AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1580

Introduced by Committee on Revenue and Taxation (Charles Calderon (Chair), Beall, Coto, Ma, Portantino, and Saldana)

March 26, 2009

~~An act to amend Sections 17054, 19136, 19136.8, 25128, and 25128.5 of the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Sections 17008.5, 17020.6, 17024.5, 17041, 17052.12, 17062, 17063, 17072, 17085, 17132.5, 17144.5, 17152, 17206, 17250, 17250.5, 17255, 17275.5, 17276, 17501, 17551, 17952.5, 18165, 18180, 18631, 19116, 19131, 19134, 19164, 19166, 19172, 19179, 19443, 21015.5, 23045, 23051.5, 23456, 23609, 23712, 23732, 23772, 24305, 24356, 24357, 24357.1, 24357.7, 24358, 24416, 24949.5, 24990.6, and 24993 of, to add Sections 17020.15, 17132.8, 17204, 17225, 17257, 17257.2, 17257.4, 17279.6, 17560.5, 17755, 18031.5, 18037.5, 18151.5, 18155.6, 19172.5, 19185, 19186, 23046.5, 23703.7, 24329, 24349.2, 24357.15, 24357.16, 24462, 24941.5, 24950.5, 24990.2, and 24990.8 to, and to repeal Sections 24355.3, 24981, and 24988 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1580, as amended, Committee on Revenue and Taxation. ~~Taxation: income tax: estimated payments: dependent exemption credit: corporation tax apportionment.~~ *Taxation: federal conformity.*

Under the Personal Income Tax Law and the Corporation Tax Law, various provisions of the federal Internal Revenue Code, as enacted as of a specified date, are referenced in various sections of the Revenue and Taxation Code. Those laws provide that for taxable years beginning on or after January 1, 2005, the specified date of those referenced Internal Revenue Code sections is January 1, 2005, unless otherwise specifically provided. Existing law requires, for any introduced bill that proposes changes in any of those dates, that the Franchise Tax Board prepare a complete analysis of the bill that describes all changes to state law that will automatically occur by reference to federal law as of the changed date. It further requires the Franchise Tax Board to immediately update and supplement that analysis upon any amendment to the bill, and requires that analysis be made available to the public and be submitted to the Legislature for publication in the daily journal of each house of the Legislature.

This bill would change the specified date of those referenced Internal Revenue Code sections to January 1, 2009, for taxable years beginning on or after January 1, 2009, and thereby would make numerous substantive changes to both the Personal Income Tax Law and the Corporation Tax Law with respect to those areas of preexisting conformity that are subject to changes under federal laws enacted after January 1, 2005, and that have not been, or are not being, excepted or modified. This bill would make certain other changes in federal income tax laws applicable, with specified exceptions and modifications, and make specified supplemental, technical, or clarifying changes for purposes of the Personal Income Tax Law or the Corporation Tax Law, or both, with respect to, among other things, the tax treatment of qualifying income of publically traded partnerships certain disaster mitigation payments, depreciation of electric transmission property and natural gas gathering lines, nuclear decommissioning cost provisions, a small refiner exception to oil depletion deduction, recapture rules for amortizable Section 197 intangibles, amortization of expenses incurred in creating or acquiring music or music copyrights, treatment of certain self-created musical works and qualified retirement income, funding for self-employed defined benefit pension plans and for multiemployer defined benefit pension plans, withdrawals from retirement plans for individuals called to active duty, waiver of an early withdrawal penalty tax on certain distributions of pension plans for public safety employees, allowance of additional IRA payments in certain bankruptcy cases, inflation indexing of gross income limitations *on certain retirement savings incentives, treatment of death benefits from corporate-owned life insurance, exemption of income from leveraged real estate held by church plans, gratuitous transfer for benefits of employees, exclusion from gross income with respect to a specified tragic event, discharge of qualified principal residence indebtedness, penalties for bad checks, penalty for understatement of taxpayer's liability by a tax preparer, frivolous tax submissions, exclusion of gain from sale of principal residence by certain employees of the intelligence community, sale of property by judicial officers, excise tax on UBTI of charitable remainder trusts, certain listed and reportable transactions provisions, the taxation of certain settlement funds, the active business requirement, loans to qualified continuing care facilities, exception from suspension rules, and specified federal acts. This bill would also increase the age of children whose unearned income is taxed as if a parent's income, would increase the penalty for willful failure to file specified returns, and would revise, in modified conformity with the federal income tax laws, various provisions applicable to tax-exempt organizations.*

This bill would also specify various dates on which specified provisions apply, make findings and declarations that certain provisions are declaratory of existing law, specify the intent and operation in the application of provisions conforming to various federal acts, repeal obsolete provisions, and declare that the retroactive application of specified provisions serves public purposes, as defined.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law and the Corporation Tax Law impose a penalty for underpayment of an estimated income tax. Existing law provides for a credit based on taxes withheld on wages, in modified conformity with federal income tax laws, against the estimated tax payments, including a provision that "an equal part" of that amount is deemed paid on each due date for a taxable year.~~

~~This bill would substitute "the applicable percentage," as defined, for "an equal part" under this provision, as provided.~~

~~This bill would also make technical, nonsubstantive changes to provisions of personal and corporation income tax laws relating to penalties, dependent exemption credit, and apportionment of income.~~

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

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

SECTION 1. Section 17008.5 of the Revenue and Taxation Code is amended to read:

17008.5. Section 7704 of the Internal Revenue Code, relating to certain publicly traded partnerships treated as corporations, shall apply, except as otherwise provided.

(a) Section 7704(a) of the Internal Revenue Code shall not apply to an electing 1987 ~~partnership (as defined in Section 23038.5)~~ *partnership, as defined in Section 23038.5,* which is subject to the tax imposed by Section 23038.5.

(b) The amendment made to this section by ~~the act adding this subdivision~~ *Chapter 611 of the Statutes of 1997* shall apply to taxable years beginning on or after January 1, 1998.

(c) Section 7704(d) of the Internal Revenue Code, relating to qualifying income, shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal income tax purposes.

(d) The amendment to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2009.

SEC. 2. Section 17020.6 of the Revenue and Taxation Code is amended to read:

17020.6. For purposes of this part:

(a) Section 7702 of the Internal Revenue Code, relating to life insurance contracts, shall apply, except as otherwise provided.

(b) Section 7702A of the Internal Revenue Code, relating to modified endowment contracts, shall apply, except as otherwise provided.

(c) *(1)* Section 7702B of the Internal Revenue Code, relating to treatment of qualified long-term care insurance, shall apply, except as otherwise provided.

(2) The amendments made by Section 844 of the Pension Protection Act of 2006 (Public Law 109-280) to Section 7702B of the Internal Revenue Code shall not apply.

SEC. 3. Section 17020.15 is added to the Revenue and Taxation Code, to read:

17020.15. (a) Section 7701(n) of the Internal Revenue Code, relating to convention or association of churches, shall apply, except as otherwise provided.

(b) The phrase "this part" shall be substituted for "this title" in Section 7701(n) of the Internal Revenue Code.

SEC. 4. 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 Internal Revenue Code Sections
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991	January 1, 1991
(I) For taxable years beginning on or after	

January 1, 1992, and on or before December 31, 1992	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996	January 1, 1993
(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997	January 1, 1997
(L) For taxable years beginning on or after January 1, 1998, and on or before December 31, 2001	January 1, 1998
(M) For taxable years beginning on or after January 1, 2002, and on or before December 31, 2004	January 1, 2001
(N) For taxable years beginning on or after January 1, 2005*, and on or before December, 31, 2008*	January 1, 2005
(O) For taxable years beginning on or after January 1, 2009	*January 1, 2009*

(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 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 into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law

and shall be applied in the same manner and for the same periods 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 applicable for purposes of this part in the same manner and with respect to the same obligations as the federal provisions, except as otherwise provided in this part.

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

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

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

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

(3) (A) Except as provided in subparagraph (B), in order to obtain treatment other than that elected for federal purposes, a separate election shall be filed at the time and in the manner required by the Franchise 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 11 (commencing with Section 23001), that taxpayer is deemed to have made the same election for purposes of the tax imposed by this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001), 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 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), 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 11 (commencing with Section 23001), that taxpayer may not make a separate California election for purposes of this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), unless that separate election is expressly authorized by this part, Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), 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 the regulation issued by "the secretary" authorizing an election for federal income tax purposes apply for purposes of this part, Part 10.2 (commencing with Section 18401) or Part 11 (commencing with Section 23001).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall be applicable with respect 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) References to "adjusted gross income" shall mean the amount computed in accordance with Section 17072, except as provided in paragraph (2).

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

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

(3) Any reference to "subtitle" 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) 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. 5. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650

Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on

the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) (1) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(2) (A) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.25 percent to each percentage. This subparagraph shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030

of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(B) For taxable years beginning on or after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, the percentages specified in the table in paragraph (1) shall be increased by adding 0.125 percent to each percentage. This subparagraph shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this subparagraph shall cease to be operative for taxable years beginning on or after January 1, 2013.

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (c) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1(g) of the Internal Revenue Code, relating to certain unearned income of ~~minor~~ children taxed as if the parent's income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent's return, is modified, for purposes of this part, by substituting "1 percent" for "15 percent."

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). 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 calendar year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall do both of the following:

(A) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(B) Multiply the preceding taxable year income tax brackets by the inflation adjustment factor determined in subparagraph (A) and round off the resulting products to the nearest one dollar ($1).

(i) (1) For purposes of this part, the term "taxable income of a nonresident or part-year resident" includes each of the following:

(A) For any part of the taxable year during which the taxpayer was a resident of this state (as defined by Section 17014), all items of gross income and all deductions, regardless of source.

(B) For any part of the taxable year during which the taxpayer was not a resident of this state, gross income and deductions derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(2) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), the amount of any net operating loss sustained in any taxable year during any part of which the taxpayer was not a resident of this state shall be limited to the sum of the following:

(A) The amount of the loss attributable to the part of the taxable year in which the taxpayer was a resident.

(B) The amount of the loss which, during the part of the taxable year the taxpayer is not a resident, is attributable to California source income and deductions allowable in arriving at taxable income of a nonresident or part-year resident.

(3) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1), any carryover items, deferred income, suspended losses, or suspended deductions shall only be includable or allowable to the extent that the carryover item, deferred income, suspended loss, or suspended deduction was derived from sources within this state, calculated as if the nonresident or part-year resident, for the portion of the year he or she was a nonresident, had been a nonresident for all prior years.

SEC. 6. Section 17052.12 of the Revenue and Taxation Code is amended to read:

17052.12. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) for the taxable year an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "11 percent."

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "12 percent."

(3) For each taxable year beginning on or after January 1, 2000, the reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

(c) Section 41(a)(2) of the Internal Revenue Code, relating to basic research payments, shall not apply.

(d) "Qualified research" shall include only research conducted in California.

(e) In the case where the credit allowed under this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(f) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of "qualified research expense" any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) For each taxable year beginning on or after January 1, 1998, the reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 11 (commencing with Section 23001)."

(g) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to ~~"2.65~~ *"3* percent" in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read "one and forty-nine hundredths of one percent."

(B) The reference to ~~"3.2~~ *"4* percent" in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read "one and ninety-eight hundredths of one percent."

(C) The reference to ~~"3.75~~ *"5* percent" in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read "two and forty-eight hundredths of one percent."

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section ~~41(c)(6)~~ *41(c)(7)* of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to the election of the alternative simplified credit, shall not apply.

(h) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (e); except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(j) Section 41(a)(3) of the Internal Revenue Code, relating to payments to an energy research consortium, shall not apply.

(k) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(l) Section 41(f)(6), relating to an energy research consortium, shall not apply.

SEC. 7. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for

the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, and before January 1, 2009, 7 percent.

(iii) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, 7.25 percent. This clause shall become operative only if the Director of Finance does not provide notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This clause shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this clause shall cease to be operative for taxable years beginning on or after January 1, 2013.

(iv) For taxable years beginning on and after January 1, 2009, and before January 1, 2011, or January 1, 2013, as applicable, 7.125 percent. This clause shall become operative only if the Director of Finance provides notification to the Joint Legislative Budget Committee on or before April 1, 2009, pursuant to Section 99030 of the Government Code. This clause shall cease to be operative for taxable years beginning on or after January 1, 2011, unless the Director of Finance makes the notification pursuant to Section 99040 of the Government Code, in which case this clause shall cease to be operative for taxable years beginning on or after January 1, 2013.

(v) For any taxable year beginning on or after January 1, 2011, or January 1, 2013, as applicable, for which clause (iii) or (iv) ceases to be operative, 7 percent.

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed by multiplying the alternative minimum taxable income of the nonresident or part-year resident, as defined in subparagraph (C), by a rate (expressed as a percentage) equal to the tax computed under subdivision (b) on the alternative minimum taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(C) For purposes of this section, the term "alternative minimum taxable income of a nonresident or part-year resident" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of alternative minimum taxable income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, alternative minimum taxable income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Article 9 of Chapter 3 (commencing with Section 17301) and Chapter 11 (commencing with Section 17951).

(iii) For purposes of computing "alternative minimum taxable income of a nonresident or part-year resident," any carryover items, deferred income, suspended losses, or suspended deductions shall only be allowable to the extent that the carryover item, suspended loss, or suspended deduction was derived from sources within this state.

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, "qualified taxpayer" means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer's proportionate interest in each trade or business.

(B) For purposes of this paragraph, "aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses that the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses that the taxpayer owns and of pass-through entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, "gross receipts, less returns and allowances" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(D) For purposes of this paragraph, "proportionate interest" means:

(i) In the case of a pass-through entity that reports a profit for the taxable year, the taxpayer's profit interest in the entity at the end of the taxpayer's taxable year.

(ii) In the case of a pass-through entity that reports a loss for the taxable year, the taxpayer's loss interest in the entity at the end of the taxpayer's taxable year.

(iii) In the case of a pass-through entity that is sold or liquidates during the taxable year, the taxpayer's capital account interest in the entity at the time of the sale or liquidation.

(E) (i) For purposes of this paragraph, "proportionate interest" includes an interest in a pass-through entity.

(ii) For purposes of this paragraph, "pass-through entity" means any of the following:

(I) A partnership, as defined by Section 17008.

(II) An "S corporation," as provided in Chapter 4.5 (commencing with Section 23800) of Part 11.

(III) A regulated investment company, as provided in Section 24871.

(IV) A real estate investment trust, as provided in Section 24872.

(V) A real estate mortgage investment conduit, as provided in Section 24874.

(5) For taxable years beginning on or after January 1, 1998, Section 55(d)(1) of the Internal Revenue Code, relating to exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following exemption amounts in lieu of those contained therein:

(A) Fifty-seven thousand two hundred sixty dollars ($57,260) in the case of either of the following:

(i) A joint return.

(ii) A surviving spouse.

(B) Forty-two thousand nine hundred forty-five dollars ($42,945) in the case of an individual who is both of the following:

(i) Not a married individual.

(ii) Not a surviving spouse.

(C) Twenty-eight thousand six hundred thirty dollars ($28,630) in the case of either of the following:

(i) A married individual who files a separate return.

(ii) An estate or trust.

(6) For taxable years beginning on or after January 1, 1998, Section 55(d)(3) of the Internal Revenue Code, relating to the phaseout of exemption amount for taxpayers other than corporations is modified, for purposes of this part, to provide the following phaseout of exemption amounts in lieu of those contained therein:

(A) Two hundred fourteen thousand seven hundred twenty-five dollars ($214,725) in the case of a taxpayer described in subparagraph (A) of paragraph (5).

(B) One hundred sixty-one thousand forty-four dollars ($161,044) in the case of a taxpayer described in subparagraph (B) of paragraph (5).

(C) One hundred seven thousand three hundred sixty-two dollars ($107,362) in the case of a taxpayer described in subparagraph (C) of paragraph (5).

(7) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the exemption amounts prescribed in paragraph (5) and the phaseout of exemption amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) 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 calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar ($1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

(d) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not apply.

