

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE AUGUST 18, 2009

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY MAY 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1580

Introduced by Assembly Member Charles Calderon

March 26, 2009

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, 17275.2, 17275.3, 17279.6, 17560.5, 17681.3, 17755, 18031.5, 18037.5, 18151.5, 18155.6, 19165, 19172.5, 19185, 19186, 23046.5, 23703.7, 24329, 24349.2, 24462, 24831.3, 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, Charles Calderon. 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 require a penalty to be imposed for a claim or credit made for an excessive amount, 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 incorporate changes made by AB 692 and SB 401 that would become operative if AB 692, SB 401, or both bills are enacted and this bill is enacted after AB 692, SB 401, or both bills.

This bill would take effect immediately as a tax levy.

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

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

- 1 SECTION 1. Section 17008.5 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17008.5. Section 7704 of the Internal Revenue Code, relating
- 4 to certain publicly traded partnerships treated as corporations, shall
- 5 apply, except as otherwise provided.
- 6 (a) Section 7704(a) of the Internal Revenue Code shall not apply
- 7 to an electing 1987 partnership, as defined in Section 23038.5,
- 8 which is subject to the tax imposed by Section 23038.5.

(b) The amendment made to this section by 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 contract defined, 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:

	Specified Date of Internal Revenue Code Sections
Taxable Year	
(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

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

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

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

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

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

39 (1) Except as provided in Chapter 4.5 (commencing with Section
40 23800) of Part 11 of Division 2, an electing small business

1 corporation, as defined in Section 1361(b) of the Internal Revenue
2 Code.

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

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

7 (4) A foreign personal holding company, as defined in Section
8 552 of the Internal Revenue Code.

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

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

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

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

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

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

19 (11) Nonresident aliens.

20 (12) Deduction for personal exemptions, as provided in Section
21 151 of the Internal Revenue Code.

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

24 (14) The tax, relating to estates, imposed by Section 2001 or
25 2101 of the Internal Revenue Code.

26 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
27 and Section 172 of the Tax Reform Act of 1984 (Public Law
28 98-369), relating to treatment of debt instruments, is not applicable
29 for taxable years beginning before January 1, 1987.

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

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

38 (d) When applying the Internal Revenue Code for purposes of
39 this part, regulations promulgated in final form or issued as
40 temporary regulations by “the secretary” shall be applicable as

1 regulations under this part to the extent that they do not conflict
2 with this part or with regulations issued by the Franchise Tax
3 Board.

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

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

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

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

17 (B) (i) If a taxpayer makes a proper election for federal income
18 tax purposes prior to the time that taxpayer becomes subject to the
19 tax imposed under this part or Part 11 (commencing with Section
20 23001), that taxpayer is deemed to have made the same election
21 for purposes of the tax imposed by this part, Part 10.2 (commencing
22 with Section 18401), and Part 11 (commencing with Section
23 23001), as applicable, and that taxpayer may not make a separate
24 election for California tax purposes unless that separate election
25 is expressly authorized by this part, Part 10.2 (commencing with
26 Section 18401), or Part 11 (commencing with Section 23001), or
27 by regulations issued by the Franchise Tax Board.

28 (ii) If a taxpayer has not made a proper election for federal
29 income tax purposes prior to the time that taxpayer becomes subject
30 to tax under this part or Part 11 (commencing with Section 23001),
31 that taxpayer may not make a separate California election for
32 purposes of this part, Part 10.2 (commencing with Section 18401),
33 or Part 11 (commencing with Section 23001), unless that separate
34 election is expressly authorized by this part, Part 10.2 (commencing
35 with Section 18401), or Part 11 (commencing with Section 23001),
36 or by regulations issued by the Franchise Tax Board.

37 (iii) This subparagraph applies only to the extent that the
38 provisions of the Internal Revenue Code or the regulation issued
39 by “the secretary” authorizing an election for federal income tax

1 purposes apply for purposes of this part, Part 10.2 (commencing
2 with Section 18401) or Part 11 (commencing with Section 23001).

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

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

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

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

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

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

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

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

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

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

39 (7) Due account shall be made for differences in federal and
40 state terminology, effective dates, substitution of “Franchise Tax

1 Board” for “secretary” when appropriate, and other obvious
2 differences.

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

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

9 *SEC. 4.5. Section 17024.5 of the Revenue and Taxation Code*
10 *is amended to read:*

11 17024.5. (a) (1) Unless otherwise specifically provided, the
12 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
13 or “Internal Revenue Code of 1986,” for purposes of this part,
14 mean Title 26 of the United States Code, including all amendments
15 thereto as enacted on the specified date for the applicable taxable
16 year as follows:

17		
18		Specified Date of
19		Internal Revenue
20	Taxable Year	Code Sections
21		

22 (A) For taxable years beginning on or
23 after
24 January 1, 1983, and on or before
25 December
26 31, 1983..... January 15, 1983

27 (B) For taxable years beginning on or
28 after
29 January 1, 1984, and on or before
30 December
31 31, 1984..... January 1, 1984

32 (C) For taxable years beginning on or
33 after
34 January 1, 1985, and on or before
35 December
36 31, 1985..... January 1, 1985

37 (D) For taxable years beginning on or
38 after
39 January 1, 1986, and on or before
40 December

1 31, 1986..... January 1, 1986
 2 (E) For taxable years beginning on or
 3 after
 4 January 1, 1987, and on or before
 5 December
 6 31, 1988..... January 1, 1987
 7 (F) For taxable years beginning on or
 8 after
 9 January 1, 1989, and on or before
 10 December
 11 31, 1989..... January 1, 1989
 12 (G) For taxable years beginning on or
 13 after
 14 January 1, 1990, and on or before
 15 December
 16 31, 1990..... January 1, 1990
 17 (H) For taxable years beginning on or
 18 after
 19 January 1, 1991, and on or before
 20 December
 21 31, 1991..... January 1, 1991
 22 (I) For taxable years beginning on or
 23 after
 24 January 1, 1992, and on or before
 25 December
 26 31, 1992..... January 1, 1992
 27 (J) For taxable years beginning on or
 28 after
 29 January 1, 1993, and on or before
 30 December
 31 31, 1996..... January 1, 1993
 32 (K) For taxable years beginning on or
 33 after
 34 January 1, 1997, and on or before
 35 December
 36 31, 1997..... January 1, 1997
 37 (L) For taxable years beginning on or
 38 after
 39 January 1, 1998, and on or before
 40 December

1 31, 2001..... January 1, 1998
2 (M) For taxable years beginning on or
3 after
4 January 1, 2002, and on or before
5 December
6 31, 2004..... January 1, 2001
7 (N) For taxable years beginning on or
8 after
9 January 1, 2005, *and on or before*
10 *December*
11 31, 2008..... January 1, 2005
12 (O) For taxable years beginning on and
13 after
14 January 1, 2009..... January 1, 2009
15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (11) Nonresident aliens.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

1 subparagraph shall cease to be operative for taxable years beginning
2 on or after January 1, 2013.

