federal income tax purposes, and used  
19 the same filing status that was used on the state tax return for the  
20 same taxable year.

21 (3) Any reference to “subtitle” or “chapter” shall mean this part.

22 (4) The provisions of Section 7806 of the Internal Revenue  
23 Code, relating to construction of title, shall apply.

24 (5) Any provision of the Internal Revenue Code that becomes  
25 operative on or after the specified date for that taxable year shall  
26 become operative on the same date for purposes of this part.

27 (6) Any provision of the Internal Revenue Code that becomes  
28 inoperative on or after the specified date for that taxable year shall  
29 become inoperative on the same date for purposes of this part.

30 (7) Due account shall be made for differences in federal and  
31 state terminology, effective dates, substitution of “Franchise Tax  
32 Board” for “secretary” when appropriate, and other obvious  
33 differences.

34 (8) *Except as otherwise provided, any reference to Section 501*  
35 *of the Internal Revenue Code shall be interpreted to also refer to*  
36 *Section 23701.*

37 (i) Any reference to a specific provision of the Internal Revenue  
38 Code shall include modifications of that provision, if any, in this  
39 part.

1 SEC. 2. Section 23051.5 of the Revenue and Taxation Code  
2 is amended to read:

3 23051.5. (a) (1) Unless otherwise specifically provided, the  
4 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”  
5 or “Internal Revenue Code of 1986,” for purposes of this part,  
6 mean Title 26 of the United States Code, including all amendments  
7 thereto, as enacted on the specified date for the applicable taxable  
8 year as defined in paragraph (1) of subdivision (a) of Section  
9 17024.5.

10 (2) (A) Unless otherwise specifically provided, for federal laws  
11 enacted on or after January 1, 1987, and on or before the specified  
12 date for the taxable year, uncodified provisions that relate to  
13 provisions of the Internal Revenue Code that are incorporated for  
14 purposes of this part, shall be applicable to the same taxable years  
15 as the incorporated provisions.

16 (B) In the case where Section 901 of the Economic Growth and  
17 Tax Relief Act of 2001 (Public Law 107-16) applies to any  
18 provision of the Internal Revenue Code that is incorporated for  
19 purposes of this part, Section 901 of the Economic Growth and  
20 Tax Relief Act of 2001 (Public Law 107-16) shall apply for  
21 purposes of this part in the same manner and to the same taxable  
22 years as it applies for federal income tax purposes.

23 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle  
24 H (Repeal of Expired or Obsolete Provisions) of the Revenue  
25 Reconciliation Act of 1990 (Public Law 101-508) modified  
26 numerous provisions of the Internal Revenue Code and provisions  
27 of prior federal acts, some of which are incorporated by reference  
28 into this part. Unless otherwise provided, the provisions described  
29 in the preceding sentence, to the extent that they modify provisions  
30 that are incorporated into this part, are declaratory of existing law  
31 and shall be applied in the same manner and for the same periods  
32 as specified in the Revenue Reconciliation Act of 1990.

33 (b) Unless otherwise specifically provided, when applying the  
34 Internal Revenue Code for purposes of this part, a reference to any  
35 of the following is not applicable for purposes of this part:

36 (1) Domestic International Sales Corporations (DISC), as  
37 defined in Section 992(a) of the Internal Revenue Code.

38 (2) Foreign Sales Corporations (FSC), as defined in Section  
39 922(a) of the Internal Revenue Code.

1 (3) A personal holding company, as defined in Section 542 of  
2 the Internal Revenue Code.

3 (4) A foreign personal holding company, as defined in Section  
4 552 of the Internal Revenue Code.

5 (5) A foreign investment company, as defined in Section 1246(b)  
6 of the Internal Revenue Code.

7 (6) A foreign trust as defined in Section 679 of the Internal  
8 Revenue Code.

9 (7) Foreign income taxes and foreign income tax credits.

10 (8) Federal tax credits and carryovers of federal tax credits.

11 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
12 and Section 172 of the Tax Reform Act of 1984 (Public Law  
13 98-369), relating to treatment of debt instruments, is not applicable  
14 for taxable years beginning before January 1, 1987.