(e) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference an amount equal to one-half of the amount excluded from gross income for the taxable year under Section 18152.5.

(f) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not apply.

(g) The provisions of Section 56(d)(3), relating to net operating losses attributable to federally declared disasters, shall not apply.

SEC. 8. Section 17063 of the Revenue and Taxation Code is amended to read:

17063. (a) There shall be allowed as a credit against the net tax (as defined by Section 17039) for any taxable year an amount equal to the minimum tax credit for that taxable year.

(b) For purposes of subdivision (a), the minimum tax credit shall be determined in accordance with Section 53 of the Internal Revenue Code, except as otherwise provided in this part.

(c) For purposes of this chapter, the amount determined under Section 53(c)(1) of the Internal Revenue Code shall be the regular tax as defined by paragraph (2) of subdivision (b) of Section 17062, reduced by the sum of the credits allowable under this part, other than:

(1) The credits described in paragraph (7) of subdivision (a) of Section 17039.

(2) Any credit that reduces the tax below the tentative minimum tax, as defined by Section 17062.

(d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (e) of Section 17062, as a specified item.

(e) Section 53(e) of the Internal Revenue Code, relating to the special rule for individuals with long-term unused credits, shall not apply.

SEC. 9. Section 17072 of the Revenue and Taxation Code is amended to read:

17072. (a) Section 62 of the Internal Revenue Code, relating to adjusted gross income defined, shall apply, except as otherwise provided.

(b) Section 62(a)(2)(D) of the Internal Revenue Code, relating to certain expenses of elementary and secondary school teachers, shall not apply.

(c) Section 62(a)(21) of the Internal Revenue Code, relating to attorney's fees relating to awards to whistleblowers, shall not apply.

SEC. 10. Section 17085 of the Revenue and Taxation Code is amended to read:

17085. Section 72 of the Internal Revenue Code, relating to annuities and certain proceeds of life insurance contracts, is modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except that the repeal of Section 72(d) of the Internal Revenue Code, relating to repeal of special rule for employees' annuities, shall apply only to the following:

(1) Any individual whose annuity starting date is after December 31, 1986.

(2) At the election of the taxpayer, any individual whose annuity starting date is after July 1, 1986, and before January 1, 1987.

(b) The amount of a distribution from an individual retirement account or annuity or employee trust or employee annuity that is includable in gross income for federal purposes shall be reduced for purposes of this part by the lesser of either of the following:

(1) An amount equal to the amount includable in federal gross income for the taxable year.

(2) An amount equal to the basis in the account or annuity allowed by Section 17507 (relating to individual retirement accounts and simplified employee pensions), the increased basis allowed by Sections 17504 and 17506 (relating to plans of self-employed individuals), the increased basis allowed by Section 17501, or the increased basis allowed by Section 17551 that is remaining after adjustment for reductions in gross income under this provision in prior taxable years.

(c) (1) Except as provided in paragraph (2), the amount of the penalty imposed under this part shall be computed in accordance with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code, *as applicable for federal income tax purposes for the same taxable year,* using a rate of 2 ½ percent, in lieu of the rate provided in those sections.

(2) In the case where Section 72(t)(6) of the Internal Revenue Code, relating to special rules for simple retirement accounts, *as applicable for federal income tax purposes for the same taxable year,* applies, the rate in paragraph (1) shall be 6 percent in lieu of the 2 ½ percent rate specified therein.

(d) Section 72(f)(2) of the Internal Revenue Code, relating to special rules for computing employees' contributions, shall be applicable without applying the exceptions which immediately follow that paragraph.

(e) The amendments made by Section 844 of the Pension Protection Act of 2006 (Public Law 109-280) to Section 72(e) of the Internal Revenue Code, shall not apply.

SEC. 11. Section 17132.5 of the Revenue and Taxation Code is amended to read:

17132.5. Section 101 of the Internal Revenue Code, relating to certain death benefits, is modified as follows:

(a) Section 101(h) of the Internal Revenue Code, relating to survivor benefits attributable to service by a public safety officer who is killed in the line of duty, is modified to apply to amounts received in taxable years beginning after December 31, 1996, with respect to individuals dying after December 31, 1996.

(b) (1) Section 101 of the Internal Revenue Code, as modified by subdivision (a) is modified to additionally provide that Section 101(h) of the Internal Revenue Code shall not apply to survivor benefits attributable to service by a public safety officer who is killed in the line of duty with respect to deaths occurring before December 31, 1996, that would otherwise be eligible for exclusion pursuant to Section 101(h) of the Internal Revenue Code, as modified by Public Law 107-15.

(2) The amendments made to this section by ~~the act adding this subdivision~~ *Chapter 691 of the Statutes of 2005* shall apply to amounts paid after December 31, 2001, with respect to deaths occurring on or before December 31, 1996.

(c) (1) Section 101 of the Internal Revenue Code, as modified by subdivision (b), is modified to additionally provide that Section 101(i) of the Internal Revenue Code shall apply to any astronaut whose death occurs in the line of duty.

(2) The amendments made to this section by ~~the act adding this subdivision~~ *Chapter 552 of the Statutes of 2004* shall apply to amounts received in taxable years beginning after December 31, 2002, with respect to deaths occurring after that date.

(d) Section 101(j) of the Internal Revenue Code, relating to the treatment of certain employer-owned life insurance contracts, shall apply in accordance with the provisions of Section 863 of the Pension Protection Act of 2006 (Public Law 109-280), relating to effective dates, except that the phrase "January 1, 2009" shall be substituted for "the date of the enactment of this Act" contained therein.

SEC. 12. Section 17132.8 is added to the Revenue and Taxation Code, to read:

17132.8. (a) For purposes of this part, Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section

23001), gross income shall not include any amount received from the Virginia Polytechnic Institute and State University, out of amounts transferred to from the Hokie Spirit Memorial Fund established by the Virginia Tech Foundation, an organization organized and operated as described in Section 501(c)(3) of the Internal Revenue Code, if that amount is paid on account of the events on April 16, 2007, at that university.

(b) This section shall apply without regard to taxable year.

SEC. 13. Section 17144.5 of the Revenue and Taxation Code is amended to read:

~~17144.5. (a) Section 108 of the Internal Revenue Code, relating to income from discharge of indebtedness, as amended by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), shall apply, except as otherwise provided.~~

~~(b) Section 108(a)(1)(E) of the Internal Revenue Code, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142), is modified by substituting the phrase "January 1, 2009" for "January 1, 2010" contained therein.~~

~~(c)~~

17144.5. (a) Section 108(a)(1)(E) of the Internal Revenue Code~~, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142),~~ is ~~additionally~~ modified to provide that the amount excluded from gross income shall not exceed $250,000 ($125,000 in the case of a married individual filing a separate return).

~~(d)~~

(b) Section 108(h)(2) of the Internal Revenue Code~~, as added by Section 2 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142),~~ is modified by substituting the phrase "(within the meaning of section 163(h)(3)(B), applied by substituting '$800,000 ($400,000' for '$1,000,000 ($500,000' in clause (ii) thereof)" for the phrase "(within the meaning of section 163(h)(3)(B), applied by substituting '$2,000,000 ($1,000,000' for '$1,000,000 ($500,000' in clause (ii) thereof)" contained therein.

~~(e)~~

(c) This section shall apply to discharges of indebtedness occurring on or after January 1, 2007, and, notwithstanding any other law to the contrary, no penalties or interest shall be due with respect to the discharge of qualified principal residence

indebtedness during the 2007 taxable year regardless of whether or not the taxpayer reports the discharge on his or her return for the 2007 taxable year.

SEC. 14. Section 17152 of the Revenue and Taxation Code is amended to read:

17152. Section 121 of the Internal Revenue Code, relating to exclusion of gain from sale of principal residence, is modified as follows:

(a) The two-year period in Section 121(a) of the Internal Revenue Code shall be reduced by the period of the taxpayer's service, not to exceed 18 months, in the Peace Corps during the five-year period ending on the date of the sale or exchange.

(b) If the taxpayer is prohibited from filing a joint return pursuant to Section 18521, Section 121(b)(2)(A) of the Internal Revenue Code shall nevertheless be treated as being satisfied if the taxpayer files a joint return for federal income tax purposes for the same taxable year. However, in no instance shall the total amount excludable from gross income under Section 121(a) of the Internal Revenue Code with respect to any sale or exchange exceed the maximum amount allowed by Section 121(b) of the Internal Revenue Code.

(c) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 121(f) of the Internal Revenue Code not to have Section 121 of the Internal Revenue Code apply to a sale or exchange, Section 121 of the Internal Revenue Code shall not apply to that sale or exchange for state purposes, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, the federal election shall be binding for purposes of this part, and that election shall be treated as an election to include in gross income for purposes of this part all the gain from the sale or exchange of that property, including that amount which, but for that election, would have been excluded from income under Section 121(a) of the Internal Revenue Code for state purposes.

(2) If a taxpayer fails to make an election for federal purposes under Section 121(f) of the Internal Revenue Code to not have Section 121 of the Internal Revenue Code apply to a sale or exchange, no election under Section 121(f) of the Internal Revenue Code shall be allowed for state purposes, Section 121 of the Internal Revenue Code shall apply to that sale or exchange for

state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(d) (1) If a taxpayer has, at any time, made an election for federal purposes under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, to not have the amendments made by Section 312 of the Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale or exchange, the amendments made by the act adding this subdivision shall not apply to that sale or exchange, Sections 1, 4, and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that sale or exchange, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5, and the federal election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal purposes under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, to not have the amendments made by Section 312 of the Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale or exchange, an election under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public Law 105-34), relating to sales before date of enactment, or Section 312(d)(4) of that act, relating to binding contracts, shall not be allowed for state purposes, the amendments made by the act adding this subdivision shall apply to that sale or exchange, Sections 1, 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that sale or exchange, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(e) (1) If a taxpayer has, at any time, made or revoked an election for federal purposes under Section 121(d)(9) of the Internal Revenue Code to suspend the running of the five-year period described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that election or revocation of election to suspend the five-year period under Section 121(d)(9) of the Internal Revenue Code shall be applicable for state purposes, a separate election or revocation of election for purposes of Section 121(d)(9) of the Internal Revenue Code may not be allowed under paragraph

(3) of subdivision (e) of Section 17024.5, and the federal election or revocation of election shall be binding for purposes of this part.

(2) If a taxpayer fails to make an election for federal purposes under Section 121(d)(9) of the Internal Revenue Code to suspend the running of the five-year period described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the Internal Revenue Code, that five-year period may not be suspended under Section 121(d)(9) of the Internal Revenue Code for state purposes, and a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5.

(f) Section ~~121(d)(10)~~ *121(d)(11)* of the Internal Revenue Code, relating to property acquired from a decedent, shall not apply.

(g) The amendments made by Section 417 of the Tax Relief and Health Care Act of 2008 (Public Law 109-432) to Section 121(d)(9) of the Internal Revenue Code, relating to uniformed services, foreign service, and intelligence community, shall apply to sales or exchanges that occur on or after January 1, 2009.

(h) The amendments made by subdivision (a) of Section 7 of the Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142) to Section 121 of the Internal Revenue Code, relating to exclusion of gain from sale of principal residence, shall apply to sales or exchanges that occur on or after January 1, 2009.

SEC. 15. Section 17204 is added to the Revenue and Taxation Code, to read:

17204. (a) Section 165(h)(1) of the Internal Revenue Code, relating to the one hundred dollar ($100) limitation per casualty, is modified by substituting the phrase "$100" for the phrase "$500 ($100 for taxable years beginning after December 31, 2009)" contained therein.

(b) Section 165(h)(3) of the Internal Revenue Code, relating to special rules for losses in federally declared disasters, shall not apply.

SEC. 16. Section 17206 of the Revenue and Taxation Code is amended to read:

17206. (a) For purposes of Section 17201, Section 170 of the Internal Revenue Code~~, as amended by Public Law 109-1,~~ *relating to charitable, etc., contributions and gifts,* shall be applied to allow a taxpayer to elect to treat any contribution described in subdivision (b) made in January 2005, as if that contribution was made on December 31, 2004, and not in January 2005.

(b) A contribution is described in this subdivision if that contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under Section 17201.

SEC. 17. Section 17225 is added to the Revenue and Taxation Code, to read:

17225. Section 163(h)(3)(E) of the Internal Revenue Code, relating to mortgage insurance premiums treated as interest, shall not apply.

SEC. 18. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) Section 168 of the Internal Revenue Code is modified as follows:

(1) Any reference to “tax imposed by this chapter” in Section 168 of the Internal Revenue Code means “net tax,” as defined in Section 17039.

(2) (A) Section 168(e)(3) is modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s disease in that vineyard, shall be “five-year property,” rather than “10-year property.”

(B) Section 168(g)(3) of the Internal Revenue Code is modified to provide that any grapevine, replaced in a vineyard in California in any taxable year beginning on or after January 1, 1992, as a direct result of a phylloxera infestation in that vineyard, or replaced in a vineyard in California in any taxable year beginning on or after January 1, 1997, as a direct result of Pierce’s disease in that vineyard, shall have a class life of 10 years.

(C) Every taxpayer claiming a depreciation deduction with respect to grapevines as described in this paragraph shall obtain a written certification from an independent state-certified integrated pest management adviser, or a state agricultural commissioner or adviser, that specifies that the replanting was necessary to restore a vineyard infested with phylloxera or Pierce’s disease. The taxpayer shall retain the certification for future audit purposes.

(3) Section 168(j) of the Internal Revenue Code, relating to property on Indian reservations, shall not apply.

(4) Section 168(k) of the Internal Revenue Code, relating to special allowance for certain property acquired after ~~September 10, 2001,~~ *December 31, 2007,* and before January 1, ~~2005,~~ *2009,* shall not apply.

(5) Sections 168(b)(3)(G) and 168(b)(3)(H) of the Internal Revenue Code, relating to property to which the straight line method applies, shall not apply.

(6) Sections 168(e)(3)(E)(iv) ~~and~~, 168(e)(3)(E)(v), *and 168(e)(3)(E)(ix)* of the Internal Revenue Code, relating to 15-year property, shall not apply.

(7) Sections 168(e)(6) ~~and~~, 168(e)(7), *and 168(e)(8)* of the Internal Revenue Code, relating to qualified leasehold improvement property ~~and~~, to qualified restaurant property, *and to qualified retail improvement property,* respectively, shall not apply.

(8) Section 168(l) of the Internal Revenue Code, relating to the special allowance for cellulosic biomass ethanol plant property, shall not apply.

(9) Section 168(m) of the Internal Revenue Code, relating to the special allowance for certain reuse and recycling property, shall not apply.

(10) Section 168(n) of the Internal Revenue Code, relating to the special allowance for qualified disaster assistance property, shall not apply.

(b) Section 169 of the Internal Revenue Code, relating to amortization of pollution control facilities, is modified as follows:

(1) The deduction allowed by Section 169 of the Internal Revenue Code shall be allowed only with respect to facilities located in this state.

(2) The "state certifying authority," as defined in Section 169(d)(2) of the Internal Revenue Code, means the State Air Resources Board, in the case of air pollution, and the State Water Resources Control Board, in the case of water pollution.

SEC. 19. Section 17250.5 of the Revenue and Taxation Code is amended to read:

17250.5. *(a)* Section 167(g) of the Internal Revenue Code, relating to depreciation under income forecast method, shall be modified as follows:

~~(a)~~

(1) Section 167(g)(2)(C) of the Internal Revenue Code is modified by substituting "Section 19521" ~~in lieu of~~ *for* "Section 460(b)(7)" of the Internal Revenue Code.

~~(b)~~

(2) Section 167(g)(5)(D) of the Internal Revenue Code is modified by substituting "Part 10.2 (commencing with Section 18401) (other than Section 19136)" ~~in lieu of~~ *for* "Subtitle F (other than Sections 6654 and 6655)."

~~(c)~~

(3) Section 167(g)(5)(E) of the Internal Revenue Code, relating to treatment of distribution costs, shall not apply.

~~(d)~~

(4) Section 167(g)(7) of the Internal Revenue Code, relating to treatment of participations and residuals, shall not apply.