3 (B) For taxable years beginning on or after January 1, 2009,
4 and before January 1, 2011, or January 1, 2013, as applicable, the
5 percentages specified in the table in paragraph (1) shall be
6 increased by adding 0.125 percent to each percentage. This
7 subparagraph shall become operative only if the Director of Finance
8 provides notification to the Joint Legislative Budget Committee
9 on or before April 1, 2009, pursuant to Section 99030 of the
10 Government Code. This subparagraph shall cease to be operative
11 for taxable years beginning on or after January 1, 2011, unless the
12 Director of Finance makes the notification pursuant to Section
13 99040 of the Government Code, in which case this subparagraph
14 shall cease to be operative for taxable years beginning on or after
15 January 1, 2013.

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

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

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

39

40 If the taxable income is:

The tax is:

1	Not over \$7,300.....	1% of the taxable income
2	Over \$7,300 but not	
3		\$73 plus 2% of the excess
4	over \$17,300.....	over \$7,300
5	Over \$17,300 but not	
6		\$273 plus 4% of the excess
7	over \$22,300.....	over \$17,300
8	Over \$22,300 but not	
9		\$473 plus 6% of the excess
10	over \$27,600.....	over \$22,300
11	Over \$27,600 but not	
12		\$791 plus 8% of the excess
13	over \$32,600.....	over \$27,600
14	Over \$32,600.....	\$1,191 plus 9.3% of the excess
15		over \$32,600

16
17 (2) (A) For taxable years beginning on or after January 1, 2009,
18 and before January 1, 2011, or January 1, 2013, as applicable, the
19 percentages specified in the table in paragraph (1) shall be
20 increased by adding 0.25 percent to each percentage. This
21 subparagraph shall become operative only if the Director of Finance
22 does not provide notification to the Joint Legislative Budget
23 Committee on or before April 1, 2009, pursuant to Section 99030
24 of the Government Code. This subparagraph shall cease to be
25 operative for taxable years beginning on or after January 1, 2011,
26 unless the Director of Finance makes the notification pursuant to
27 Section 99040 of the Government Code, in which case this
28 subparagraph shall cease to be operative for taxable years beginning
29 on or after January 1, 2013.

30 (B) For taxable years beginning on or after January 1, 2009,
31 and before January 1, 2011, or January 1, 2013, as applicable, the
32 percentages specified in the table in paragraph (1) shall be
33 increased by adding 0.125 percent to each percentage. This
34 subparagraph shall become operative only if the Director of Finance
35 provides notification to the Joint Legislative Budget Committee
36 on or before April 1, 2009, pursuant to Section 99030 of the
37 Government Code. This subparagraph shall cease to be operative
38 for taxable years beginning on or after January 1, 2011, unless the
39 Director of Finance makes the notification pursuant to Section
40 99040 of the Government Code, in which case this subparagraph

1 shall cease to be operative for taxable years beginning on or after
2 January 1, 2013.

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

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

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

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

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

25 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code is
26 modified, for purposes of this part, by substituting “1 percent” for
27 “10 percent.”

28 (h) For each taxable year beginning on or after January 1, 1988,
29 the Franchise Tax Board shall recompute the income tax brackets
30 prescribed in subdivisions (a) and (c). That computation shall be
31 made as follows:

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

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

38 (A) Compute an inflation adjustment factor by adding 100
39 percent to the percentage change figure that is furnished pursuant
40 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:

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

4 (b) (1) For each taxable year beginning on or after January 1,
5 1997, and before January 1, 1999, the reference to “20 percent”
6 in Section 41(a)(1) of the Internal Revenue Code is modified to
7 read “11 percent.”

8 (2) For each taxable year beginning on or after January 1, 1999,
9 and before January 1, 2000, the reference to “20 percent” in Section
10 41(a)(1) of the Internal Revenue Code is modified to read “12
11 percent.”

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

15 (c) Section 41(a)(2) of the Internal Revenue Code shall not
16 apply.

17 (d) “Qualified research” shall include only research conducted
18 in California.

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

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

29 (2) For each taxable year beginning on or after January 1, 1998,
30 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
31 Internal Revenue Code, relating to contract research expenses, is
32 modified to read “this part or Part 11 (commencing with Section
33 23001).”

34 (g) (1) For each taxable year beginning on or after January 1,
35 2000:

36 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
37 the Internal Revenue Code is modified to read “one and forty-nine
38 hundredths of one percent.”

1 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
2 the Internal Revenue Code is modified to read “one and
3 ninety-eight hundredths of one percent.”

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

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

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

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

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

23 (i) Section 41(g) of the Internal Revenue Code, relating to
24 special rule for pass-thru of credit, is modified by each of the
25 following:

26 (1) The last sentence shall not apply.

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

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

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

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

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

3 17062. (a) In addition to the other taxes imposed by this part,
4 there is hereby imposed for each taxable year, a tax equal to the
5 excess, if any, of—

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

7 (2) The regular tax for the taxable year.

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

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

13 (2) The regular tax shall be the amount of tax imposed by
14 Section 17041 or 17048, before reduction for any credits against
15 the tax, less any amount imposed under paragraph (1) of
16 subdivision (d) and paragraph (1) of subdivision (e) of Section
17 17560.

18 (3) (A) The provisions of Section 55(b)(1) of the Internal
19 Revenue Code shall be modified to provide that the tentative
20 minimum tax for the taxable year shall be equal to the following
21 percent of so much of the alternative minimum taxable income for
22 the taxable year as exceeds the exemption amount, before reduction
23 for any credits against the tax:

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

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

28 (iii) For taxable years beginning on and after January 1, 2009,
29 and before January 1, 2011, or January 1, 2013, as applicable, 7.25
30 percent. This clause shall become operative only if the Director
31 of Finance does not provide notification to the Joint Legislative
32 Budget Committee on or before April 1, 2009, pursuant to Section
33 99030 of the Government Code. This clause shall cease to be
34 operative for taxable years beginning on or after January 1, 2011,
35 unless the Director of Finance makes the notification pursuant to
36 Section 99040 of the Government Code, in which case this clause
37 shall cease to be operative for taxable years beginning on or after
38 January 1, 2013.