15 (2) The provisions contained in Public Law 99-121, relating to  
16 the treatment of debt instruments, is not applicable for taxable  
17 years beginning before January 1, 1987.

18 (3) For taxable years beginning on and after January 1, 1987,  
19 the provisions referred to by paragraphs (1) and (2) shall be  
20 applicable for purposes of this part in the same manner and with  
21 respect to the same obligations as the federal provisions, except  
22 as otherwise provided in this part.

23 (d) (1) When applying the Internal Revenue Code for purposes  
24 of this part, regulations promulgated in final form or issued as  
25 temporary regulations by “the secretary” shall be applicable as  
26 regulations issued under this part to the extent that they do not  
27 conflict with this part or with regulations issued by the Franchise  
28 Tax Board.

29 (2) (A) Federal administrative guidance regarding an  
30 interpretation of a provision of the Internal Revenue Code that is  
31 applicable for purposes of this part shall be applicable as  
32 administrative guidance issued by the Franchise Tax Board under  
33 this part to the extent it does not conflict with this part or with  
34 regulations issued by the Franchise Tax Board.

35 (B) For purposes of this paragraph, “federal administrative  
36 guidance” means federal revenue rulings, notices, revenue  
37 procedures, announcements, and other published administrative  
38 guidance promulgated by the Commissioner of Internal Revenue  
39 or the Chief Counsel of the Internal Revenue Service, but does not  
40 include a private letter ruling or any other administrative guidance

1 issued by the Commissioner of Internal Revenue or the Chief  
2 Counsel of the Internal Revenue Service with respect to a particular  
3 taxpayer.

4 (3) Unless otherwise specifically provided, final or temporary  
5 federal regulations and any federal administrative guidance shall  
6 not apply for purposes of this part prior to the applicable specified  
7 date in subdivision (a).

8 (4) For purposes of this subdivision, the phrase “conflict with  
9 this part” shall include, but not be limited to, any temporary or  
10 final federal regulation or any federal administrative guidance that,  
11 except as otherwise specifically provided in this part, constitutes  
12 a substantive change in federal law that is inconsistent with the  
13 statute or statutes to which such advice relates or is beyond the  
14 scope of the Secretary of the Treasury’s authority.

15 (e) Whenever this part allows a taxpayer to make an election,  
16 the following rules shall apply:

17 (1) A proper election filed with the Internal Revenue Service  
18 in accordance with the Internal Revenue Code or regulations issued  
19 by “the secretary” shall be deemed to be a proper election for  
20 purposes of this part, unless otherwise expressly provided in this  
21 part or in regulations issued by the Franchise Tax Board.

22 (2) A copy of that election shall be furnished to the Franchise  
23 Tax Board upon request.

24 (3) (A) Except as provided in subparagraph (B), in order to  
25 obtain treatment other than that elected for federal purposes, a  
26 separate election shall be filed with the Franchise Tax Board at  
27 the time and in the manner that may be required by the Franchise  
28 Tax Board.

29 (B) (i) If a taxpayer makes a proper election for federal income  
30 tax purposes prior to the time that taxpayer becomes subject to the  
31 tax imposed under this part or Part 10 (commencing with Section  
32 17001), that taxpayer is deemed to have made the same election  
33 for purposes of the tax imposed by this part, Part 10 (commencing  
34 with Section 17001), and Part 10.2 (commencing with Section  
35 18401), as applicable, and that taxpayer may not make a separate  
36 election for California tax purposes unless that separate election  
37 is expressly authorized by this part, Part 10 (commencing with  
38 Section 17001), or Part 10.2 (commencing with Section 18401),  
39 or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 10 (commencing with Section 17001), that taxpayer may not make a separate California election for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401), unless that separate election is expressly authorized by this part, Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or regulations issued by “the secretary” authorizing an election for federal income tax purposes apply for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall apply to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) For purposes of Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), the term “taxable income” shall mean “net income.”