(b) Section 167(h) of the Internal Revenue Code, relating to amortization of geological and geophysical expenditures, shall not apply.

SEC. 20. Section 17255 of the Revenue and Taxation Code is amended to read:

17255. (a) Section 179(b)(1) of the Internal Revenue Code, relating to dollar limitation, shall not apply and in lieu thereof, the aggregate cost which may be taken into account under Section 179(a) of the Internal Revenue Code for any taxable year shall not exceed twenty-five thousand dollars ($25,000).

(b) Section 179(b)(2) of the Internal Revenue Code, relating to reduction in limitation, shall not apply and in lieu thereof, the limitation under subdivision (a) for any taxable year shall be reduced, but not to below zero, by the amount by which the cost of Section 179 property, as defined in Section 179(d)(1) of the Internal Revenue Code, except as otherwise provided, placed in service during the taxable year exceeds two hundred thousand dollars ($200,000).

(c) Section 179 of the Internal Revenue Code is modified to provide that the "aggregate amount disallowed" referred to in Section 179(b)(3)(B) of the Internal Revenue Code shall be computed under this part as it read on the date the property generating the amount disallowed was placed in service.

(d) Section 179(b)(5) of the Internal Revenue Code, relating to inflation adjustments, shall not apply.

(e) The last sentence in Section 179(c)(2) of the Internal Revenue Code, relating to election irrevocable, shall not apply.

(f) Section 179(d)(1)(A)(ii) of the Internal Revenue Code, relating to computer software, shall not apply.

(g) Section 179(e) of the Internal Revenue Code, relating to special rules for qualified disaster assistance property, shall not apply.

SEC. 21. Section 17257 is added to the Revenue and Taxation Code, to read:

17257. Section 179C of the Internal Revenue Code, relating to the election to expense certain refineries, shall not apply.

SEC. 22. Section 17257.2 is added to the Revenue and Taxation Code, to read:

17257.2. Section 179D of the Internal Revenue Code, relating to the energy efficient commercial buildings deduction, shall not apply.

SEC. 23. Section 17257.4 is added to the Revenue and Taxation Code, to read:

17257.4. Section 179E of the Internal Revenue Code, relating to the election to expense advanced mine safety equipment, shall not apply.

SEC. 24. Section 17275.5 of the Revenue and Taxation Code is amended to read:

17275.5. (a) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(b) Section 170(f)(10)(F) of the Internal Revenue Code, relating to the excise tax on premiums paid, shall not apply.

(c) The provisions of Section 170(f)(11)(E) of the Internal Revenue Code, relating to qualified appraisal and appraiser, shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2009.

(d) Section 170(f)(13) of the Internal Revenue Code, relating to contributions of certain interests in buildings located in registered historic districts, shall not apply.

(e) Section 1709(f)(18) of the Internal Revenue Code, relating to contributions to donor advised funds, shall not apply.

SEC. 25. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (d).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small

business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code, relating to corporate equity reduction interest loss, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.

(d) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “five taxable years” in lieu of “20 taxable years” except as otherwise provided in paragraphs (2) and (3).

(B) For a net operating loss for any taxable year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “10 taxable years” in lieu of “20 taxable years.”

(2) For any taxable year beginning before January 1, 2000, in the case of a “new business,” the “five taxable years” in paragraph (1) shall be modified to read as follows:

(A) “Eight taxable years” for a net operating loss attributable to the first taxable year of that new business.

(B) “Seven taxable years” for a net operating loss attributable to the second taxable year of that new business.

(C) “Six taxable years” for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) “Eligible small business” means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or "S" corporation paragraphs (1) and (2) shall be applied to the partnership or "S" corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall

only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) “Other biotechnology activities” means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section to the contrary, a deduction shall be allowed to a “qualified taxpayer” as provided in Sections 17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(k) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

(l) Section 172(b)(1)(J) of the Internal Revenue Code, relating to certain losses attributable federally declared disasters, shall not apply.

(m) Section 172(j) of the Internal Revenue Code, relating to qualified disaster losses, shall not apply.

SEC. 26. Section 17279.6 is added to the Revenue and Taxation Code, to read:

17279.6. Section 198A of the Internal Revenue Code, relating to expenses of qualified disaster expenses, shall not apply.

SEC. 27. Section 17501 of the Revenue and Taxation Code is amended to read:

17501. (a) Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to deferred compensation, shall apply, except as otherwise provided.

(b) Notwithstanding the specified date contained in paragraph (1) of subdivision (a) of Section 17024.5, Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to pension, profitsharing, stock bonus plans, etc., *and Part III of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to rules relating to minimum funding standards and benefit limitations,* shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal income tax purposes.

(c) The maximum amount of elective deferrals (as defined in Section 402(g)(3)) for the taxable year that may be excluded from gross income under Section 402(g) of the Internal Revenue Code, as applicable for state purposes, shall not exceed the amount of elective deferrals that may be excluded from gross income under Section 402(g) of the Internal Revenue Code, as ~~amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147),~~ *in effect on January 1, 2009*, including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as ~~added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and as amended by Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)~~ *in effect on January 1, 2009*.

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan, account, or annuity shall be increased by the amount of elective deferrals not excluded as a result of the application of subdivision (c).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (c), any income attributable to elective deferrals in taxable years beginning on or after January 1, 2002, in conformance with Part I of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan or account was established until distributed pursuant to the plan or by operation of law.

SEC. 28. Section 17551 of the Revenue and Taxation Code is amended to read:

17551. (a) Subchapter E of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to accounting periods and methods of accounting, shall apply, except as otherwise provided.

(b) Section 444(c)(1) of the Internal Revenue Code, relating to effect of election, shall not apply.

(c) (1) Notwithstanding the specified date contained in paragraph (1) of subdivision (a) of Section 17024.5, Section 457 of the Internal Revenue Code, relating to deferred compensation plans of state and local governments and tax-exempt organizations, shall apply, except as otherwise provided, without regard to taxable year to the same extent as applicable for federal income tax purposes.

(2) The maximum deferred compensation for the taxable year that may be excluded from gross income under Section 457 of the Internal Revenue Code, as applicable for state purposes, shall not exceed the amount of deferred compensation that may be excluded from gross income under Section 457 of the Internal Revenue Code, as ~~amended by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and as amended by Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147),~~ *in effect on January 1, 2009*, including additional elective deferrals under Section 414(v) of the Internal Revenue Code, as ~~added by Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) and Section 411 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147)~~ *in effect on January 1, 2009*.

(d) (1) For taxable years beginning on or after January 1, 2002, the basis of any person in the plan shall be increased by the amount of compensation not allowed to be excluded under subdivision (a).

(2) Any basis described in paragraph (1) shall be recovered in the manner specified in Section 17085.

(e) Notwithstanding the limitations provided in subdivision (a), any income attributable to compensation deferred in a plan in taxable years beginning on or after January 1, 2002, in conformance with Section 457 of the Internal Revenue Code, as applicable for federal and state purposes, shall not be includable in the gross income of the individual for whose benefit the plan was established until distributed pursuant to the provisions of the plan or by operation of law.

(f) Section 451(i) of the Internal Revenue Code, relating to special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy, shall not apply.

(g) Section 457A of the Internal Revenue Code, relating to nonqualified deferred compensation from certain tax indifferent parties, shall not apply.

SEC. 29. Section 17560.5 is added to the Revenue and Taxation Code, to read:

17560.5. Section 461(j) of the Internal Revenue Code, relating to limitation on excess farm losses of certain taxpayers, shall not apply.

SEC. 30. Section 17755 is added to the Revenue and Taxation Code, to read:

17755. Section 664(c) of the Internal Revenue Code, relating to the taxation of trusts, shall not apply and, in lieu thereof, a charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed under this part, unless that trust, for the taxable year, has unrelated business taxable income, within the meaning of Section 23732, determined as if Chapter 4 (commencing with Section 23701) of Part 11, applied to that trust.

SEC. 31. Section 17952.5 of the Revenue and Taxation Code is amended to read:

17952.5. (a) For purposes of computing "taxable income of a nonresident or part-year resident" under paragraph (1) of subdivision (i) of Section 17041, gross income of a nonresident, as defined in Section 17015, from sources within this state shall not include "qualified retirement income" received on or after January 1, 1996, for any part of the taxable year during which the taxpayer was not a resident of this state.

(b) For purposes of this section, "qualified retirement income" means income from any of the following:

(1) A qualified trust under Section 401(a) of the Internal Revenue Code that is exempt under Section 501(a) of the Internal Revenue Code from taxation.

(2) A simplified employee pension as defined in Section 408(k) of the Internal Revenue Code.

(3) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(4) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(5) An individual retirement plan described in Section 7701(a)(37) of the Internal Revenue Code.

(6) An eligible deferred compensation plan as defined in Section 457 of the Internal Revenue Code.

(7) A governmental plan as defined in Section 414(d) of the Internal Revenue Code.

(8) A trust described in Section 501(c)(18) of the Internal Revenue Code.

(9) Any plan, program, or arrangement described in Section 3121(v)(2)(C) of the Internal Revenue Code, *or any plan, program, or arrangement that is in writing, that provides for retirement payments in recognition of prior service to be made to a retired partner, and that is in effect immediately before retirement begins,* if that income is either of the following:

(A) Part of a series of substantially equal periodic payments (not less frequently than annually), *which may include income described in paragraphs (1) to (8), inclusive,* made for either of the following:

(i) The life or the life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient).

(ii) A period of not less than 10 years.

(B) A payment received after termination of employment, under a plan, program, or arrangement to which that employment relates, maintained solely for the purpose of providing retirement benefits for employees in excess of the limitation imposed by Section 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the Internal Revenue Code, or any combination of those sections, or any other limitation on contributions or benefits in the Internal Revenue Code on plans to which any of those sections apply.

(C) The fact that payments may be adjusted, from time to time, pursuant to this plan, program, or arrangement to limit total disbursements under a predetermined formula, or to provide cost of living or similar adjustments, will not cause the periodic

payments provided under that plan, program, or arrangement to fail the "substantially-equal-periodic-payments" test.

(10) Any retired or retainer pay of a member or former member of a uniform service computed under Section 1401 and following of Title 10 of the United States Code.

(c) For purposes of this section, the term "retired partner" is an individual who is described as a partner in Section 7701(a)(2) of the Internal Revenue Code and who is retired under that individual's partnership agreement.

~~(c)~~

(d) This section shall apply only to any taxable year, or portion thereof, that the provisions of Section 114 of Title 4 of the United States Code, relating to limitation on state income taxation of certain pension income, are effective.

~~(d) References~~

(e) Except as otherwise provided, references to the Internal Revenue Code are subject to paragraph (1) of subdivision (a) of Section 17024.5~~, which identifies, for each taxable year, the effective date of the referenced provisions of the Internal Revenue Code~~.

SEC. 32. Section 18031.5 is added to the Revenue and Taxation Code, to read:

18031.5. Section 1013(i) of the Internal Revenue Code, relating to special rules for mutual ditch, reservoir, or irrigation company stock, shall not apply.

SEC. 33. Section 18037.5 is added to the Revenue and Taxation Code, to read:

18037.5. The amendments made by Section 844 of the Pension Protection Act of 2006 (Public Law 109-280) to Section 1035 of the Internal Revenue Code, shall not apply.

SEC. 34. Section 18151.5 is added to the Revenue and Taxation Code, to read:

18151.5. Section 301 of Title III of Division A of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), relating to gain or loss from sale of certain preferred stock, respectively.

SEC. 35. Section 18155.6 is added to the Revenue and Taxation Code, to read:

18155.6. For taxable years beginning on or after January 1, 2009, specific reference to Sections 1223(4) to (16), inclusive, of the Internal Revenue Code in this part shall instead be treated as *a reference to Sections 1223(3) to (15), inclusive, of the Internal Revenue Code, shall not apply.*

SEC. 36. Section 18165 of the Revenue and Taxation Code is amended to read:

18165. *(a)* Section 1245(a)(2)(C) of the Internal Revenue Code, relating to certain deductions treated as amortization, is modified to also refer to Sections 17252.5, 17265, and 17266.

(b) Section 1245(b)(8) of the Internal Revenue Code, relating to the disposition of amortizable Section 197 intangibles, shall apply to dispositions of property on or after January 1, 2009.

SEC. 37. Section 18180 of the Revenue and Taxation Code is amended to read:

18180. *(a)* Section 7872 of the Internal Revenue Code, relating to the treatment of loans with below market interest rates, shall apply, except as otherwise provided.

(b) Section 7872(h) of the Internal Revenue Code, relating to the exception for loans to qualified continuing care facilities, shall apply to calendar years beginning on or after January 1, 2009, with respect to loans made before, on, or after that date.

SEC. 38. Section 18631 of the Revenue and Taxation Code is amended to read:

18631. (a) This article does not apply to any payment of interest obligations not taxable under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

(b) Except as otherwise provided, every person required to file an information return with the Secretary of the Treasury under any of the federal sections listed in subdivision (c) may be required to file a copy of the federal information return with the Franchise Tax Board at the time and in the manner as it may, by forms and instructions, require.

(c) Subdivision (b) shall apply to each of the following:

(1) Section 6034A of the Internal Revenue Code, relating to information to beneficiaries of estates and trusts.

(2) Section 6039 of the Internal Revenue Code, relating to information required in connection with certain options.

(3) Section 6039C of the Internal Revenue Code, relating to returns with respect to foreign persons holding direct investments in United States real property interests, if that person holds a direct investment in a California real property as defined in Section 18662.

(4) Section 6041 of the Internal Revenue Code, relating to information at source.

(5) Section 6041A of the Internal Revenue Code, relating to returns regarding payments of remuneration for services and direct sales, except that no return or statement shall be required with respect to direct sales pursuant to Section 6041A(b) of the Internal Revenue Code.

(6) Section 6042 of the Internal Revenue Code, relating to returns regarding payments of dividends and corporate earnings and profits.

(7) Section 6045 of the Internal Revenue Code, relating to returns of brokers.

(8) Section 6049 of the Internal Revenue Code, relating to returns regarding payments of interest.

(9) Section 6050H of the Internal Revenue Code, relating to returns of mortgage interest received in trade or business from individuals.

(10) (A) Section 6050I of the Internal Revenue Code, relating to cash received in trade or business, etc., except that Section 6050I(g) of the Internal Revenue Code, relating to cash received by criminal court, shall not apply.

(B) (i) The Attorney General shall, upon court order following a showing ex parte to a magistrate of an articulable suspicion that an individual or entity has committed a felony offense to which a federal information return is related, be provided a copy of a federal information return filed with the Franchise Tax Board under this paragraph. The Attorney General may make a return or information therefrom available to a district attorney subject to regulations promulgated by the Attorney General. The regulations shall require the district attorney seeking the return or information to specify in writing the specific reasons for believing that a felony offense has been committed to which the return or information is related.

(ii) Any information or return obtained by the Attorney General or a district attorney pursuant to this subparagraph shall be confidential and used only for investigative or prosecutorial purposes.

(11) Section 6050J of the Internal Revenue Code, relating to returns of foreclosures and abandonments of security.

(12) (A) Section 6050K of the Internal Revenue Code, relating to returns of exchanges of certain partnership interests.

(B) In addition to the general requirement under subparagraph (A), a transferor of a partnership interest shall be required to notify the partnership of that exchange in accordance with Section 6050K(c) of the Internal Revenue Code.

(13) Section 6050L of the Internal Revenue Code, relating to returns of certain dispositions of donated property.

(14) Section 6050N of the Internal Revenue Code, relating to returns regarding payments of royalties.

(15) Section 6050P of the Internal Revenue Code, relating to returns of cancellation of indebtedness by certain entities.

(16) Section 6050Q of the Internal Revenue Code, relating to certain long-term care benefits.

(17) Section 6050R of the Internal Revenue Code, relating to returns of certain purchases of fish.

(18) Section 6050S of the Internal Revenue Code, relating to higher education tuition and related expenses.

(19) Section 6052 of the Internal Revenue Code, relating to returns regarding payment of wages in the form of group-term life insurance.