39 (iv) For taxable years beginning on and after January 1, 2009,
40 and before January 1, 2011, or January 1, 2013, as applicable,

1 7.125 percent. This clause shall become operative only if the
2 Director of Finance provides notification to the Joint Legislative
3 Budget Committee on or before April 1, 2009, pursuant to Section
4 99030 of the Government Code. This clause shall cease to be
5 operative for taxable years beginning on or after January 1, 2011,
6 unless the Director of Finance makes the notification pursuant to
7 Section 99040 of the Government Code, in which case this clause
8 shall cease to be operative for taxable years beginning on or after
9 January 1, 2013.

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

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

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

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

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

37 (iii) For purposes of computing “alternative minimum taxable
38 income of a nonresident or part-year resident,” any carryover items,
39 deferred income, suspended losses, or suspended deductions shall
40 only be allowable to the extent that the carryover item, suspended

1 loss, or suspended deduction was derived from sources within this
2 state.

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

8 (A) For purposes of this paragraph, “qualified taxpayer” means
9 a taxpayer who meets both of the following:

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

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

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

23 (C) For purposes of this paragraph, “gross receipts, less returns
24 and allowances” means the sum of the gross receipts from the
25 production of business income, as defined in subdivision (a) of
26 Section 25120, and the gross receipts from the production of
27 nonbusiness income, as defined in subdivision (d) of Section
28 25120.

29 (D) For purposes of this paragraph, “proportionate interest”
30 means:

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

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

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

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

3 (ii) For purposes of this paragraph, “pass-through entity” means
4 any of the following:

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

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

8 (III) A regulated investment company, as provided in Section
9 24871.

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

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

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

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

20 (i) A joint return.

21 (ii) A surviving spouse.

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

24 (i) Not a married individual.

25 (ii) Not a surviving spouse.

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

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

29 (ii) An estate or trust.

30 (6) For taxable years beginning on or after January 1, 1998,
31 Section 55(d)(3) of the Internal Revenue Code, relating to
32 phase-out of exemption amount, is modified, for purposes of this
33 part, to provide the following phaseout of exemption amounts in
34 lieu of those contained therein:

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

38 (B) One hundred sixty-one thousand forty-four dollars
39 (\$161,044) in the case of a taxpayer described in subparagraph

40 (B) of paragraph (5).

1 (C) One hundred seven thousand three hundred sixty-two dollars
2 (\$107,362) in the case of a taxpayer described in subparagraph
3 (C) of paragraph (5).

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

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

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

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

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

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

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

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

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

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

39 (B) Section 422(c)(2) of the Internal Revenue Code shall apply
40 in any case where the disposition and inclusion of a California

1 qualified stock option for purposes of this chapter are within the
2 same taxable year and that section shall not apply in any other
3 case.

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

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

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

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

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

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

20 17063. (a) There shall be allowed as a credit against the net
21 tax (as defined by Section 17039) for any taxable year an amount
22 equal to the minimum tax credit for that taxable year.

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

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

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

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

35 (d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code is
36 modified to include subdivision (e) of Section 17062, as a specified
37 item.

38 (e) Section 53(e) of the Internal Revenue Code, relating to the
39 special rule for individuals with long-term unused credits, shall
40 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 attorneys 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; certain proceeds of endowment and 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 2½ 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 2½ percent rate specified therein.

(d) Section 72(f)(2) of the Internal Revenue Code 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 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

1 101(i) of the Internal Revenue Code shall apply to any astronaut
2 whose death occurs in the line of duty.

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

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

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

16 17132.8. (a) For purposes of this part, Part 10.2 (commencing
17 with Section 18401), and Part 11 (commencing with Section
18 23001), gross income shall not include any amount received from
19 the Virginia Polytechnic Institute and State University, out of
20 amounts transferred from the Hokie Spirit Memorial Fund
21 established by the Virginia Tech Foundation, an organization
22 organized and operated as described in Section 501(c)(3) of the
23 Internal Revenue Code, if that amount is paid on account of the
24 events on April 16, 2007, at that university.

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

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

28 17144.5. (a) Section 108(a)(1)(E) of the Internal Revenue
29 Code, is modified to provide that the amount excluded from gross
30 income shall not exceed \$500,000 (\$250,000 in the case of a
31 married individual filing a separate return).

32 (b) Section 108(h)(2) of the Internal Revenue Code, is modified
33 by substituting the phrase “(within the meaning of section
34 163(h)(3)(B), applied by substituting ‘\$800,000 (\$400,000’ for
35 ‘\$1,000,000 (\$500,000’ in clause (ii) thereof)” for the phrase
36 “(within the meaning of section 163(h)(3)(B), applied by
37 substituting ‘\$2,000,000 (\$1,000,000’ for ‘\$1,000,000 (\$500,000’
38 in clause (ii) thereof)” contained therein.

39 (c) This section shall apply to discharges of indebtedness
40 occurring on or after January 1, 2007, and, notwithstanding any

1 other law to the contrary, no penalties or interest shall be due with
2 respect to the discharge of qualified principal residence
3 indebtedness during the 2007 taxable year regardless of whether
4 or not the taxpayer reports the discharge on his or her return for
5 the 2007 taxable year.

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

8 17152. Section 121 of the Internal Revenue Code, relating to
9 exclusion of gain from sale of principal residence, is modified as
10 follows:

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

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

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

37 (2) If a taxpayer fails to make an election for federal purposes
38 under Section 121(f) of the Internal Revenue Code to not have
39 Section 121 of the Internal Revenue Code apply to a sale or
40 exchange, no election under Section 121(f) of the Internal Revenue

1 Code shall be allowed for state purposes, Section 121 of the
2 Internal Revenue Code shall apply to that sale or exchange for
3 state purposes, and a separate election for state purposes shall not
4 be allowed under paragraph (3) of subdivision (e) of Section
5 17024.5.