(2) For purposes of Article 2 (commencing with Section 23731) of Chapter 4, the term “taxable income” shall mean “unrelated business taxable income,” as defined by Section 23732.

(3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(8) Any provision of the Internal Revenue Code that refers to a “corporation” shall, when applicable for purposes of this part, include a “bank,” as defined by Section 23039.

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

*SEC. 2.5. Section 23051.5 of the Revenue and Taxation Code is amended to read:*

23051.5. (a) (1) Unless otherwise specifically provided, the terms “Internal Revenue Code,” “Internal Revenue Code of 1954,” or “Internal Revenue Code of 1986,” for purposes of this part, mean Title 26 of the United States Code, including all amendments thereto, as enacted on the specified date for the applicable taxable year as defined in paragraph (1) of subdivision (a) of Section 17024.5.

(2) (A) Unless otherwise specifically provided, for federal laws enacted on or after January 1, 1987, and on or before the specified date for the taxable year, uncodified provisions that relate to provisions of the Internal Revenue Code that are incorporated for purposes of this part, shall be applicable to the same taxable years as the incorporated provisions.

(B) In the case where Section 901 of the Economic Growth and Tax Relief Act of 2001 (Public Law 107-16) applies to any provision of the Internal Revenue Code that is incorporated for purposes of this part, Section 901 of the Economic Growth and Tax Relief Act of 2001 (Public Law 107-16) shall apply for purposes of this part in the same manner and to the same taxable years as it applies for federal income tax purposes.

(3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle H (Repeal of Expired or Obsolete Provisions) of the Revenue Reconciliation Act of 1990 (Public Law 101-508) modified numerous provisions of the Internal Revenue Code and provisions of prior federal acts, some of which are incorporated by reference

1 into this part. Unless otherwise provided, the provisions described  
2 in the preceding sentence, to the extent that they modify provisions  
3 that are incorporated into this part, are declaratory of existing law  
4 and shall be applied in the same manner and for the same periods  
5 as specified in the Revenue Reconciliation Act of 1990.

6 (b) Unless otherwise specifically provided, when applying the  
7 Internal Revenue Code for purposes of this part, a reference to any  
8 of the following is not applicable for purposes of this part:

9 (1) Domestic International Sales Corporations (DISC), as  
10 defined in Section 992(a) of the Internal Revenue Code.

11 (2) Foreign Sales Corporations (FSC), as defined in Section  
12 922(a) of the Internal Revenue Code.

13 (3) A personal holding company, as defined in Section 542 of  
14 the Internal Revenue Code.

15 (4) A foreign personal holding company, as defined in Section  
16 552 of the Internal Revenue Code.

17 (5) A foreign investment company, as defined in Section 1246(b)  
18 of the Internal Revenue Code.

19 (6) A foreign trust as defined in Section 679 of the Internal  
20 Revenue Code.

21 (7) Foreign income taxes and foreign income tax credits.

22 (8) Federal tax credits and carryovers of federal tax credits.

23 (c) (1) The provisions contained in Sections 41 to 44, inclusive,  
24 and Section 172 of the Tax Reform Act of 1984 (Public Law  
25 98-369), relating to treatment of debt instruments, is not applicable  
26 for taxable years beginning before January 1, 1987.

27 (2) The provisions contained in Public Law 99-121, relating to  
28 the treatment of debt instruments, is not applicable for taxable  
29 years beginning before January 1, 1987.

30 (3) For taxable years beginning on and after January 1, 1987,  
31 the provisions referred to by paragraphs (1) and (2) shall be  
32 applicable for purposes of this part in the same manner and with  
33 respect to the same obligations as the federal provisions, except  
34 as otherwise provided in this part.

35 (d) (1) When applying the Internal Revenue Code for purposes  
36 of this part, regulations promulgated in final form or issued as  
37 temporary regulations by “the secretary” shall be applicable as  
38 regulations issued under this part to the extent that they do not  
39 conflict with this part or with regulations issued by the Franchise  
40 Tax Board.