(20) Section 6034(a) of the Internal Revenue Code, relating to returns of split-interest trusts.

(21) Section 6039I of the Internal Revenue Code, relating to returns and records with respect to employer-owned life insurance contracts.

(22) Section 6050V of the Internal Revenue Code, relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests.

(23) Section 6039J of the Internal Revenue Code, relating to information reporting with respect to commodity credit corporation transactions.

(24) Section 6050W of the Internal Revenue Code, relating to returns relating to payments made in settlement of payment card and third payment network transactions.

(25) Any information return that is required to be filed with the Secretary of the Treasury pursuant to a provision of Part III of Subchapter A of Chapter 61 of Subtitle F(commencing with Section 6031) of the Internal Revenue Code that is added to the Internal Revenue Code by a public law enacted on or after January 1, 2009.

(d) Every person required to make a return under subdivision (b) shall also furnish a statement to each person whose name is required to be set forth in the return, as required to do so by the Internal Revenue Code.

SEC. 39. Section 19116 of the Revenue and Taxation Code is amended 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~~ *36-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.

(3) If, after the return for a taxable year is filed, the taxpayer provides to the Franchise Tax Board one or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, paragraph (1) shall be applied by substituting the date the last of the documents was provided for the date on which the return was filed.

(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.

(6) Any interest, penalty, addition to tax, or additional amount with respect to any gross misstatement.

(7) Any interest, penalty, addition to tax, or additional amount relating to any reportable transaction with respect to which the requirements of Section 6664(d)(2)(A) of the Internal Revenue Code are not met, and any listed transaction, as defined in Section 6707A(c) of the Internal Revenue Code.

(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) For notices sent after January 1, 2004, this section does not apply to taxpayers with taxable income greater than two hundred thousand dollars ($200,000) that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777).

(g) This section shall apply to taxable years ending after October 10, 1999.

(h) The amendments made to this section by ~~the act adding this subdivision~~ *Chapter 691 of the Statutes of 2005* shall apply to notices sent after January 1, 2005.

(i) (1) The amendments made to paragraph (1) of subdivision (b) by the act adding this subdivision shall apply to notices provided after January 1, 2010.

(2) Paragraph (3) of subdivision (b), as added by the act adding this subdivision, shall apply to documents provided on or after January 1, 2010.

SEC. 40. Section 19131 of the Revenue and Taxation Code is amended to read:

19131. (a) If any taxpayer fails to make and file a return required by this part on or before the due date of the return or the due date as extended by the Franchise Tax Board, then, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, 5 percent of the tax shall be added to the tax for each month or fraction thereof elapsing between the due date of the return (determined without regard to any extension of time for filing) and the date on which filed, but the total penalty may not exceed 25 percent of the tax. In the case of a commencing corporation, the penalty shall apply to all tax accruable on the due date of the return. The penalty so added to the tax shall be due and payable upon notice and demand from the Franchise Tax Board.

(b) In the case of an individual or fiduciary who fails to file a return of tax required by this part within 60 days of the date prescribed for filing of that return (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to willful neglect, this penalty may not be less than the lesser of one hundred *thirty-five* dollars ~~($100)~~ ($135) or 100 percent of the amount of tax required to be shown on the return.

(c) For purposes of this section, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

(d) If any failure to file any return is fraudulent, subdivision (a) shall be applied by:

(1) Substituting "15 percent" for "5 percent," and

(2) Substituting "75 percent" for "25 percent."

(e) This section does not apply to any failure to pay any estimated tax required by Section 19025 or 19136.

(f) (1) The penalty described in this section is presumed not to apply if, with respect to the same taxable year, all of the following conditions are met:

(A) A taxpayer fails to make and file a return required by this part on or before the due date of the return, determined with regard to any extension of time for filing, and fails to make and file a return required by Section 6012 of the Internal Revenue Code on or before the due date of the return, determined with regard to any extension of time for filing.

(B) The Franchise Tax Board proposes a deficiency assessment that is based upon a final federal determination.

(C) The Commissioner of Internal Revenue or other officer of the United States determines that the penalty described in Section 6651(a)(1) of the Internal Revenue Code does not apply because the failure to file the federal return on or before the date prescribed for its filing was due to reasonable cause and not due to willful neglect.

(2) The Franchise Tax Board may rebut the presumption described in paragraph (1) by establishing, by a preponderance of the evidence, that the taxpayer's failure to make and file a return required by this part was not due to reasonable cause or was due to willful neglect.

SEC. 41. Section 19134 of the Revenue and Taxation Code is amended to read:

19134. (a) The provisions of Section 6657 of the Internal Revenue Code, relating to bad checks, shall apply except as otherwise provided.

(b) Section 6657 of the Internal Revenue Code, relating to bad checks, is modified to apply to payments made by credit card remittance or electronic funds transfer (as provided by Section 19011) in addition to payments made by check or money order.

(c) For payments received prior to January 1, 1993, this section shall be applied only to payments pertaining to taxable years beginning on or after January 1, 1990.

(d) For payments received on or after January 1, 1993, this section shall be applied to all payments, without regard to taxable year.

(e) The amendments made to Section 6657 of the Internal Revenue Code by Public Law 110-28 that are incorporated by reference under this section shall apply to all payments received

after the effective date of the act adding this subdivision, without regard to taxable year.

SEC. 42. Section 19164 of the Revenue and Taxation Code is amended to read:

19164. (a) (1) (A) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with Section 6662 of the Internal Revenue Code, relating to imposition of accuracy-related penalty on underpayments, except as otherwise provided.

(B) (i) Except for understatements relating to reportable transactions to which Section 19164.5 applies, in the case of any proposed deficiency assessment issued after the last date of the amnesty period specified in Chapter 9.1 (commencing with Section 19730) for any taxable year beginning prior to January 1, 2003, the penalty specified in Section 6662(a) of the Internal Revenue Code shall be computed by substituting "40 percent" for "20 percent."

(ii) Clause (i) shall not apply to any taxable year of a taxpayer beginning prior to January 1, 2003, if, as of the start date of the amnesty program period specified in Section 19731, the taxpayer is then under audit by the Franchise Tax Board, or the taxpayer has filed a protest under Section 19041, or the taxpayer has filed an appeal under Section 19045, or the taxpayer is engaged in settlement negotiations under Section 19442, or the taxpayer has a pending judicial proceeding in any court of this state or in any federal court relating to the tax liability of the taxpayer for that taxable year.

(2) With respect to corporations, this subdivision shall apply to all of the following:

(A) All taxable years beginning on or after January 1, 1990.

(B) Any other taxable year for which an assessment is made after July 16, 1991.

(C) For purposes of this section, references in Section 6662(e) of the Internal Revenue Code and the regulations thereunder, relating to treatment of an affiliated group that files a consolidated federal return, are modified to apply to those entities required to be included in a combined report under Section 25101 or 25110. For these purposes, entities included in a combined report pursuant to paragraph (4) or (6) of subdivision (a) of Section 25110 shall be considered only to the extent required to be included in the combined report.

(3) Section 6662(d)(1)(B) of the Internal Revenue Code is modified to provide that in the case of a corporation, other than an “S” corporation, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of:

(A) Ten percent of the tax required to be shown on the return for the taxable year (or, if greater, two thousand five hundred dollars ($2,500)).

(B) Five million dollars ($5,000,000).

(4) Section 6662(d)(2)(A) of the Internal Revenue Code is modified to additionally provide that the excess determined under Section 6662(d)(2)(A) of the Internal Revenue Code shall be determined without regard to items to which Section 19164.5 applies and without regard to items with respect to which a penalty is imposed by Section 19774.

(5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2009.

(b) For purposes of Section 6662(d) of the Internal Revenue Code, Section 6664 of the Internal Revenue Code, Section 6694(a)(1) of the Internal Revenue Code, and this part, the Franchise Tax Board may prescribe a list of positions for which the Franchise Tax Board believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. That list (and any revisions thereof) shall be published through the use of Franchise Tax Board Notices or other published positions. In addition, the “listed transactions” identified and published pursuant to the preceding sentence shall be published on the Web site of the Franchise Tax Board.

(c) A fraud penalty shall be imposed under this part and shall be determined in accordance with Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty, except as otherwise provided.

(d) *(1)* Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply, except as otherwise provided.

(2) Section 6664(c)(2) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2009.

(3) Section 6664(c)(3) of the Internal Revenue Code shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2009.

(e) Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply, except as otherwise provided.

SEC. 43. Section 19166 of the Revenue and Taxation Code is amended to read:

19166. (a) A penalty shall be imposed for understatement of any taxpayer's liability by a tax return preparer and shall be determined in accordance with Section 6694 of the Internal Revenue Code, *relating to understatement of taxpayer's liability by tax return preparer,* except as otherwise provided.

(b) (1) Except as provided in paragraph (2), Section 6694(a)(1) of the Internal Revenue Code is modified to substitute "two hundred and fifty dollars ($250)" for "the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim".

~~(b) (1)~~

(2) For taxpayers that have a reportable transaction, as defined in Section 6707A(c)(1) of the Internal Revenue Code, with respect to which the requirements of Section 6664(d)(2)(A) of the Internal Revenue Code are not met, any listed transaction, as defined in Section 6707A(c)(2) of the Internal Revenue Code, or a gross misstatement within the meaning of Section 6404(g)(2)(D) of the Internal Revenue Code, Section 6694(a) of the Internal Revenue Code is modified to substitute "one thousand dollars ($1,000)" for ~~"two hundred fifty dollars ($250)."~~ *"the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim".*

~~(2) Section 6694(a)(1) of the Internal Revenue Code is modified to substitute the phrase "reasonable belief that the tax treatment in that position was more likely than not the proper treatment" instead of the phrase "realistic possibility of being sustained on its merits" contained therein.~~

~~(3) Section 6694(a)(3) of the Internal Revenue Code is modified to substitute the phrase "or there was no reasonable basis for the tax treatment of that position" instead of the phrase "or was frivolous" contained therein.~~

(c) Section 6694(b) of the Internal Revenue Code is modified to substitute ~~“$5,000”~~ *“five thousand dollars ($5,000)”* for ~~“$1,000.”~~ *“the greater of (A) $5,000 or (B) 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim”.*

(d) Section 6694(c) of the Internal Revenue Code shall not apply and, in lieu thereof, the following shall apply:

(1) If, within 30 days after the day on which notice and demand of any penalty under Section 6694(a) or 6694(b) of the Internal Revenue Code is made against any person who is an income tax return preparer, that person pays an amount which is not less than 15 percent of the amount of that penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of that penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding Section 19381, the beginning of that proceeding or levy during the time that prohibition is in force may be enjoined in a proceeding in the superior court. *Nothing in this paragraph shall be construed to prohibit any counterclaim for the remainder of that penalty in a proceeding begun as provided in paragraph (2).*

(2) If, within 30 days after the day on which a claim for refund of any partial payment of any penalty under Section 6694(a) or 6694(b) of the Internal Revenue Code is denied (or, if earlier, within 30 days after the expiration of six months after the day on which the claim for refund has been filed), the income tax return preparer fails to begin a proceeding in the superior court for the determination of his or her liability for that penalty, paragraph (1) shall cease to apply with respect to that penalty, effective on the day following the close of the applicable 30-day period referred to in this ~~subdivision~~ *paragraph*.

(3) The running of the period of limitations provided in Section 19371 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Franchise Tax Board is prohibited from collecting by levy or a proceeding in court.

(e) The amendments made to this section by the act adding this subdivision shall apply to returns prepared after the effective date of this act.

SEC. 44. Section 19172 of the Revenue and Taxation Code is amended to read:

19172. (a) In addition to the penalty imposed by Section 19706 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under Section 18633 or 18633.5 for any taxable year does either of the following:

(1) Fails to file the return at the time prescribed therefor (determined with regard to any extension of time for filing).

(2) Files a return which fails to show the information required under Section 18633 or 18633.5, that partnership shall be liable for a penalty determined under subdivision (b) for each month (or fraction thereof) during which that failure continues (but not to exceed ~~five~~ *12* months), unless it is shown that the failure is due to reasonable cause.

(b) For purposes of subdivision (a), the amount determined under this subdivision for any month is the product of the following:

(1) ~~Ten dollars ($10)~~ *Eighteen dollars ($18)*, multiplied by

(2) The number of persons who were partners in the partnership during any part of the taxable year.

(c) The penalty imposed by subdivision (a) shall be assessed against the partnership.

(d) Article 3 (commencing with Section 19031) of this chapter (relating to deficiency assessments) shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

(e) The amendments made to this section by the act adding this subdivision shall apply to returns required to be filed after the effective date of the act adding this subdivision.

SEC. 45. Section 19172.5 is added to the Revenue and Taxation Code, to read:

19172.5. (a) In addition to the penalty imposed by Section 19706, if any “S” corporation required to file a return under Section 18601 for any taxable year fails to file the return at the time prescribed therefor (determined with regard to any extension of time for filing), or files a return that fails to show the information required under Section 18601, then that “S” corporation shall be liable for a penalty determined under subdivision (b) for each month (or fraction thereof) during which that failure continues *(but not to exceed 12 months), unless that failure is due to reasonable cause.*

(b) (1) For purposes of subdivision (a), the amount determined under this subdivision for any month is the product of the following:

(2) Eighteen dollars ($18), multiplied by the number of persons who were shareholders in the "S" corporation during any part of the taxable year.

(c) The penalty imposed by subdivision (a) shall be assessed against the "S" corporation.

(d) Article 3 (commencing with Section 19031), relating to deficiency assessments, shall not apply with respect to the assessment or collection of any penalty imposed by subdivision (a).

(e) This section shall apply to returns required to be filed after the effective date of the act adding this subdivision.

SEC. 46. Section 19179 of the Revenue and Taxation Code is amended to read:

19179. *(a)* A penalty shall be imposed for filing a frivolous return and shall be determined in accordance with Section 6702 of the Internal Revenue Code, except as otherwise provided.

~~(a)~~

(b) Section 6702 of the Internal Revenue Code shall be applied to returns required to be filed under this part.

~~(b) For taxpayers that have a reportable transaction, as defined in Section 6707A(c)(1) of the Internal Revenue Code with respect to which the requirements of Section 6664(d)(2)(A) of the Internal Revenue Code are not met, any listed transaction, as defined in Section 6707A(c)(2) of the Internal Revenue Code, or a gross misstatement within the meaning of Section 6404(g)(2)(D) of the Internal Revenue Code, Section 6702(a) of the Internal Revenue Code is modified as follows:~~

~~(1) By substituting "$5,000" instead of "$500."~~

~~(2) By substituting the term "person" instead of the term "individual" in each place that it appears.~~

(c) Section 6702 of the Internal Revenue Code is modified as follows:

~~(3)~~

(1) (A) By substituting *the phrase* "tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with

Section 23001), or this part"~~ instead of~~ *for* the phrase "tax imposed by~~ subtitle A"~~ *this title"* contained therein.

~~(4) By substituting the phrase "is based on" instead of the phrase "is due to" contained therein.~~

~~(5)~~

(B) By substituting the phrase "frivolous or is based on a position that the Franchise Tax Board has identified as frivolous under subdivision (c) of Section 19179"~~ instead of~~ *for* the term "frivolous" contained therein.

~~(6)~~

(C) By substituting the phrase "reflects a desire to delay or impede the administration of federal income tax laws as determined by the Secretary of the Treasury or the administration of the tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part as determined by the Franchise Tax Board"~~ instead of~~ *for* the phrase~~ "a~~ *"reflects a* desire~~ (which appears on the purported return)~~ to delay or impede the administration of Federal~~ income~~ tax laws" contained therein.

(D) By substituting the phrase "is based on a position which the Secretary of the Treasury has identified as frivolous under of Section 6702(c) of the Internal Revenue Code or the Franchise Tax Board has identified as frivolous under subdivision (d)" for the phrase "is based on a position which the Secretary has identified as frivolous under subsection (c)".