6 (d) (1) If a taxpayer has, at any time, made an election for
7 federal purposes under Section 312(d)(2) of the Taxpayer Relief
8 Act of 1997 (Public Law 105-34), relating to sales before date of
9 enactment, or Section 312(d)(4) of that act, relating to binding
10 contracts, to not have the amendments made by Section 312 of the
11 Taxpayer Relief Act of 1997 (Public Law 105-34) apply to a sale
12 or exchange, the amendments made by the act adding this
13 subdivision shall not apply to that sale or exchange, Sections 1, 4,
14 and 6 of Chapter 610 of the Statutes of 1997 shall not apply to that
15 sale or exchange, a separate election for state purposes shall not
16 be allowed under paragraph (3) of subdivision (e) of Section
17 17024.5, and the federal election shall be binding for purposes of
18 this part.

19 (2) If a taxpayer fails to make an election for federal purposes
20 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public
21 Law 105-34), relating to sales before date of enactment, or Section
22 312(d)(4) of that act, relating to binding contracts, to not have the
23 amendments made by Section 312 of the Taxpayer Relief Act of
24 1997 (Public Law 105-34) apply to a sale or exchange, an election
25 under Section 312(d)(2) of the Taxpayer Relief Act of 1997 (Public
26 Law 105-34), relating to sales before date of enactment, or Section
27 312(d)(4) of that act, relating to binding contracts, shall not be
28 allowed for state purposes, the amendments made by the act adding
29 this subdivision shall apply to that sale or exchange, Sections 1,
30 4, and 6 of Chapter 610 of the Statutes of 1997 shall apply to that
31 sale or exchange, and a separate election for state purposes shall
32 not be allowed under paragraph (3) of subdivision (e) of Section
33 17024.5.

34 (e) (1) If a taxpayer has, at any time, made or revoked an
35 election for federal purposes under Section 121(d)(9) of the Internal
36 Revenue Code to suspend the running of the five-year period
37 described in Sections 121(a), 121(c)(1)(B), and 121(d)(7) of the
38 Internal Revenue Code, that election or revocation of election to
39 suspend the five-year period under Section 121(d)(9) of the Internal
40 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)(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 2006 (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 \$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, 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,

1 as if that contribution was made on December 31, 2004, and not
2 in January 2005.

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

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

10 17225. Section 163(h)(3)(E) of the Internal Revenue Code,
11 relating to mortgage insurance premiums treated as interest, shall
12 not apply.

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

15 17250. (a) Section 168 of the Internal Revenue Code is
16 modified as follows:

17 (1) Any reference to “tax imposed by this chapter” in Section
18 168 of the Internal Revenue Code means “net tax,” as defined in
19 Section 17039.

20 (2) (A) Section 168(e)(3) is modified to provide that any
21 grapevine, replaced in a vineyard in California in any taxable year
22 beginning on or after January 1, 1992, as a direct result of a
23 phylloxera infestation in that vineyard, or replaced in a vineyard
24 in California in any taxable year beginning on or after January 1,
25 1997, as a direct result of Pierce’s disease in that vineyard, shall
26 be “five-year property,” rather than “10-year property.”

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

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

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

3 (4) Section 168(k) of the Internal Revenue Code, relating to
4 special allowance for certain property acquired after December
5 31, 2007, and before January 1, 2009, shall not apply.

6 (5) Sections 168(b)(3)(G) and 168(b)(3)(H) of the Internal
7 Revenue Code shall not apply.

8 (6) Sections 168(e)(3)(E)(iv), 168(e)(3)(E)(v), and
9 168(e)(3)(E)(ix) of the Internal Revenue Code shall not apply.

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

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

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

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

23 (11) Section 168(i)(15)(D) of the Internal Revenue Code,
24 relating to termination, is modified by substituting the phrase
25 “December 31, 2007” for the phrase “December 31, 2009”.

26 (12) Section 168(e)(3)(B)(vii) of the Internal Revenue Code,
27 shall not apply.

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

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

33 (2) The “state certifying authority,” as defined in Section
34 169(d)(2) of the Internal Revenue Code, means the State Air
35 Resources Board, in the case of air pollution, and the State Water
36 Resources Control Board, in the case of water pollution.

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

1 17250.5. (a) Section 167(g) of the Internal Revenue Code,
2 relating to depreciation under income forecast method, shall be
3 modified as follows:

4 (1) Section 167(g)(2)(C) of the Internal Revenue Code is
5 modified by substituting “Section 19521” for “Section 460(b)(7)”
6 of the Internal Revenue Code.

7 (2) Section 167(g)(5)(D) of the Internal Revenue Code is
8 modified by substituting “Part 10.2 (commencing with Section
9 18401) (other than Section 19136)” for “Subtitle F (other than
10 Sections 6654 and 6655).”

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

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

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

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

20 17255. (a) Section 179(b)(1) of the Internal Revenue Code,
21 relating to dollar limitation, shall not apply and in lieu thereof, the
22 aggregate cost which may be taken into account under Section
23 179(a) of the Internal Revenue Code for any taxable year shall not
24 exceed twenty-five thousand dollars (\$25,000).

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

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

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

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

3 (f) Section 179(d)(1)(A)(ii) of the Internal Revenue Code shall
4 not apply.

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

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

10 17257. Section 179C of the Internal Revenue Code, relating
11 to election to expense certain refineries, shall not apply.

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

14 17257.2. Section 179D of the Internal Revenue Code, relating
15 to energy efficient commercial buildings deduction, shall not apply.

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

18 17257.4. Section 179E of the Internal Revenue Code, relating
19 to election to expense advanced mine safety equipment, shall not
20 apply.

21 SEC. 23.5. Section 17275.2 is added to the Revenue and
22 Taxation Code, to read:

23 17275.2. Section 170(e)(3)(C) of the Internal Revenue Code,
24 relating to special rule for contributions of food inventory, shall
25 not apply.

26 SEC. 23.7. Section 17275.3 is added to the Revenue and
27 Taxation Code, to read:

28 17275.3. Section 170(e)(3)(D) of the Internal Revenue Code,
29 relating to special rule for contributions of book inventory to public
30 schools, shall not apply.

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

33 17275.5. (a) No deduction shall be denied under Section
34 170(f)(8) of the Internal Revenue Code, relating to substantiation
35 requirement for certain contributions, upon a showing that the
36 requirements in Section 170(f)(8) of the Internal Revenue Code
37 have been met with respect to that contribution for federal
38 purposes.