1 (2) (A) *Federal administrative guidance regarding an*  
2 *interpretation of a provision of the Internal Revenue Code that is*  
3 *applicable for purposes of this part shall be applicable as*  
4 *administrative guidance issued by the Franchise Tax Board under*  
5 *this part to the extent it does not conflict with this part or with*  
6 *regulations issued by the Franchise Tax Board.*

7 (B) *For purposes of this paragraph, “federal administrative*  
8 *guidance” means federal revenue rulings, notices, revenue*  
9 *procedures, announcements, and other published administrative*  
10 *guidance promulgated by the Commissioner of Internal Revenue*  
11 *or the Chief Counsel of the Internal Revenue Service, but does not*  
12 *include a private letter ruling or any other administrative guidance*  
13 *issued by the Commissioner of Internal Revenue or the Chief*  
14 *Counsel of the Internal Revenue Service with respect to a particular*  
15 *taxpayer.*

16 (3) *Unless otherwise specifically provided, final or temporary*  
17 *federal regulations and any federal administrative guidance shall*  
18 *not apply for purposes of this part prior to the applicable specified*  
19 *date in subdivision (a).*

20 (4) *For purposes of this subdivision, the phrase “conflict with*  
21 *this part” shall include, but not be limited to, any temporary or*  
22 *final federal regulation or any federal administrative guidance*  
23 *that, except as otherwise specifically provided in this part,*  
24 *constitutes a substantive change in federal law that is inconsistent*  
25 *with the statute or statutes to which such advice relates or is*  
26 *beyond the scope of the Secretary of the Treasury’s authority.*

27 (e) *Whenever this part allows a taxpayer to make an election,*  
28 *the following rules shall apply:*

29 (1) *A proper election filed with the Internal Revenue Service*  
30 *in accordance with the Internal Revenue Code or regulations issued*  
31 *by “the secretary” shall be deemed to be a proper election for*  
32 *purposes of this part, unless otherwise expressly provided in this*  
33 *part or in regulations issued by the Franchise Tax Board.*

34 (2) *A copy of that election shall be furnished to the Franchise*  
35 *Tax Board upon request.*

36 (3) (A) *Except as provided in subparagraph (B), in order to*  
37 *obtain treatment other than that elected for federal purposes, a*  
38 *separate election shall be filed with the Franchise Tax Board at*  
39 *the time and in the manner that may be required by the Franchise*  
40 *Tax Board.*

(B) (i) If a taxpayer makes a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to the tax imposed under this part or Part 10 (commencing with Section 17001), that taxpayer is deemed to have made the same election for purposes of the tax imposed by this part, Part 10 (commencing with Section 17001), and Part 10.2 (commencing with Section 18401), as applicable, and that taxpayer may not make a separate election for California tax purposes unless that separate election is expressly authorized by this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401), or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 10 (commencing with Section 17001), that taxpayer may not make a separate California election for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401), unless that separate election is expressly authorized by this part, Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or regulations issued by “the secretary” authorizing an election for federal income tax purposes apply for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall apply to that application or consent.

(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(h) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) For purposes of Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), the term “taxable income” shall mean “net income.”

(2) For purposes of Article 2 (commencing with Section 23731) of Chapter 4, the term “taxable income” shall mean “unrelated business taxable income,” as defined by Section 23732.

(3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(8) Any provision of the Internal Revenue Code that refers to a “corporation” shall, when applicable for purposes of this part, include a “bank,” as defined by Section 23039.

(9) *Except as otherwise provided, any reference to Section 501 of the Internal Revenue Code shall be interpreted to also refer to Section 23701.*

(i) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

*SEC. 3. Sections 1.5 and 2.5 of this bill incorporate amendments to Section 17024.5 and 23051.5 of the Revenue and Taxation Code proposed by this bill and AB 1580. Sections 1.5 and 2.5 of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2010, (2) each bill amends Sections 17024.5 and 23051.5 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 1580, in which case Sections 17024.5 and 23051.5 of the Revenue and Taxation Code, as amended by AB 1580, shall remain operative only until the operative date of this bill, at which time Sections 1.5 and 2.5 of this bill shall become operative, and Sections 1 and 2 of this bill shall not become operative.*