(E) By substituting the phrase "If the Franchise Tax Board provides a person with notice that a submission is a specified frivolous submission and the person withdraws that submission within 30 days after the notice, the penalty imposed under Section 6702(b)(1) of the Internal Revenue Code does not apply with respect to that submission" for the phrase "If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission".

(2) Section 6702(b)(2)(B) of the Internal Revenue Code shall not apply and, in lieu thereof, the phrase "specified submission" means any of the following:

(A) A protest under Section 19041.

(B) A request for a hearing under Section 19044.

(C) An application under any of the following sections:

(i) Section 19008, relating to agreements for payment of tax liability in installments.

(ii) Section 19443, relating to compromises.

(iii) Section 21004, relating to actions of the Taxpayers' Rights Advocate.

(iv) Section 21015.5, relating to a request for review prior to levy.

~~(c)~~

(d) (1) The Franchise Tax Board shall prescribe (and periodically revise) a list of positions which the Secretary of the Treasury for federal income tax purposes or the Franchise Tax Board has identified as being frivolous for purposes of this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or prescribed by the Franchise Tax Board pursuant to paragraph (1).

~~(d) (1) Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of five thousand dollars ($5,000).~~

~~(2) For purposes of this section, all of the following shall apply:~~

~~(A) The phrase "specified frivolous submission" means a specified submission if any portion of that submission meets any of the following conditions:~~

~~(i) Is based on a position which the Franchise Tax Board has identified as frivolous under subdivision (c).~~

~~(ii) Reflects a desire to delay or impede the administration of federal income tax laws as determined by the Secretary of the Treasury or the administration of the tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part as determined by the Franchise Tax Board.~~

~~(B) The phrase "specified submission" means any of the following:~~

~~(i) A protest under Section 19041.~~

~~(ii) A request for a hearing under Section 19044.~~

~~(iii) An application under any of the following sections:~~

~~(I) Section 19008 (relating to agreements for payment of tax liability in installments).~~

~~(II) Section 19443 (relating to compromises).~~

~~(III) Section 21004 (relating to actions of the Taxpayers' Rights Advocate).~~

~~(3) If the Franchise Tax Board provides a person with notice that a submission is a specified frivolous submission and the person withdraws that submission within 30 days after the notice, the penalty imposed under paragraph (1) does not apply with respect to that submission.~~

(e) (1) The Chief Counsel of the Franchise Tax Board may rescind all or any portion of any penalty imposed by this section if both of the following apply:

(A) Imposing the penalty would be against equity and good conscience.

(B) Rescinding the penalty would promote compliance with the requirements of this part and Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) and effective tax administration.

(2) The exercise of authority under paragraph (1) shall be at the sole discretion of the Chief Counsel of the Franchise Tax Board and may not be delegated.

(3) Notwithstanding any other law or rule of law, any determination under this subdivision may not be reviewed in any administrative or judicial proceeding.

(f) The penalties imposed by this section shall be in addition to any other penalty provided by law.

SEC. 47. Section 19185 is added to the Revenue and Taxation Code, to read:

19185. (a) Section 6695A of the Internal Revenue Code, relating to substantial and gross valuation misstatements attributable to incorrect appraisals, shall apply, except as otherwise provided.

(b) This section shall apply to appraisals with respect to returns or submissions filed on or after January 1, 2010.

SEC. 48. Section 19186 is added to the Revenue and Taxation Code, to read:

19186. (a) Section 6702B of the Internal Revenue Code, relating to the fraudulent identification of exempt use property, shall apply, except as otherwise provided.

(b) This section shall apply to identifications made after January 1, 2010.

SEC. 49. Section 19443 of the Revenue and Taxation Code is amended 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) Notwithstanding any other provision of this section, if the Franchise Tax Board determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or Section 19008 meets the requirements of clause (i) or (ii) of Section 6702(b)(2)(A) of the Internal Revenue Code, as modified by Section 19179, then the Franchise Tax Board may treat that portion as if it were never submitted and that portion shall not be subject to any further administrative or judicial review.

~~(i)~~

(j) This section shall become operative on the effective date of ~~the act adding this section~~ *Chapter 931 of the Statutes of 1999* without regard to the taxable year at issue.

SEC. 50. Section 21015.5 of the Revenue and Taxation Code is amended to read:

21015.5. (a) (1) No levy may be made on any property or property right of any person unless the board has notified the person in writing of his or her rights as described in subparagraph (C) of paragraph (3) before the levy is made. Except as provided in subdivision (f), the notice shall be required only once for the taxable period to which the unpaid tax specified in subparagraph (A) of paragraph (3) relates. 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.

(2) The notice required by paragraph (1) shall be made by first-class mail to the address of record not less than 30 days before the day of the first levy with respect to the amount of the unpaid tax for the taxable period. Notice under paragraph (1) is not required if previous mail to the same address was returned undelivered with no forwarding address.

(3) The notice required under paragraph (1) shall specify, in simple and nontechnical terms, all of the following:

(A) The amount of unpaid tax.

(B) A telephone number to call in the event of any questions.

(C) The right of the person to request a review during the 30-day period described in paragraph (2).

(D) The proposed action or actions that may be taken by the Franchise Tax Board and the rights of the person with respect to the action or actions, including a brief statement that sets forth all of the following:

(i) The provisions of California law relating to levy and sale of property.

(ii) The procedures applicable to the levy and sale of property under California law.

(iii) The independent departmental administrative review available to the taxpayers with respect to the levy and sale and the procedures to obtain that review.

(iv) The alternatives available to taxpayers that could prevent levy on property, including installment agreements under Section 19008.

(v) California legal requirements and procedures with respect to the release of levy.

(b) (1) The Taxpayers' Rights Advocate shall establish procedures for an independent departmental administrative review for taxpayers who request review under subparagraph (C) of paragraph (3) of subdivision (a).

(2) A person shall be entitled to only one review under this section with respect to the taxable period to which the unpaid tax specified in subparagraph (A) of paragraph (3) of subdivision (a) relates.

(3) An independent departmental administrative review under this subdivision shall be conducted by an officer or employee, or officers or employees, who have had no prior involvement with respect to the unpaid tax specified in subparagraph (A) of paragraph (3) of subdivision (a) before the first review under this section or Section 19225. A taxpayer may waive the requirement of this paragraph. Administrative review under this subdivision is not subject to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code.

(c) (1) The person or persons conducting the independent departmental administrative review shall obtain verification that the requirements of any applicable law or administrative procedures have been met by the board.

(2) The taxpayer may raise during the review any relevant issue relating to the unpaid tax or the lien, including any of the following:

(A) Appropriate spousal defenses.

(B) Challenges to the appropriateness of collection actions.

(C) Offers of collection alternatives, that may include the posting of a bond, the substitution of other assets, an installment agreement, or an offer-in-compromise.

(3) The determination of the person or persons conducting the review under this subdivision shall take into consideration all of the following:

(A) The verification presented under paragraph (1).

(B) The issues raised under paragraph (2).

(C) Whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action not be more intrusive than necessary.

(4) An issue may not be raised during the review if:

(A) The issue was raised and considered at a previous review under this section or in any other administrative or judicial proceeding.

(B) The person seeking to raise the issue participated meaningfully in the review or proceeding.

(C) The issue meets the requirements of clause (i) or (ii) of Section 6702(b)(2)(A) of the Internal Revenue Code, as modified by Section 19179.

This paragraph does not apply to any issue with respect to a change in circumstances of that person that affects the determination.

(d) If review is requested under subparagraph (C) of paragraph (3) of subdivision (a), the levy actions that are the subject of the requested review shall be suspended for the period during which the review is pending. In no event shall any period expire before the 15th day after the day upon which there is a final determination in the review.

(e) This section does not apply if the board has made a finding under Section 19081 or Section 19082 that the collection of tax is in jeopardy except that the taxpayer shall be given the opportunity for the review described in this section within a reasonable period of time after the levy.

(f) If the board holds in abeyance the collection of a liability imposed under Part 10 (commencing with Section 17001) or Part 10.2 (commencing with Section 18401), that is final and otherwise due and payable, for a period in excess of six months from the date the hold is first placed on the account, the board shall thereafter mail to the taxpayer a notice prior to issuing a levy or filing or recording a notice of state tax lien.

(g) This section is operative for collection actions initiated after the date which is 180 days after the effective date of the act adding this section.

(h) Notwithstanding any other provision of this section, if the board determines that any portion of a request for review under this section meets the requirements of clause (i) or (ii) of Section 6702(b)(2)(A) of the Internal Revenue Code, as modified by Section 19179, then the Franchise Tax Board may treat that portion as if it were never submitted and that portion shall not be subject to any further administrative or judicial review.

SEC. 51. Section 23045 of the Revenue and Taxation Code is amended to read:

23045. For purposes of this part:

(a) Section 7702 of the Internal Revenue Code, relating to life insurance contracts, shall apply, except as otherwise provided.

(b) Section 7702A of the Internal Revenue Code, relating to modified endowment contracts, shall apply, except as otherwise provided.

(c) *(1)* Section 7702B of the Internal Revenue Code, relating to treatment of qualified long-term care insurance, shall apply, except as otherwise provided.

(2) The amendments made by Section 844 of the Pension Protection Act of 2006 (Public Law 109-280) to Section 7702B of the Internal Revenue Code shall not apply.

SEC. 52. Section 23046.5 is added to the Revenue and Taxation Code, to read:

23046.5. (a) Section 7701(o) of the Internal Revenue Code, relating to convention or association of churches, shall apply, except as otherwise provided.

(b) The phrase "this part" shall be substituted for "this title" in Section 7701(o) of the Internal Revenue Code.

SEC. 53. 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 into this part. Unless otherwise provided, the provisions described in the preceding sentence, to the extent that they modify provisions that are incorporated into this part, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Revenue Reconciliation Act of 1990.

(b) Unless otherwise specifically provided, when applying 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) Domestic International Sales Corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(2) Foreign Sales Corporations (FSC), as defined in Section 922(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) Federal tax credits and carryovers of federal tax credits.

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

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

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

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

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

(3) (A) Except as provided in subparagraph (B), in order to obtain treatment other than that elected for federal purposes, a separate election shall be filed with the Franchise Tax Board at the time and in the manner that may be required by the Franchise 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. 54. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during taxable years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(3) (A) Section 56(a)(6) of the Internal Revenue Code, as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to any taxable year beginning on or after January 1, 1998.

(b) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to "December 31, 1986," are modified to read "December 31, 1987," and all references to "January 1, 1987," are modified to read "January 1, 1988."

(c) Section 56(d)(1) of the Internal Revenue Code, relating to the alternative tax net operating loss deduction, is modified to include the provisions of Section 25108.

(d) For each taxable year beginning on or after January 1, 1988, and before January 1, 1990, Section 56(f)(2)(E) of the Internal Revenue Code, as it read during that period, is modified to refer to both of the following:

(1) Cooperatives under Section 24404 in lieu of the deduction allowed under Section 1382(b) of the Internal Revenue Code.

(2) Credit unions under Section 24405 as though the deduction allowed under Section 1382(b) of the Internal Revenue Code applied to credit unions.

(e) Section 56(g) of the Internal Revenue Code, relating to adjustments based on adjusted current earnings, is modified to provide that for corporations whose income is determined under Chapter 17 (commencing with Section 25101), adjusted current earnings shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax. In addition, each of the following shall apply:

(1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal Revenue Code are modified to provide that the term "adjusted current earnings" means the sum of the adjusted current earnings of that corporation apportionable to this state and the adjusted current earnings allocable to this state.

(2) Section 56(g)(1)(B) of the Internal Revenue Code is modified to provide that the term "alternative minimum taxable income" means the sum of the alternative minimum taxable income of that corporation apportionable to this state and the alternative minimum taxable income allocable to this state.

(f) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide the following:

(1) In the case of any property placed in service on or after January 1, 1981, and prior to January 1, 1987, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of the useful life (determined without regard to Section 24354.2) for which the taxpayer has held the property.

(2) In the case of any property placed in service on or after January 1, 1987, and prior to January 1, 1990, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be determined by each of the following:

(A) Taking into account the adjusted basis of that property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990.

(B) Using the straight line method over the remainder of the recovery period applicable to that property under the alternative system of Section 168(g) of the Internal Revenue Code.

(3) The amendments made to paragraph (2) by the act adding this paragraph shall apply to taxable years beginning on or after January 1, 1990.

(4) The last sentence of Section 56(g)(4)(A)(i) of the Internal Revenue Code, shall not apply to taxable years beginning before January 1, 1998.

(g) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:

(A) (i) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(ii) For each taxable year beginning on or after January 1, 1990, a deduction shall be allowed for amounts allowable as a deduction to a credit union for purposes of the regular tax under Section 24405.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100-percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code, relating to special rule for certain dividends received by certain cooperatives, shall not be applicable.

(2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is modified to specify that Sections 24364 and 24407 shall not apply to expenditures paid or incurred in taxable years beginning on or after January 1, 1990.

(3) With respect to corporations that are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(4) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

(h) The provisions of Section 56(d)(3), relating to net operating losses attributable to federally declared disasters, shall not apply.

SEC. 55. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each taxable year beginning on or after January 1, 1987, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) For each taxable year beginning before January 1, 1997, both of the following modifications shall apply:

(1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "12 percent."

(b) (1) For each taxable year beginning on or after January 1, 1997, and before January 1, 1999, both of the following modifications shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "11 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(2) For each taxable year beginning on or after January 1, 1999, and before January 1, 2000, both of the following shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "12 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(3) For each taxable year beginning on or after January 1, 2000, both of the following shall apply:

(A) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "15 percent."

(B) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "24 percent."

(c) (1) With respect to any expense paid or incurred after the operative date of Section 6378, Section 41(b)(1) of the Internal Revenue Code is modified to exclude from the definition of "qualified research expense" any amount paid or incurred for tangible personal property that is eligible for the exemption from sales or use tax provided by Section 6378.

(2) "Qualified research" and "basic research" shall include only research conducted in California.

(d) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(e) (1) In the case of a taxpayer engaged in any biopharmaceutical research activities that are described in codes 2833 to 2836, inclusive, or any research activities that are described in codes 3826, 3829, or 3841 to 3845, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, or any other biotechnology research and development activities, the provisions of Section 41(e)(6) of the Internal Revenue Code shall be modified to include both of the following:

(A) A qualified organization as described in Section 170(b)(1)(A)(iii) of the Internal Revenue Code and owned by an institution of higher education as described in Section 3304(f) of the Internal Revenue Code.

(B) A charitable research hospital owned by an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from taxation under Section 501(a) of the Internal Revenue Code, is not a private foundation, is designated a "specialized laboratory cancer center," and has received Clinical Cancer Research Center status from the National Cancer Institute.

(2) For purposes of this subdivision:

(A) "Biopharmaceutical research activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(B) "Other biotechnology research and development activities" means research and development activities consisting of the application of recombinant DNA technology to produce commercial products, as well as research and development activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(f) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(g) For each taxable year beginning on or after January 1, 1998, the reference to "Section 501(a)" in Section 41(b)(3)(C) of the Internal Revenue Code, relating to contract research expenses, is modified to read "this part or Part 10 (commencing with Section 17001)."

(h) (1) For each taxable year beginning on or after January 1, 2000:

(A) The reference to ~~"2.65~~ *"3* percent" in Section 41(c)(4)(A)(i) of the Internal Revenue Code is modified to read "one and forty-nine hundredths of one percent."

(B) The reference to ~~"3.2~~ *"4* percent" in Section 41(c)(4)(A)(ii) of the Internal Revenue Code is modified to read "one and ninety-eight hundredths of one percent."

(C) The reference to ~~"3.75~~ *"5* percent" in Section 41(c)(4)(A)(iii) of the Internal Revenue Code is modified to read "two and forty-eight hundredths of one percent."

(2) Section 41(c)(4)(B) shall not apply and in lieu thereof an election under Section 41(c)(4)(A) of the Internal Revenue Code may be made for any taxable year of the taxpayer beginning on or after January 1, 1998. That election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Franchise Tax Board.

(3) Section ~~41(c)(6)~~ *41(c)(7)* of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of f.o.b. point or any other condition of the sale.