39 (b) Section 170(f)(10)(F) of the Internal Revenue Code, relating
40 to 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 170(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 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 amount of carrybacks and 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:

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

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

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

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

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

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

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

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

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

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

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

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

7 (5) In the case of a taxpayer who has a net operating loss in a
8 taxable year beginning on or after January 1, 1994, and who
9 operates more than one business, and more than one of those
10 businesses qualifies as either a new business or an eligible small
11 business under this section, paragraph (2) shall be applied first,
12 except that if there is any remaining portion of the net operating
13 loss after application of clause (i) of subparagraph (B) of that
14 paragraph, paragraph (3) shall be applied to the remaining portion
15 of the net operating loss as though that remaining portion of the
16 net operating loss constituted the entire net operating loss.

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

20 (c) Section 172(b)(1) of the Internal Revenue Code, relating to
21 years to which the loss may be carried, is modified as follows:

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

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

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

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

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

(3) Notwithstanding paragraph (2), Section 172(b)(1)(B) of the Internal Revenue Code, relating to special rules for REITs, and Section 172(b)(1)(E) of the Internal Revenue Code, relating to excess interest loss, and Section 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 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 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

1 the date the taxpayer is no longer under the jurisdiction of the court
2 in a Title 11 or similar case.

3 (e) For purposes of this section:

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

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

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

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

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

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

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

35 (B) Any acquired assets that constituted property described in
36 Section 1221(1) of the Internal Revenue Code in the hands of the
37 transferor shall not be treated as assets acquired from an existing
38 trade or business, unless those assets also constitute property
39 described in Section 1221(1) of the Internal Revenue Code in the
40 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:

1 (i) “Biopharmaceutical activities” means those activities that
2 use organisms or materials derived from organisms, and their
3 cellular, subcellular, or molecular components, in order to provide
4 pharmaceutical products for human or animal therapeutics and
5 diagnostics. Biopharmaceutical activities make use of living
6 organisms to make commercial products, as opposed to
7 pharmaceutical activities that make use of chemical compounds
8 to produce commercial products.

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

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

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

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

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

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

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

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

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

3 17279.6. Section 198A of the Internal Revenue Code, relating
4 to expensing of qualified disaster expenses, shall not apply.

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

7 17501. (a) Subchapter D of Chapter 1 of Subtitle A of the
8 Internal Revenue Code, relating to deferred compensation, etc.,
9 shall apply, except as otherwise provided.

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

19 (c) The maximum amount of elective deferrals (as defined in
20 Section 402(g)(3)) for the taxable year that may be excluded from
21 gross income under Section 402(g) of the Internal Revenue Code,
22 as applicable for state purposes, shall not exceed the amount of
23 elective deferrals that may be excluded from gross income under
24 Section 402(g) of the Internal Revenue Code, as in effect on
25 January 1, 2009, including additional elective deferrals under
26 Section 414(v) of the Internal Revenue Code, as in effect on
27 January 1, 2009.

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

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

34 (e) Notwithstanding the limitations provided in subdivision (c),
35 any income attributable to elective deferrals in taxable years
36 beginning on or after January 1, 2002, in conformance with Part
37 I of Subchapter D of Chapter 1 of Subtitle A of the Internal
38 Revenue Code, as applicable for federal and state purposes, shall
39 not be includable in the gross income of the individual for whose

1 benefit the plan or account was established until distributed
2 pursuant to the plan or by operation of law.

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

5 17551. (a) Subchapter E of Chapter 1 of Subtitle A of the
6 Internal Revenue Code, relating to accounting periods and methods
7 of accounting, shall apply, except as otherwise provided.

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

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

17 (2) The maximum deferred compensation for the taxable year
18 that may be excluded from gross income under Section 457 of the
19 Internal Revenue Code, as applicable for state purposes, shall not
20 exceed the amount of deferred compensation that may be excluded
21 from gross income under Section 457 of the Internal Revenue
22 Code, as in effect on January 1, 2009, including additional elective
23 deferrals under Section 414(v) of the Internal Revenue Code, as
24 in effect on January 1, 2009.

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

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

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

38 (f) Section 451(i) of the Internal Revenue Code, relating to
39 special rule for sales or dispositions to implement Federal Energy

1 Regulatory Commission or state electric restructuring policy, shall
2 not apply.

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

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

8 17560.5. Section 461(j) of the Internal Revenue Code, relating
9 to limitation on excess farm losses of certain taxpayers, shall not
10 apply.

11 SEC. 29.5. Section 17681.3 is added to the Revenue and
12 Taxation Code, to read:

13 17681.3. The amendments made to Section 613A(d)(4) of the
14 Internal Revenue Code, relating to certain refiners excluded, by
15 Section 1328 of the Energy Tax Incentives Act of 2005 (Title XIII
16 of the Energy Policy Act of 2005, Public Law 109-58) shall not
17 apply.

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

20 17755. Section 664(c) of the Internal Revenue Code, relating
21 to the taxation of trusts, shall not apply and, in lieu thereof, a
22 charitable remainder annuity trust and a charitable remainder
23 unitrust shall, for any taxable year, not be subject to any tax
24 imposed under this part, unless that trust, for the taxable year, has
25 unrelated business taxable income, within the meaning of Section
26 23732, determined as if Chapter 4 (commencing with Section
27 23701) of Part 11, applied to that trust.

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

30 17952.5. (a) For purposes of computing “taxable income of a
31 nonresident or part-year resident” under paragraph (1) of
32 subdivision (i) of Section 17041, gross income of a nonresident,
33 as defined in Section 17015, from sources within this state shall
34 not include “qualified retirement income” received on or after
35 January 1, 1996, for any part of the taxable year during which the
36 taxpayer was not a resident of this state.

37 (b) For purposes of this section, “qualified retirement income”
38 means income from any of the following:

- 1 (1) A qualified trust under Section 401(a) of the Internal
2 Revenue Code that is exempt under Section 501(a) of the Internal
3 Revenue Code from taxation.
- 4 (2) A simplified employee pension as defined in Section 408(k)
5 of the Internal Revenue Code.
- 6 (3) An annuity plan described in Section 403(a) of the Internal
7 Revenue Code.
- 8 (4) An annuity contract described in Section 403(b) of the
9 Internal Revenue Code.
- 10 (5) An individual retirement plan described in Section
11 7701(a)(37) of the Internal Revenue Code.
- 12 (6) An eligible deferred compensation plan as defined in Section
13 457 of the Internal Revenue Code.
- 14 (7) A governmental plan as defined in Section 414(d) of the
15 Internal Revenue Code.
- 16 (8) A trust described in Section 501(c)(18) of the Internal
17 Revenue Code.
- 18 (9) Any plan, program, or arrangement described in Section
19 3121(v)(2)(C) of the Internal Revenue Code, or any plan, program,
20 or arrangement that is in writing, that provides for retirement
21 payments in recognition of prior service to be made to a retired
22 partner, and that is in effect immediately before retirement begins,
23 if that income is either of the following:
 - 24 (A) Part of a series of substantially equal periodic payments
25 (not less frequently than annually), which may include income
26 described in paragraphs (1) to (8), inclusive, made for either of
27 the following:
 - 28 (i) The life or the life expectancy of the recipient (or the joint
29 lives or joint life expectancies of the recipient and the designated
30 beneficiary of the recipient).
 - 31 (ii) A period of not less than 10 years.
 - 32 (B) A payment received after termination of employment, under
33 a plan, program, or arrangement to which that employment relates,
34 maintained solely for the purpose of providing retirement benefits
35 for employees in excess of the limitation imposed by Section
36 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the
37 Internal Revenue Code, or any combination of those sections, or
38 any other limitation on contributions or benefits in the Internal
39 Revenue Code on plans to which any of those sections apply.

1 (C) The fact that payments may be adjusted, from time to time,
2 pursuant to this plan, program, or arrangement to limit total
3 disbursements under a predetermined formula, or to provide cost
4 of living or similar adjustments, will not cause the periodic
5 payments provided under that plan, program, or arrangement to
6 fail the “substantially-equal-periodic-payments” test.

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

10 (c) For purposes of this section, the term “retired partner” is an
11 individual who is described as a partner in Section 7701(a)(2) of
12 the Internal Revenue Code and who is retired under that
13 individual’s partnership agreement.

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

18 (e) Except as otherwise provided, references to the Internal
19 Revenue Code are subject to paragraph (1) of subdivision (a) of
20 Section 17024.5.

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

23 18031.5. Section 1031(i) of the Internal Revenue Code, relating
24 to special rules for mutual ditch, reservoir, or irrigation company
25 stock, shall not apply.

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

28 18037.5. The amendments made by Section 844 of the Pension
29 Protection Act of 2006 (Public Law 109-280) to Section 1035 of
30 the Internal Revenue Code, shall not apply.

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

33 18151.5. Section 301 of Title III of Division A of the
34 Emergency Economic Stabilization Act of 2008 (Public Law
35 110-343), relating to gain or loss from sale of certain preferred
36 stock, shall not apply.

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

39 18155.6. For taxable years beginning on or after January 1,
40 2009, specific reference to Sections 1223(4) to (16), inclusive, of

1 the Internal Revenue Code in this part shall instead be treated as
2 a reference to Sections 1223(3) to (15), inclusive, of the Internal
3 Revenue Code, respectively.

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

6 18165. (a) Section 1245(a)(2)(C) of the Internal Revenue
7 Code, relating to certain deductions treated as amortization, is
8 modified to also refer to Sections 17252.5, 17265, and 17266.

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

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

14 18180. (a) Section 7872 of the Internal Revenue Code, relating
15 to treatment of loans with below market interest rates, shall apply,
16 except as otherwise provided.

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

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

23 18631. (a) This article does not apply to any payment of
24 interest obligations not taxable under Part 10 (commencing with
25 Section 17001) or Part 11 (commencing with Section 23001).

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

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

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

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

37 (3) Section 6039C of the Internal Revenue Code, relating to
38 returns with respect to foreign persons holding direct investments
39 in United States real property interests, if that person holds a direct

1 investment in a California real property as defined in Section
2 18662.

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

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

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

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

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

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

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

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

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

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

- 1 (12) (A) Section 6050K of the Internal Revenue Code, relating
2 to returns relating to exchanges of certain partnership interests.
- 3 (B) In addition to the general requirement under subparagraph
4 (A), a transferor of a partnership interest shall be required to notify
5 the partnership of that exchange in accordance with Section
6 6050K(c) of the Internal Revenue Code.
- 7 (13) Section 6050L of the Internal Revenue Code, relating to
8 returns relating to certain donated property.
- 9 (14) Section 6050N of the Internal Revenue Code, relating to
10 returns regarding payments of royalties.
- 11 (15) Section 6050P of the Internal Revenue Code, relating to
12 returns relating to the cancellation of indebtedness by certain
13 entities.
- 14 (16) Section 6050Q of the Internal Revenue Code, relating to
15 certain long-term care benefits.
- 16 (17) Section 6050R of the Internal Revenue Code, relating to
17 returns relating to certain purchases of fish.
- 18 (18) Section 6050S of the Internal Revenue Code, relating to
19 returns relating to higher education tuition and related expenses.
- 20 (19) Section 6052 of the Internal Revenue Code, relating to
21 returns regarding payment of wages in the form of group-term life
22 insurance.
- 23 (20) Section 6034(a) of the Internal Revenue Code, relating to
24 returns of split-interest trusts.
- 25 (21) Section 6039I of the Internal Revenue Code, relating to
26 returns and records with respect to employer-owned life insurance
27 contracts.
- 28 (22) Section 6039J of the Internal Revenue Code, relating to
29 information reporting with respect to commodity credit corporation
30 transactions.
- 31 (23) Section 6050V of the Internal Revenue Code, relating to
32 returns relating to applicable insurance contracts in which certain
33 exempt organizations hold interests.
- 34 (24) Section 6050W of the Internal Revenue Code, relating to
35 returns relating to payments made in settlement of payment card
36 and third party network transactions.
- 37 (25) Any information return that is required to be filed with the
38 Secretary of the Treasury pursuant to a provision of Part III of
39 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 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.

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

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

5 (5) Any criminal penalty.

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

8 (7) Any interest, penalty, addition to tax, or additional amount
9 relating to any reportable transaction with respect to which the
10 requirements of Section 6664(d)(2)(A) of the Internal Revenue
11 Code are not met, and any listed transaction, as defined in Section
12 6707A(c) of the Internal Revenue Code.

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

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

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

24 (B) Two years from the date when the notice required by Section
25 18622 is filed with the Franchise Tax Board by the taxpayer or the
26 Internal Revenue Service, if after the six-month period required
27 in Section 18622, a taxpayer or the Internal Revenue Service
28 reports a change or correction.

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

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

39 (g) This section shall apply to taxable years ending after October
40 10, 1999.

(h) The amendments made to this section by 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. 39.5. 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 (1) Any penalty imposed by Section 19131.