(4) Section 41(c)(5) of the Internal Revenue Code, relating to the election of the alternative simplified credit, shall not apply.

(i) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(j) Section 41(g) of the Internal Revenue Code, relating to special rule for passthrough of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any taxable year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other taxable years under the rules of subdivision (f), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent taxable year.

(k) Section 41(a)(3) of the Internal Revenue Code shall not apply.

(l) Section 41(b)(3)(D) of the Internal Revenue Code, relating to amounts paid to eligible small businesses, universities, and federal laboratories, shall not apply.

(m) Section 41(f)(6) of the Internal Revenue Code, relating to energy research consortium, shall not apply.

SEC. 56. Section 23703.7 is added to the Revenue and Taxation Code, to read:

23703.7. Section 501(q) of the Internal Revenue Code, relating to special rules for credit counseling organizations, shall apply, except as otherwise provided.

(a) The phrase "Section 23701" shall be substituted for "subsection (a)" in Section 501(q)(1) of the Internal Revenue Code.

(b) The phrase "described in Section 23701d or Section 23701f" shall be substituted for "described in paragraph (3) or (4) of subsection (c)" in Section 501(q)(1) of the Internal Revenue Code.

(c) The phrase "described in Section 23701d and exempt from tax under Section 23701" shall be substituted for "described in subsection (c)(3) and exempt from tax under subsection (a)" in each place that it appears in Section 501(q)(1)(E) of the Internal Revenue Code.

(d) The phrase "described in Section 23701d shall not be exempt from tax under Section 23701" shall be substituted for "described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a)" in Section 501(q)(2)(A) of the Internal Revenue Code.

(e) The phrase "described in Section 23701d and exempt from tax under Section 23701 on January 1, 2009," shall be substituted for "described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection" in Section 501(q)(2)(B)(ii) of the Internal Revenue Code.

(f) The phrase "January 1, 2009," shall be substituted for "the date of the enactment of this subsection" in Section 501(q)(2)(B)(ii)(I) of the Internal Revenue Code.

(g) The phrase "described in Section 23701f shall not be exempt from tax under Section 23701" shall be substituted for "described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a)" in Section 501(q)(3) of the Internal Revenue Code.

SEC. 57. Section 23712 of the Revenue and Taxation Code is amended to read:

23712. Section 530 of the Internal Revenue Code, relating to Coverdell education savings accounts, shall apply, except as otherwise provided.

(a) Section 530(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under Part 10 (commencing with Section 17001) and this part" ~~in lieu of~~ *for* the phrase "under this subtitle."

(2) By substituting "Article 2 (commencing with Section 23731)" ~~in lieu of~~ *for* "section 511."

(b) For taxable years beginning before January 1, 2002, Section 530(b)(1) of the Internal Revenue Code, relating to the definition of education savings account, is modified to additionally require that upon the date that the designated beneficiary becomes 30 years of age, any balance to the credit of the beneficiary shall be distributed within 30 days after the date the beneficiary becomes 30 years of age to that beneficiary.

(c) Section 530(d) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase "under Part 10 (commencing with Section 17001) in the manner as provided in Section 72(b) of the Internal Revenue Code, as modified by Part 10" ~~in lieu of~~ *for* the phrase "in the manner as provided in Section 72(b)" in Section 530(d)(1) of the Internal Revenue Code.

(2) (A) By substituting the phrase "tax imposed by Part 10 (commencing with Section 17001)" ~~in lieu of~~ *for* the phrase "tax imposed by this chapter" in Section 530(d)(4)(A) of the Internal Revenue Code.

(B) By substituting the phrase "increased by 2½ percent" ~~in lieu of~~ *for* the phrase "increased by 10 percent" in Section 530(d)(4)(A) of the Internal Revenue Code.

(C) By substituting the phrase "shall be included in the contributor's gross income under Part 10 (commencing with Section 17001) or this part" ~~in lieu of~~ *for* the phrase "shall be included in gross income" in Section 530(d)(4)(C) of the Internal Revenue Code.

(D) For taxable years beginning before January 1, 2005:

(i) By additionally providing that Section 530(d)(4)(A) of the Internal Revenue Code, relating to additional tax for distributions not used for educational purposes, shall not apply if the payment or distribution is made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by Section 2005(e)(3) of Title 10 of the United States Code, as in effect on November 11, 2003) attributable to that attendance.

(ii) The amendments made to this section by Section 12 of Chapter 552 of the Statutes of 2004 shall apply to taxable years beginning after December 31, 2002.

(d) For purposes of Part 10 (commencing with Section 17001) and this part, in the case of a custodial account treated as a trust by reason of Section 530(g) of the Internal Revenue Code, the custodian of that account shall be treated as the trustee thereof.

(e) A copy of the report, which is required to be filed with the Secretary of the Treasury under Section 530(h) of the Internal Revenue Code, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(f) Section 109(d)(2) of Public Law 110-245, relating to application of amendments to deaths from injuries occurring on or after October 7, 2001, and before enactment, shall apply, except as otherwise provided.

SEC. 58. Section 23732 of the Revenue and Taxation Code is amended to read:

23732. Section 512 of the Internal Revenue Code, relating to unrelated business taxable income, shall apply, except as otherwise provided.

(a) Section 512(a)(2) of the Internal Revenue Code, relating to special rules for foreign organizations, shall not be applicable.

(b) Section 512(a)(3) of the Internal Revenue Code, relating to special rules applicable to certain organizations, shall be modified as follows:

(1) The reference to Section 501(c)(7) of the Internal Revenue Code, relating to clubs organized for pleasure, recreation, and other nonprofitable purposes, shall be modified to refer to Section 23701g.

(2) The reference to Section 501(c)(9) of the Internal Revenue Code, relating to voluntary employees' beneficiary associations, shall be modified to refer to Section 23701i.

(3) The reference to Section 501(c)(17) of the Internal Revenue Code, relating to trusts providing for payment of supplemental unemployment compensation benefits, shall be modified to refer to Section 23701n.

(4) The reference to Section 501(c)(20) of the Internal Revenue Code, relating to qualified group legal services plans, shall be modified to refer to Section 23701q.

(c) Section 512(d) of the Internal Revenue Code, relating to treatment of dues of agricultural or horticultural organizations, shall be modified by substituting "Section 23701a" ~~in lieu of~~ *for* "Section 501(c)(5)" of the Internal Revenue Code.

(d) Section 512(b)(13)(E) of the Internal Revenue Code is modified as follows:

(1) The phrase "tax imposed under Part 10 (commencing with Section 17001) or this part" shall be substituted for "tax imposed by this chapter" in Section 512(b)(13)(E)(ii) of the Internal Revenue Code.

(2) The phrase "January 1, 2009," shall be substituted for "the date of the enactment of this subparagraph" in Section 512(b)(13)(iii)(I) of the Internal Revenue Code.

(3) The amendments made by the act adding this subdivision shall apply to payments received or accrued on or after January 1, 2009.

SEC. 59. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2), every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and any other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep any records, render under oath any statements, make any other returns, and comply with any rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the taxable year.

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) does not apply to—

(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than twenty-five thousand dollars ($25,000), or

(iii) The exclusively religious activities of any religious order.

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization where it determines that an information return is not necessary to the efficient administration of this part.

(3) An organization that is required to file an annual information return shall pay a filing fee of ten dollars ($10) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section. In case of failure to pay the fee on or before the due date, unless it is shown that the failure is due to reasonable cause, the filing fee shall be twenty-five dollars ($25). All collection

remedies provided in Article 5 (commencing with Section 18661) of Chapter 2 of Part 10.2 are applicable to collection of the filing fee. However, the filing fee does not apply to the organization described in paragraph (4).

(4) Paragraph (3) does not apply to: (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if that organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if that organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; (D) an organization exempt under Section 23701d, if that organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d that is subject to the requirements of subdivision (a) is required to furnish annually information, at the time and in the manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth all of the following:

(1) Its gross income for the year.

(2) Its expenses attributable to gross income and incurred within the year.

(3) Its disbursements within the year for the purposes for which it is exempt.

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of that year.

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors.

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees.

(7) The compensation and other payments made during the year to each individual described in paragraph (6).

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for that organization for that taxable year:

(A) The lobbying expenditures (as defined in Section 4911(c)(1) of the Internal Revenue Code).

(B) The lobbying nontaxable amount (as defined in Section 4911(c)(2) of the Internal Revenue Code).

(C) The grassroots expenditures (as defined in Section 4911(c)(3) of the Internal Revenue Code).

(D) The grassroots nontaxable amount (as defined in Section 4911(c)(4) of the Internal Revenue Code). For purposes of this paragraph, if Section 23740 applies to the organization for the taxable year, the organization shall furnish the amounts with respect to the affiliated group as well as with respect to the organization.

(9) Other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in Sections 23701a to 23701w, inclusive (other than Sections 23701d, 23701k, and 23701t), as the Franchise Tax Board may require to prevent either of the following:

(A) Diversion of funds from the organization's exempt purpose.

(B) Misallocation of revenue or expense.

(10) Information with respect to qualified disaster relief activities.

~~(10)~~

(11) Any other relevant information as the Franchise Tax Board may prescribe.

(12) Each controlling organization, within the meaning of Section 512(b)(13) of the Internal Revenue Code, which is subject to the requirements of subdivision (a), shall include on the return required under subdivision (a) all of the following information:

(A) Any interest, annuities, royalties, or rents received from each controlled entity, within the meaning of Section 512(b)(13) of the Internal Revenue Code.

(B) Any loans made to each controlled entity.

(C) Any transfers of funds between controlling organization and each controlled entity.

(13) (A) Any organization, the gross receipts of which in any taxable year result in the organization being referred to in clause (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or

subparagraph (B) of paragraph (2) of subdivision (a), shall do both of the following:

(i) Furnish annually, in electronic form, and at the time and in the manner as may be prescribed by the Franchise Tax Board, the legal name of the organization, any name under which the organization operates or does business, the organization's mailing address and the Internet Web site address, if any, the organization's taxpayer identification number, the name and address of a principal officer, and evidence of the continuing basis for the organization's exemption from the filing requirements under paragraph (1) of subdivision (a).

(ii) Upon termination of the existence of the organization, shall furnish notice of the termination.

(B) This paragraph shall apply to notices and returns with respect to annual periods beginning on or after January 1, 2009.

(14) (A) If an organization described in paragraph (1) of subdivision (a) or paragraph (13) of this subdivision fails to file an annual return or notice required under either paragraph (1) of subdivision (a) or paragraph (13) of this subdivision for three consecutive years, that organization's status as an organization exempt from tax under Section 23701 shall be considered revoked on and after the date set by the Franchise Tax Board for the filing of the third annual return or notice. The Franchise Tax Board shall publish and maintain a list of any organization for which the tax-exempt status is revoked.

(B) Any organization for which the tax-exempt status is revoked under subparagraph (A) must apply for reinstatement of that status regardless of whether that organization was originally required to make an application for tax-exempt status.

(C) If, upon application for reinstatement of status as an organization exempt from tax under Section 23701, an organization described in subparagraph (A) can show to the satisfaction of the Franchise Tax Board evidence of reasonable cause for the failure described in that subparagraph, the organization's exempt status may, in the discretion of the Franchise Tax Board, be reinstated effective from the date of the revocation under that subparagraph.

(D) This paragraph shall apply to notices and returns with respect to annual periods beginning on or after January 1, 2009.

(c) For the purposes of this part—

(1) In the case of a failure to file a return required under this section on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars ($5) for each month or part thereof during which the failure continues, but the total amount imposed hereunder on any organization for failure to file any return may not exceed forty dollars ($40).

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision specifying therein a reasonable future date by which the filing shall be made, and if the filing is not made on or before that date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars ($5) each month or part thereof after the expiration of the time specified in the written demand during which the failure continues, but the total amount imposed hereunder on all persons for the failure to file shall not exceed twenty-five dollars ($25). If more than one person is liable under this paragraph for a failure to file, all of those persons shall be jointly and severally liable with respect to the failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(3) This subdivision shall not apply with respect to any notice required under paragraph (13) of subdivision (b).

SEC. 60. Section 24305 of the Revenue and Taxation Code is amended to read:

24305. (a) Except as provided in ~~subdivision (b)~~ *subdivisions (b) and (c)*, amounts received under life insurance policies and contracts paid by reason of the death of the insured but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(b) Proceeds of flexible premium contracts payable by reason of death shall be excluded from gross income only in accordance with the provisions of Section 101(f) of the Internal Revenue Code.

(c) (1) In the case of an employer-owned life insurance contract, any amount received by reason of death of an insured shall be excluded from gross income only in accordance with the provisions of Section 101(j) of the Internal Revenue Code.

(2) Section 101(j) of the Internal Revenue Code, relating to treatment of certain employer-owned life insurance contracts, shall apply in accordance with the provisions of Section 863(d) of the Pension Protection Act of 2006 (Public Law 109-280), relating to effective dates, except that the phrase "January 1, 2009" shall be substituted for "the date of the enactment of this Act" contained therein.

SEC. 61. Section 24329 is added to the Revenue and Taxation Code, to read:

24329. Section 139 of the Internal Revenue Code, relating to disaster relief payments, shall apply, except as otherwise provided.

SEC. 62. Section 24349.2 is added to the Revenue and Taxation Code, to read:

24349.2. Section 280G of the Internal Revenue Code, relating to golden parachute payments, shall apply, except as otherwise provided.

SEC. 63. Section 24355.3 of the Revenue and Taxation Code is repealed.

~~24355.3. For purposes of computing the depreciation deduction pursuant to Section 24349, the useful life of any motor sports entertainment complex, as defined in Section 168(i)(15) of the Internal Revenue Code, shall be seven years.~~

SEC. 64. Section 24356 of the Revenue and Taxation Code is amended to read:

24356. (a) (1) In the case of Section 24356 property, the term "reasonable allowance" as used in subdivision (a) of Section 24349, may, at the election of the taxpayer, include an allowance, for the first taxable year for which a deduction is allowable under Sections 24349 through 24354 to the taxpayer with respect to such property, of 20 percent of the cost of that property.

(2) If in any one taxable year the cost of Section 24349 property with respect to which the taxpayer may elect an allowance under paragraph (1) for that taxable year exceeds ten thousand dollars ($10,000), then paragraph (1) shall apply with respect to those items selected by the taxpayer, but only to the extent of an aggregate cost of ten thousand dollars ($10,000).

(b) (1) In lieu of subdivision (a), Section 179 of the Internal Revenue Code, relating to the election to expense certain depreciable business assets, shall apply, except as otherwise provided.

(2) Section 179(b)(1) of the Internal Revenue Code, relating to the dollar limitation, shall not apply and in lieu thereof, the aggregate cost that may be taken into account under Section 179(a) of the Internal Revenue Code, for any taxable year, shall not exceed twenty-five thousand dollars ($25,000).

(3) Section 179(b)(2) of the Internal Revenue Code, relating to the reduction in the dollar limitation, shall not apply and in lieu thereof, the limitation under paragraph (2), for any taxable year, shall be reduced, but not below zero, by the amount by which the cost of Section 179 property, as defined in Section 179(d)(1) of the Internal Revenue Code, except as otherwise provided, that is placed in service during the taxable year, exceeds two hundred thousand dollars ($200,000).

(4) Section 179 of the Internal Revenue Code is modified to provide that the "aggregate amount disallowed" referred to in Section 179(b)(3)(B) of the Internal Revenue Code shall be computed under this part as that section read on the date the property generating the amount disallowed was placed in service.

(5) Section 179(b)(5) of the Internal Revenue Code, relating to inflation adjustments, shall not apply.

(6) The last sentence in Section 179(c)(2) of the Internal Revenue Code, relating to irrevocable elections, shall not apply.

(7) Section 179(d)(1)(A)(ii) of the Internal Revenue Code, relating to computer software, shall not apply.

(8) Section 179(e) of the Internal Revenue Code, relating to special rules for qualified disaster assistance property, shall not apply.

(c) (1) The election under this section for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. The election shall be made in such manner as the Franchise Tax Board may by regulations prescribe.

(2) Any election made under this section may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, the term "Section 24356 property" means tangible personal property—

(A) Of a character subject to the allowance for depreciation under Sections 24349 through 24354,

(B) Acquired by purchase after December 31, 1958, for use in a trade or business, and

(C) With a useful life (determined at the time of such acquisition) of six years or more.

(2) For purposes of paragraph (1), the term "purchase" means any acquisition of property, but only if—

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 24427 (but, in applying Section 267 of the Internal Revenue Code, relating to losses, expenses, and interest with respect to transactions between related taxpayers, for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants);

(B) The property is not acquired by one member of an affiliated group from another member of the same affiliated group, and

(C) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to the adjusted basis of that property in the hands of the person from whom acquired.

(3) For purposes of this section, the cost of property does not include so much of the basis of such property as is determined by reference to the basis of other property held at any time by the person acquiring that property.

(4) For purposes of subdivision (a) and subdivision (b) of this section—

(A) All members of an affiliated group shall be treated as one taxpayer, and

(B) The Franchise Tax Board shall apportion the dollar limitation contained in subdivision (a) or subdivision (b) among the members of the affiliated group in the manner as it shall by regulations prescribe.

(5) For purposes of paragraphs (2) and (4), the term "affiliated group" has the meaning assigned to it by Section 1504 of the Internal Revenue Code, except that, for those purposes, the phrase "more than 50 percent" shall be substituted for the phrase "at least

80 percent" each place it appears in Section 1504(a) of the Internal Revenue Code.

(6) In applying Section 24353, the adjustment under paragraph (1) of subdivision (b) of Section 24916, resulting by reason of an election made under this section with respect to any Section 24356 property, shall be made before any other deduction allowed by subdivision (a) of Section 24349 is computed.

(e) The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

SEC. 65. Section 24357 of the Revenue and Taxation Code is amended to read:

24357. (a) There shall be allowed as a deduction any charitable contribution (as defined in Section 24359) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Franchise Tax Board.

(b) (1) In the case of a corporation reporting its income on the accrual basis, the corporation may elect to treat the contribution as paid during that taxable year if both of the following occur:

(A) The board of directors authorizes a charitable contribution during the taxable year.

(B) Payment of the contribution is made after the close of that taxable year and on or before the 15th day of the third month following the close of the taxable year.

(2) The election allowed by paragraph (1) may be made only at the time of the filing of the return for the taxable year, and shall be signified in the manner as the Franchise Tax Board shall by regulations prescribe.

(c) For purposes of this section, payment of a charitable contribution that consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in Section 24428. For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(d) No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in that travel.

(e) (1) Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, shall apply, except as otherwise provided.

(2) No deduction shall be denied under Section 170(f)(8) of the Internal Revenue Code, relating to substantiation requirement for certain contributions, upon a showing that the requirements in Section 170(f)(8) of the Internal Revenue Code have been met with respect to that contribution for federal purposes.

(f) Section 170(f)(9) of the Internal Revenue Code, relating to the denial of the deduction for lobbying activities shall apply, except as otherwise provided.

(g) (1) Notwithstanding any other provision of law to the contrary, for purposes of this section and Section 24341, Section 170 of the Internal Revenue Code, ~~as amended by Public Law 109-1,~~ *relating to charitable contributions and gifts,* shall be applied to allow a taxpayer to elect to treat any contribution described in paragraph (2) made in January 2005, as if that contribution was made on December 31, 2004, and not in January 2005.

(2) A contribution is described in this paragraph if that contribution is a cash contribution made for the relief of victims in areas affected by the December 26, 2004, Indian Ocean tsunami for which a charitable contribution deduction is allowable under this section.

(h) (1) Section 170(f)(11)(E) of the Internal Revenue Code, relating to qualified appraisal and appraiser, shall apply, except as otherwise provided.

(2) This subdivision shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2009.

(i) (1) Section 170(f)(16) of the Internal Revenue Code, relating to contributions of clothing and household items, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2009.

(j) (1) Section 170(f)(17) of the Internal Revenue Code, relating to recordkeeping, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2009.

(k) (1) Section 170(o) of the Internal Revenue Code, relating to special rules for fractional gifts, shall apply, except as otherwise provided.

(2) This subdivision shall apply to contributions made on or after January 1, 2009.

SEC. 66. Section 24357.1 of the Revenue and Taxation Code is amended to read:

24357.1. (a) The amount of any charitable contribution of property otherwise taken into account under Section 24357 shall be reduced by the amount of gain that would have been realized if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of that contribution).

(b) For purposes of subdivision (a), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in that property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Franchise Tax Board.

(c) The provisions of subdivision (a) shall apply in the case of a charitable contribution of tangible personal property if either of the following conditions is satisfied:

(1) The use by the donee is unrelated to the purpose or function constituting the basis for its exemption under Section 501 of the Internal Revenue Code or Section 23701, or, in the case of a governmental unit, to any purpose or function described in Section 24359.

(2) The tangible personal property is applicable property that is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (3) of subdivision (d).

(d) (1) In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of that property for the taxable year of the donor in which the applicable disposition occurs an amount equal to the excess, if any, of the following amount:

(A) The amount of the deduction allowed to the donor under Section 24357 with respect to that property, over

(B) The donor's basis in that property at the time that property was contributed.

(2) For purposes of this section:

(A) "Applicable disposition" means any sale, exchange, or other disposition by the donee of applicable property after the last day of the taxable year of the donor in which that property was contributed, and before the last day of the three-year period beginning on the date of the contribution of that property, unless the donee makes a certification in accordance with paragraph (3).

(B) "Applicable property" means charitable deduction property, as defined in Section 6050L(a)(2)(A) of the Internal Revenue Code, that is tangible personal property, the use of which identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under Section 501 of the Internal Revenue Code or Section 23701, and for which a deduction in excess of the donor's basis is allowed.

(3) A certification meets the requirements of this paragraph if it is a written statement, which is signed under penalty of perjury by an officer of the donee organization, that meets either of the following conditions:

(A) Certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under Section 501 of the Internal Revenue Code or Section 23701 and describes how the property was used and how that use furthered that purpose or function.

(B) States the intended use of the property by the donee at the time of the contribution and certifies that the intended use has become impossible or infeasible to implement.

(e) (1) For purposes of Section 24357 and subdivision (a), and notwithstanding Section 24912, in the case of a charitable contribution of taxidermy property that is made by the person who prepared, stuffed, or mounted the property, or by any person who paid or incurred the cost of such preparation, stuffing, or mounting, only the cost of the preparing, stuffing, or mounting shall be included in the basis of that property.

(2) For purposes of this section, "taxidermy property" means any work of art that satisfies all of the following requirements:

(A) Is the reproduction or preservation of an animal, in whole or in part.

(B) Is prepared, stuffed, or mounted for purposes of recreating one or more characteristics of the animal.

(C) Contains a part of the body of the dead animal.

(f) The amendments made to this section by the act adding this subdivision shall apply to contributions made on or after January 1, 2009, without regard to taxable year.

SEC. 67. Section 24357.7 of the Revenue and Taxation Code is amended to read:

24357.7. (a) (1) For purposes of paragraph (3) of subdivision (b) of Section 24357.2, the term “qualified conservation contribution” means a contribution—

(A) Of a qualified real property interest,

(B) To a qualified organization,

(C) Exclusively for conservation purposes.

(2) For purposes of this subdivision, the term “qualified real property interest” means any of the following interests in real property:

(i) The entire interest of the donor other than a qualified mineral interest.

(ii) A remainder interest.

(iii) A restriction (granted in perpetuity) on the use which may be made of the real property.

(b) For purposes of subdivision (a), the term “qualified organization” means an organization which:

(1) Is described in subdivision (a) or (b) of Section 24359, or

(2) Is described in Section 23701(d), and—

(A) Meets the requirements of Section 509(a)(2) of the Internal Revenue Code, or

(B) Meets the requirements of Section 509(a)(3) of the Internal Revenue Code and is controlled by an organization described in paragraph (1) or in subparagraph (A).

(c) For purposes of this section, the term “conservation purpose” means any of the following:

(1) The preservation of land areas for outdoor recreation by, or the education of, the general public.

(2) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem.

(3) The preservation of open space (including farm land and forest land) where that preservation is for any of the following:

(A) For the scenic enjoyment of the general public.

(B) Pursuant to a clearly delineated federal, state, or local governmental conservation policy, and will yield a significant public benefit.

(C) The preservation of a historically important land area or a certified historic structure.

(d) In the case of any contribution of a qualified real property interest, which is a restriction with respect to the exterior of a building described in paragraph (2) of subdivision (e), that contribution shall not be considered to be exclusively for conservation purposes unless all of the following conditions are met:

(1) That interest includes a restriction that preserves the entire exterior of the building, including the front, sides, rear, and height of the building, and prohibits any change in the exterior of the building that is inconsistent with the historical character of that exterior.

(2) The donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee is a qualified organization, as defined in subdivision (b), with a purpose of environmental protection, land conservation, and open-space preservation, and has the resources to manage and enforce the restriction and a commitment to do so.

(3) In the case of any contribution made in a taxable year beginning on or after January 1, 2009, the taxpayer includes with the taxpayer's return for the taxable year of the contribution all of the following information:

(A) A qualified appraisal, within the meaning of Section 170(f)(11)(E) of the Internal Revenue Code, of the qualified property interest.

(B) Photographs of the entire exterior of the building.

(C) A description of all restrictions on the development of the building.

~~(d)~~

(e) The term "certified historic structure" means ~~any building, structure, or land area which:~~ *either of the following:*

~~(1) Is listed in the National Register, or~~

(1) Any building, structure, or land area that is listed in the National Register.

(2) ~~Is~~ *(A) Any building that is* ocated in a registered historic district (as defined in Section 47(c)(3)(B)) of the Internal Revenue Code and is certified by the Secretary of the Interior to the secretary as being of historic significance to the district.

~~(A)~~

(B) A building, structure, or land area satisfies ~~the preceding sentence~~ *the requirements of subparagraph (A)* if it satisfies ~~that sentence~~ *those requirements* either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this part for the taxable year in which the transfer is made.

~~(e)~~

(f) For purposes of this section:

(1) A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

(2) (A) Except as provided in subparagraph (B), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, this subdivision shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(B) With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, paragraph (1) shall be treated as met if the probability of surface mining occurring on that property is so remote as to be negligible.

~~(f)~~

(g) For purposes of this section, the term "qualified mineral interest" ~~means—~~ *means either of the following:*

(1) Subsurface oil, gas, or other ~~minerals; and~~ *minerals.*

(2) The right to access to those minerals.

(h) The amendments made to this section by the act adding this subdivision shall apply to contributions made on or after January 1, 2009.

SEC. 68. Section 24357.15 is added to the Revenue and Taxation Code, to read:

24357.15. (a) In the case of a qualified food inventory contribution, the amount otherwise allowed as a deduction under Section 24357 shall be decreased by that amount of the reduction provided by Section 24357.1, which shall be no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1, computed without regard to this section.

(2) The amount, if any, by which the charitable contribution deduction under Section 24357 for any qualified food inventory

contribution, computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph, exceeds twice the basis of that property.

(b) For purposes of this section, "qualified food inventory contribution" means a charitable contribution by a corporation of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code, that is food from any trade or business of the taxpayer but only if all of the following conditions are met:

(1) The contribution is to an organization which is described in Section 23701d and which is exempt under Section 23701, other than a private foundation, as defined in Section 23709, which is not an operating foundation, as defined in Section 4942(j)(3) of the Internal Revenue Code.

(2) The use of the property by the donee is related to the purpose or function constituting the basis for its exemption under Section 23701 and the property is to be used by the donee solely for the care of the ill, the needy, or infants.

(3) The property is not transferred by the donee in exchange for money, other property, or services.

(4) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (2) and (3).

(5) In the case where the property is subject to regulation under the Federal Food, Drug, and Cosmetic Act, as amended, that property must fully satisfy the applicable requirements of that act and regulations promulgated thereunder on the date of the transfer and for 180 days prior to the date of the transfer.

(6) The property must only consist of food that is apparently wholesome food.

(7) The contribution is made on or after January 1, 2009, and on or before December 31, 2009.

(c) In the case of a taxpayer, other than a "C" corporation, the aggregate amount of those contributions for any taxable year which may be taken into account under Section 24357 shall not exceed 10 percent of the taxpayer's aggregate net income for that taxable year from all trades or businesses from which those contributions were made for that taxable year, computed without regard to this section.

(d) For purposes of this section, the term "apparently wholesome food" has the same meaning given to that term by Section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(B)(2)), as in effect on August 28, 2005.

SEC. 69. Section 24357.16 is added to the Revenue and Taxation Code, to read:

24357.16. (a) In the case of a qualified book inventory contribution, the amount otherwise allowed as a deduction under Section 24357 shall be decreased by that amount of the reduction provided by Section 24357.1, which shall be no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1, computed without regard to this section.

(2) The amount, if any, by which the charitable contribution deduction under Section 24357 for any qualified book inventory contribution, computed by taking into account the amount determined by paragraph (1), but without regard to this paragraph, exceeds twice the basis of that property.

(b) For purposes of this section, "qualified book inventory contribution" means a charitable contribution by a corporation, other than a corporation which is an "S" corporation, of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code, but only if all of the following conditions are met:

(1) The contribution is a charitable contribution of books to a public school which is an educational organization described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code and which provides elementary education or secondary education, kindergarten and grades 1 to 12, inclusive, in California.

(2) The use of the property by the donee is related to the purpose or function constituting the basis for its exemption under Section 23701.

(3) The property is not transferred by the donee in exchange for money, other property, or services.

(4) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraphs (1) and (2).

(5) This section shall not apply to any contribution unless, in addition to the certifications required by paragraph (4), the donee certifies in writing all of the following:

(A) The books are suitable, in terms of currency, content, and quantity, for use in the donee's educational programs.

(B) The donee will use the books in its educational programs.

(6) The contribution is made on or after January 1, 2009, and on or before December 31, 2009.

SEC. 70. Section 24358 of the Revenue and Taxation Code is amended to read:

24358. (a) In the case of a corporation, the total deductions under Section 24357 for any taxable year, *other than for contributions to which subdivision (b) applies,* shall not exceed 10 percent of the taxpayer's net income computed without regard to any of the following:

(1) Subdivision (e) of Section 23802, relating to a deduction for built-in gains and passive investment income.

(2) Sections 24357 to 24359, inclusive, relating to the deduction for contributions.

(3) Article 2 (commencing with Section 24401) of Chapter 7 (except Sections 24407 to 24409, inclusive, relating to organizational expenses).

(b) (1) Section 170(b)(2)(B) of the Internal Revenue Code, relating to qualified conservation contributions by certain corporate farmers and ranchers, shall apply, except as otherwise provided.

(2) The phrase "made on or after January 1, 2009" shall be substituted for "made after the date of the enactment of this subparagraph" in Section 170(b)(2)(B)(i)(II) of the Internal Revenue Code.

~~(b)~~

(c) Section 170(d)(2) of the Internal Revenue Code, relating to carryovers of excess contributions, shall apply with respect to excess contributions made during taxable years beginning on or after January 1, 1996.

SEC. 71. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7, a net operating loss deduction shall be allowed in computing net income under Section

24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that the applicable percentage of the entire amount of the net operating loss for any taxable year shall be eligible for carryover to any subsequent taxable year. For purposes of this subdivision, the applicable percentage shall be:

(A) Fifty percent for any taxable year beginning before January 1, 2000.

(B) Fifty-five percent for any taxable year beginning on or after January 1, 2000, and before January 1, 2002.

(C) Sixty percent for any taxable year beginning on or after January 1, 2002, and before January 1, 2004.

(D) One hundred percent for any taxable year beginning on or after January 1, 2004.

(2) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, the applicable percentage of that amount shall be carried forward as provided in subdivision (d).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in any taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward as provided in subdivision (e).