2 (2) Any penalty imposed by Section 19132.

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

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

7 (5) Any criminal penalty.

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

10 (7) Any interest, penalty, addition to tax, or additional amount
11 relating to any reportable transaction with respect to which the
12 requirements of Section 6664(d)(2)(A) of the Internal Revenue
13 Code are not met, and any listed transaction, as defined in Section
14 6707A(c) of the Internal Revenue Code.

15 (8) *Any interest, penalty, addition to tax, or additional amount*
16 *relating to any abusive tax avoidance transaction, as defined in*
17 *Section 19777, as amended by the act adding this paragraph.*

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

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

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

29 (B) Two years from the date when the notice required by Section
30 18622 is filed with the Franchise Tax Board by the taxpayer or the
31 Internal Revenue Service, if after the six-month period required
32 in Section 18622, a taxpayer or the Internal Revenue Service
33 reports a change or correction.

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

39 (f) For notices sent after January 1, 2004, this section does not
40 apply to taxpayers with taxable income greater than two hundred

1 thousand dollars (\$200,000) that have been contacted by the
2 Franchise Tax Board regarding the use of a potentially abusive tax
3 shelter (~~within the meaning of Section 19777~~) *within the meaning*
4 *of Section 19777, as added by Chapter 656 of the Statutes of 2003*
5 *and amended by Section 331 of Chapter 183 of the Statutes of*
6 *2004.*

7 (g) This section shall apply to taxable years ending after October
8 10, 1999.

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

12 (i) *The amendments made to this section to add paragraph (8)*
13 *to subdivision (a) and to amend subdivision (f) shall apply to*
14 *notices mailed, or amended returns filed, on or after January 1,*
15 *2010.*

16 (j) (1) *The amendments made to paragraph (1) of subdivision*
17 *(b) by this act shall apply to notices provided after January 1,*
18 *2010.*

19 (2) *Paragraph (3) of subdivision (b), as added by AB 1580*
20 *(2009), shall apply to documents provided on or after January 1,*
21 *2010.*

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

24 19131. (a) If any taxpayer fails to make and file a return
25 required by this part on or before the due date of the return or the
26 due date as extended by the Franchise Tax Board, then, unless it
27 is shown that the failure is due to reasonable cause and not due to
28 willful neglect, 5 percent of the tax shall be added to the tax for
29 each month or fraction thereof elapsing between the due date of
30 the return (determined without regard to any extension of time for
31 filing) and the date on which filed, but the total penalty may not
32 exceed 25 percent of the tax. In the case of a commencing
33 corporation, the penalty shall apply to all tax accruable on the due
34 date of the return. The penalty so added to the tax shall be due and
35 payable upon notice and demand from the Franchise Tax Board.

36 (b) In the case of an individual or fiduciary who fails to file a
37 return of tax required by this part within 60 days of the date
38 prescribed for filing of that return (determined with regard to any
39 extension of time for filing), unless it is shown that the failure is
40 due to reasonable cause and not due to willful neglect, this penalty

1 may not be less than the lesser of one hundred thirty-five dollars
2 (\$135) or 100 percent of the amount of tax required to be shown
3 on the return.

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

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

11 (1) Substituting “15 percent” for “5 percent,” and

12 (2) Substituting “75 percent” for “25 percent.”

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

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

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

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

26 (C) The Commissioner of Internal Revenue or other officer of
27 the United States determines that the penalty described in Section
28 6651(a)(1) of the Internal Revenue Code does not apply because
29 the failure to file the federal return on or before the date prescribed
30 for its filing was due to reasonable cause and not due to willful
31 neglect.

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

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

1 19134. (a) The provisions of Section 6657 of the Internal
2 Revenue Code, relating to bad checks, shall apply except as
3 otherwise provided.

4 (b) Section 6657 of the Internal Revenue Code, relating to bad
5 checks, is modified to apply to payments made by credit card
6 remittance or electronic funds transfer (as provided by Section
7 19011) in addition to payments made by check or money order.

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

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

14 (e) The amendments made to Section 6657 of the Internal
15 Revenue Code by Public Law 110-28 that are incorporated by
16 reference under this section shall apply to all payments received
17 after the effective date of the act adding this subdivision, without
18 regard to taxable year.

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

21 19164. (a) (1) (A) An accuracy-related penalty shall be
22 imposed under this part and shall be determined in accordance
23 with Section 6662 of the Internal Revenue Code, relating to
24 imposition of accuracy-related penalty on underpayments, except
25 as otherwise provided.

26 (B) (i) Except for understatements relating to reportable
27 transactions to which Section 19164.5 applies, in the case of any
28 proposed deficiency assessment issued after the last date of the
29 amnesty period specified in Chapter 9.1 (commencing with Section
30 19730) for any taxable year beginning prior to January 1, 2003,
31 the penalty specified in Section 6662(a) of the Internal Revenue
32 Code shall be computed by substituting “40 percent” for “20
33 percent.”

34 (ii) Clause (i) shall not apply to any taxable year of a taxpayer
35 beginning prior to January 1, 2003, if, as of the start date of the
36 amnesty program period specified in Section 19731, the taxpayer
37 is then under audit by the Franchise Tax Board, or the taxpayer
38 has filed a protest under Section 19041, or the taxpayer has filed
39 an appeal under Section 19045, or the taxpayer is engaged in
40 settlement negotiations under Section 19442, or the taxpayer has

1 a pending judicial proceeding in any court of this state or in any
2 federal court relating to the tax liability of the taxpayer for that
3 taxable year.

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

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

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

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

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

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

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

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

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

36 (b) For purposes of Section 6662(d) of the Internal Revenue
37 Code, Section 6664 of the Internal Revenue Code, Section
38 6694(a)(1) of the Internal Revenue Code, and this part, the
39 Franchise Tax Board may prescribe a list of positions for which
40 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. 42.5. Section 19165 is added to the Revenue and Taxation Code, to read:

19165. (a) A penalty shall be imposed under this part for a claim or credit made for an excessive amount and shall be determined in accordance with Section 6676 of the Internal Revenue Code, relating to erroneous claim for refund or credit, except as otherwise provided.

(b) (1) The penalty under this section shall not apply to an individual with adjusted gross income shown on the original return for that taxable year that is equal to or less than the threshold amount specified in paragraph (2).