(ii) With respect to that portion of the net operating loss that exceeds the net loss from the eligible small business, the applicable percentage of that amount shall be carried forward as provided in subdivision (e).

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the

net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any taxable year in which the taxpayer has in effect a water's-edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's-edge election under Section 25110 had been in effect for the taxable year in which the loss was incurred.

(d) Section 172(b)(1) of the Internal Revenue Code, relating to net operating loss carrybacks and carryovers and the years to which the loss may be carried, is modified as follows:

(1) Net operating loss carrybacks shall not be allowed for any net operating losses attributable to taxable years beginning before January 1, 2011.

(2) A net operating loss attributable to taxable years beginning on or after January 1, 2011, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of the loss in lieu of the number of years provided therein.

(A) For a net operating loss attributable to a taxable year beginning on or after January 1, 2011, and before January 1, 2012, the amount of carryback to any taxable year shall not exceed 50 percent of the net operating loss.

(B) For a net operating loss attributable to a taxable year beginning on or after January 1, 2012, and before January 1, 2013, the amount of carryback to any taxable year shall not exceed 75 percent of the net operating loss.

(C) For a net operating loss attributable to a taxable year beginning on or after January 1, 2013, the amount of carryback to any taxable year shall not exceed 100 percent of the net operating loss.

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code,

relating to corporate equity reduction interest loss, shall apply as provided.

(4) A net operating loss carryback shall not be carried back to any taxable year beginning before January 1, 2009.

(e) (1) (A) For a net operating loss for any taxable year beginning on or after January 1, 1987, and before January 1, 2000, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “five taxable years” in lieu of “20 years” except as otherwise provided in paragraphs (2), (3), and (4).

(B) For a net operating loss for any income year beginning on or after January 1, 2000, and before January 1, 2008, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute “10 taxable years” in lieu of “20 taxable years.”

(2) For any income year beginning before January 1, 2000, in the case of a “new business,” the “five taxable years” referred to in paragraph (1) shall be modified to read as follows:

(A) “Eight taxable years” for a net operating loss attributable to the first taxable year of that new business.

(B) “Seven taxable years” for a net operating loss attributable to the second taxable year of that new business.

(C) “Six taxable years” for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the taxable year during which the corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an "S corporation," paragraphs (1) and (2) shall be applied to the partnership or "S corporation."

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) "Related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) "Acquire" shall include any transfer, whether or not for consideration.

(7) (A) For taxable years beginning on or after January 1, 1997, the term "new business" shall include any taxpayer that is engaged in biopharmaceutical activities or other biotechnology activities that are described in Codes 2833 to 2836, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as

further amended, and that has not received regulatory approval for any product from the United States Food and Drug Administration.

(B) For purposes of this paragraph:

(i) "Biopharmaceutical activities" means those activities that use organisms or materials derived from organisms, and their cellular, subcellular, or molecular components, in order to provide pharmaceutical products for human or animal therapeutics and diagnostics. Biopharmaceutical activities make use of living organisms to make commercial products, as opposed to pharmaceutical activities that make use of chemical compounds to produce commercial products.

(ii) "Other biotechnology activities" means activities consisting of the application of recombinant DNA technology to produce commercial products, as well as activities regarding pharmaceutical delivery systems designed to provide a measure of control over the rate, duration, and site of pharmaceutical delivery.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any taxable year that may be carried forward to another taxable year.

(2) The amount of any loss carry forward that may be deducted in any taxable year.

(i) The provisions of Section 172(b)(1)(D) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

(*l*) Except as otherwise provided, the amendments made by Chapter 107 of the Statutes of 2000 shall apply to net operating losses for taxable years beginning on or after January 1, 2000.

(m) Section 172(b)(1)(J) of the Internal Revenue Code, relating to certain losses attributable federally declared disasters, shall not apply.

(n) Section 172(j) of the Internal Revenue Code, relating to rules relating to qualified disaster losses, shall not apply.

SEC. 72. Section 24462 is added to the Revenue and Taxation Code, to read:

24462. (a) Section 355(g) of the Internal Revenue Code, relating to sections not applying to certain intragroup transactions, is modified by substituting the phrase "January 1, 2009," for "the date of the enactment of this subsection" in Section 355(g)(2)(A)(i) of the Internal Revenue Code.

(b) The provisions of Section 4(d)(2) of the Tax Technical Correction Act of 2007 (Public Law 110-172), relating to modification of active business definition under Section 355, shall apply and are modified by substituting "January 1, 2009" for "May 17, 2006".

(c) The provisions of Section 507(b) of the Tax Increase Prevention and Reconciliation Act of 2005 (Public Law 109-222), relating to effective dates, shall apply and are modified as follows:

(1) The phrase "January 1, 2009," shall be substituted for "the date of the enactment of this Act" in Section 507(b)(1) of the Tax Increase Prevention and Reconciliation Act of 2005 (Public Law 109-222).

(2) The phrase "January 1, 2009," shall be substituted for "such date of enactment" in Section 507(b)(2)(A) of the Tax Increase Prevention and Reconciliation Act of 2005 (Public Law 109-222).

(d) This section shall apply as of the dates specified in this section, without regard to taxable year.

SEC. 73. Section 24941.5 is added to the Revenue and Taxation Code, to read:

24941.5. Section 1031(i) of the Internal Revenue Code, relating to special rules for mutual ditch, reservoir, or irrigation company stock, shall not apply.

SEC. 74. Section 24949.5 of the Revenue and Taxation Code is amended to read:

24949.5. (a) For purposes of Sections 24943 through 24946, Section 1033(h) of the Internal Revenue Code, relating to special rules for property damaged by presidentially declared disasters, shall apply, except as otherwise provided.

(b) For purposes of Sections 24943 through 24946, Section 1033(i) of the Internal Revenue Code, relating to nonrecognition not to apply if corporation acquires replacement property from related person, shall apply, except as otherwise provided.

(c) For purposes of Sections 24943 through 24946, Section 1033(j) of the Internal Revenue Code, relating to sales or exchanges to implement microwave relocation policy, shall apply, except as otherwise provided.

(d) For purposes of Sections 24943 to 24946, inclusive, Section 1033(k) of the Internal Revenue Code, relating to sales or exchanges under certain hazard mitigation programs, shall apply, except as otherwise provided.

SEC. 75. Section 24950.5 is added to the Revenue and Taxation Code, to read:

24950.5. The amendments made by Section 844 of the Pension Protection Act of 2006 (Public Law 109-280) to Section 1035 of the Internal Revenue Code shall not apply.

SEC. 76. Section 24981 of the Revenue and Taxation Code is repealed.

~~24981. Section 1081 of the Internal Revenue Code, relating to nonrecognition of gain or loss on exchanges or distributions in obedience to orders of the federal Securities and Exchange Commission, shall apply, except as otherwise provided.~~

SEC. 77. Section 24988 of the Revenue and Taxation Code is repealed.

~~24988. For purposes of Section 24981, Section 1082 of the Internal Revenue Code, relating to basis for determining gain or loss, shall apply, except as otherwise provided.~~

SEC. 78. Section 24990.2 is added to the Revenue and Taxation Code, to read:

24990.2. Section 301 of Title III of Division A of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), relating to gain or loss from sale of certain preferred stock, shall not apply.

SEC. 79. Section 24990.6 of the Revenue and Taxation Code is amended to read:

24990.6. *(a)* Section 1245(a)(2)(C) of the Internal Revenue Code, relating to certain deductions treated as amortization, is modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

(b) Section 1245(b)(8) of the Internal Revenue Code, relating to disposition of amortizable Section 197 intangibles, shall apply to dispositions of property on or after January 1, 2009.

SEC. 80. Section 24990.8 is added to the Revenue and Taxation Code, to read:

24990.8. For taxable years beginning on or after January 1, 2009, specific reference to Sections 1223(4) to (16), inclusive, of the Internal Revenue Code in this part shall instead be treated as a reference to Sections 1223(3) to (15), inclusive, of the Internal Revenue Code, respectively.

SEC. 81. Section 24993 of the Revenue and Taxation Code is amended to read:

24993. *(a)* Section 7872 of the Internal Revenue Code, relating to the treatment of loans with below market interest rates, shall apply, except as otherwise provided.

(b) Section 7872(h) of the Internal Revenue Code, relating to exception for loans to qualified continuing care facilities, shall apply to calendar years beginning on or after January 1, 2009, with respect to loans made before, on, or after that date.

SEC. 82. Sections 1 to 11, inclusive, of the Tax Technical Correction Act of 2007 (Public Law 110-172), Section 426 of Division A of the Tax Reform and Health Care Act of 2006 (Public Law 109-432), Section 1 of the Disaster Mitigation Payments Act of 2005 (Public Law 109-7), and Sections 402 to 413, inclusive, of the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV of Public Law 109-135) enacted numerous technical corrections and clarifications to provisions of the Internal Revenue Code, including technical corrections and clarifications relating to the Tax Relief and Health Care Act of 2006 (Public Law 109-142), Title XII of the Pension Protection Act of 2006 (Public Law 109-280), the Tax Increase Prevention and Reconciliation Act of 2005 (Public Law 109-222), the Energy Tax Incentives Act (Title XIII of the Energy Policy Act of 2005) (Public Law 109-58), the Working Families Tax Relief Act of 2004 (Public Law 108-311), the American Jobs Creation Act of 2004 (Public Law 108-357), the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Public Law 108-27), the Victims of Terrorism Tax Relief Act of 2001 (Public Law 107-134), the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16), the Tax Relief Extension Act of 1999 (Public Law 106-170), the Internal Revenue Service Restructuring and

Reform Act of 1998 (Public Law 105-206), the Taxpayer Relief Act of 1997 (Public Law 105-34), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), the Omnibus Budget Reconciliation Act of 1987 (Revenue Act of 1987) (Public Law 100-203), some of which are incorporated by reference into Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code. Unless otherwise specifically provided, the technical corrections and clarifications described in the preceding sentence, to the extent that they correct or clarify provisions that are incorporated by specific reference into the Revenue and Taxation Code, are declaratory of existing law and shall be applied in the same manner and for the same periods as specified in the Disaster Mitigation Payments Act of 2005 (Public Law 109-7), the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV of Public Law 109-135), the Tax Reform and Health Care Act of 2006 (Public Law 109-432), the Tax Technical Correction Act of 2007 (Public Law 110-172), or if later, the specified date of incorporation.

SEC. 83. (a) Except as provided in subdivision (b), the amendments made to Sections 19179, 19443, and 21015.5 of the Revenue and Taxation Code by this act shall apply to returns filed, submissions made, and issues raised on or after the later of the effective date of this act or January 1, 2010.

(b) The amendments made to Sections 19179, 19443, and 21015.5 of the Revenue and Taxation Code by this act shall be applicable for submissions made or issues raised after the date on which the Secretary of the Treasury or the Franchise Tax Board first prescribe a list under Section 6702(c) of the Internal Revenue Code or subdivision (c) of Section 19179 of the Revenue and Taxation Code, respectively.

SEC. 84. The Legislature finds and declares that the amendments made by this act to the Revenue and Taxation Code, incorporating, by reference, the amendments made by Sections 827 and 828 of the Pension Protection Act of 2006 (Public Law 109-280) and as amended by the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110-458) to Section 72 of the Internal Revenue Code, shall apply in the same manner and for the same periods as specified in Sections 827 and 828 of the Pension Protection Act of 2006 (Public Law 109-280) and as *amended by the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110-458). The Legislature finds and declares that this act serves a public purpose by providing equitable treatment for reservists called to active duty and emergency service personnel, and ultimately, benefitting all of the citizens of this state.*

SEC. 85. (a) Except as provided in subdivision (b), the amendments made by the enactment of this act to the Revenue and Taxation Code, incorporating, by reference, the amendments made by Section 1220 of the Pension Protection Act of 2006 (Public Law 109-280) to Sections 501 and 513 of the Internal Revenue Code, shall apply in the same manner and for the same periods as specified in Section 1220(c) of the Pension Protection Act of 2006 (Public Law 109-280).

(b) The provisions of Section 1220(c) of the Pension Protection Act of 2006 (Public Law 109-280), relating to effective date, are modified as follows:

(1) The phrase "beginning on or after January 1, 2009" shall be substituted for "beginning after the date of the enactment of this Act" in Section 1220(c)(1) of the Pension Protection Act of 2006 (Public Law 109-280).

(2) The phrase "described in Section 23701d or Section 23701f" shall be substituted for "described in paragraph (3) or (4) of Section 501(c) of the Internal Revenue Code of 1986" in Section 1220(c)(2) of the Pension Protection Act of 2006 (Public Law 109-280).

(3) The phrase "January 1, 2009" shall be substituted for "the date of the enactment of this Act" in each place that it appears in Section 1220(c)(2) of the Pension Protection Act of 2006 (Public Law 109-280).

SEC. 86. The Legislature finds and declares that the amendments made by this act to Section 17952.5 of the Revenue and Taxation Code make that code compatible with the technical changes made by Public Law 109-264 to Section 114 of Title 4 of the United States Code, relating to limitation on state income taxation of certain pension income, and do not constitute a change in, but are declaratory of, existing law and shall be applied in the same manner and for the same periods as specified in Section 1 of Public Law 109-264. The Legislature finds and declares that this act and the retroactive application contained in the preceding *sentence are necessary to clarify that the Legislature intended for Chapter 506 of the Statutes of 1996 to apply to certain retired partners. Additionally, the Legislature finds and declares that this act serves a public purpose by ensuring the fair and consistent application of California law to "qualified retirement income" received on or after January 1, 1996, for any part of the taxable year during which the taxpayer was not a resident of this state and, thereby, preventing unnecessary litigation to determine the taxability of that "qualified retirement income."*

SEC. 87. (a) The Legislature finds and declares that the amendments made by this act to Section 24949.5 of the Revenue and Taxation Code, the addition of Section 24329 to the Revenue and Taxation Code, and the incorporation by reference of the amendments made by Section 1 of the Disaster Mitigation Payments Act of 2005 (Public Law 109-7), which amended Sections 139 and 1033 of the Internal Revenue Code, in the Revenue and Taxation Code, conform California law to the amendments made to Sections 139 and 1033 of the Internal Revenue Code by Section 1 of the Disaster Mitigation Payments Act of 2005 (Public Law 109-7) and do not constitute a change in, but are declaratory of, existing law and shall be applied in the same manner and for the same periods as specified in Section 1 of the Disaster Mitigation Payments Act of 2005 (Public Law 109-7). The Legislature finds and declares that this act and the retroactive application contained in the preceding sentence are necessary to clarify that, when the Legislature enacted the exclusion from gross income for disaster relief payments in Chapter 807 of the Statutes of 2002, it intended to exclude disaster mitigation payments from gross income and treat sales and exchanges under certain hazard mitigation programs as involuntary conversions.

(b) Additionally, the Legislature finds and declares that this act serves a public purpose by ensuring the fair and consistent application of California law to all property owners, many of whom are low-income people, that have taken or will take necessary preventive measures to mitigate risk of harm and property damage from disasters, thereby saving lives and reducing the need for future taxpayer assistance.

SEC. 88. (a) The amendments made to Section 19166 of the Revenue and Taxation Code by Section (43) of this act conform to federal changes made to Section 6694 of the Internal Revenue

Code by Section 8246(b) of the Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28). Those amendments are substantially the same as amendments previously made to Section 19166 by Chapter 656 of the Statutes of 2003 and by Chapter 691 of the Statutes of 2005.

(b) The amendments made to Section 19166 of the Revenue and Taxation Code by this act do not affect the operative date of the changes made to Section 19166 of the Revenue and Taxation Code by Chapter 656 of the Statutes of 2003 and by Chapter 691 of the Statutes of 2005.

SEC. 89. The Legislature finds and declares that the application of Section 17132.8 without regard to fiscal year serves a public purpose and is necessary to provide equitable treatment to residents of this state who were affected by the events at Virginia Polytechnic Institute and State University on April 6, 2007.

SEC. 90. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

All matter omitted in this version of the bill appears in the bill as amended in the Assembly, May 14, 2009 (JR11)

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