(2) “Threshold amount” means:

(A) ~~One hundred fifty thousand dollars (\$150,000)~~ *Two hundred fifty thousand dollars (\$250,000)* in the case of an individual filing a joint return under Section 18521, or a surviving spouse, as defined in Section 17046.

(B) ~~Seventy five thousand dollars (\$75,000)~~ *One hundred twenty-five thousand dollars (\$125,000)* in the case of any individual not described in subparagraph (A).

(c) 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).

(d) This section shall apply to any claim filed or submitted after the effective date of the act adding this section.

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 "\$250" for "\$1,000."

(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, paragraph (1) shall not apply.

(c) 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 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.

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

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 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) 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 ~~section~~ *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 section.

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.

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

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

3 (1) (A) By substituting the phrase “tax imposed under Part 10
4 (commencing with Section 17001), Part 11 (commencing with
5 Section 23001), or this part” for the phrase “tax imposed by this
6 title” contained therein.

7 (B) By substituting the phrase “frivolous or is based on a
8 position that the Franchise Tax Board has identified as frivolous
9 under subdivision (c) of Section 19179” for the term “frivolous”
10 contained therein.

11 (C) By substituting the phrase “reflects a desire to delay or
12 impede the administration of federal income tax laws as determined
13 by the Secretary of the Treasury or the administration of the tax
14 imposed under Part 10 (commencing with Section 17001), Part 11
15 (commencing with Section 23001), or this part as determined by
16 the Franchise Tax Board” for the phrase “reflects a desire to delay
17 or impede the administration of Federal tax laws” contained therein.

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

24 (E) By substituting the phrase “If the Franchise Tax Board
25 provides a person with notice that a submission is a specified
26 frivolous submission and the person withdraws that submission
27 within 30 days after the notice, the penalty imposed under Section
28 6702(b)(1) of the Internal Revenue Code does not apply with
29 respect to that submission” for the phrase “If the Secretary provides
30 a person with notice that a submission is a specified frivolous
31 submission and such person withdraws such submission within
32 30 days after such notice, the penalty imposed under paragraph
33 (1) shall not apply with respect to such submission”.

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

37 (A) A protest under Section 19041.

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

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

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

3 (ii) Section 19443, relating to compromises.

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

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

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

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

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

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

22 (B) Rescinding the penalty would promote compliance with the
23 requirements of this part and Part 10 (commencing with Section
24 17001) or Part 11 (commencing with Section 23001) and effective
25 tax administration.

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

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

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

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

36 19185. (a) Section 6695A of the Internal Revenue Code,
37 relating to substantial and gross valuation misstatements
38 attributable to incorrect appraisals, shall apply, except as otherwise
39 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 6720B 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

1 (B) Taxpayer does not have reasonable prospects of acquiring
2 increased income or assets that would enable the taxpayer to satisfy
3 a greater amount of the liability than the amount offered, within a
4 reasonable period of time.

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

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

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

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

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

26 (1) The name of the taxpayer.

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

29 (3) The amount offered.

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

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

38 (h) Any compromise made under this section may be rescinded,
39 all compromised liabilities may be reestablished (without regard
40 to any statute of limitations that otherwise may be applicable), and

1 no portion of the amount offered in compromise refunded, if either
2 of the following occurs:

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

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

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

12 (2) The taxpayer fails to either:

13 (A) Comply with any of the terms and conditions relative to the
14 offer.

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

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

27 (j) This section shall become operative on the effective date of
28 Chapter 931 of the Statutes of 1999 without regard to the taxable
29 year at issue.

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

32 21015.5. (a) (1) No levy may be made on any property or
33 property right of any person unless the board has notified the
34 person in writing of his or her rights as described in subparagraph
35 (C) of paragraph (3) before the levy is made. Except as provided
36 in subdivision (f), the notice shall be required only once for the
37 taxable period to which the unpaid tax specified in subparagraph
38 (A) of paragraph (3) relates. The notice shall not be required if the
39 unpaid tax for which notice would otherwise be required under
40 this paragraph is consolidated for collection purposes with a

1 preexisting unpaid tax for which notice has been given under this
2 paragraph.

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

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

11 (A) The amount of unpaid tax.

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

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

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

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

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

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

26 (iv) The alternatives available to taxpayers that could prevent
27 levy on property, including installment agreements under Section
28 19008.

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

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

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

39 (3) An independent departmental administrative review under
40 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 contract defined, shall apply, except as otherwise provided.

(b) Section 7702A of the Internal Revenue Code, relating to modified endowment contract defined, 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.

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

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

6 23046.5. (a) Section 7701(n) of the Internal Revenue Code,
7 relating to convention or association of churches, shall apply,
8 except as otherwise provided.

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

11 SEC. 53. Section 23051.5 of the Revenue and Taxation Code
12 is amended to read:

13 23051.5. (a) (1) Unless otherwise specifically provided, the
14 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
15 or “Internal Revenue Code of 1986,” for purposes of this part,
16 mean Title 26 of the United States Code, including all amendments
17 thereto, as enacted on the specified date for the applicable taxable
18 year as defined in paragraph (1) of subdivision (a) of Section
19 17024.5.

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

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

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

1 and shall be applied in the same manner and for the same periods
2 as specified in the Revenue Reconciliation Act of 1990.

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

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

8 (2) Foreign Sales Corporations (FSC), as defined in Section
9 922(a) of the Internal Revenue Code.

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

12 (4) A foreign personal holding company, as defined in Section
13 552 of the Internal Revenue Code.

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

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

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

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

20 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
21 and Section 172 of the Tax Reform Act of 1984 (Public Law
22 98-369), relating to treatment of debt instruments, is not applicable
23 for taxable years beginning before January 1, 1987.

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

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

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

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

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

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

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

13 (B) (i) If a taxpayer makes a proper election for federal income
14 tax purposes prior to the time that taxpayer becomes subject to the
15 tax imposed under this part or Part 10 (commencing with Section
16 17001), that taxpayer is deemed to have made the same election
17 for purposes of the tax imposed by this part, Part 10 (commencing
18 with Section 17001), and Part 10.2 (commencing with Section
19 18401), as applicable, and that taxpayer may not make a separate
20 election for California tax purposes unless that separate election
21 is expressly authorized by this part, Part 10 (commencing with
22 Section 17001), or Part 10.2 (commencing with Section 18401),
23 or by regulations issued by the Franchise Tax Board.

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

33 (iii) This subparagraph applies only to the extent that the
34 provisions of the Internal Revenue Code or regulations issued by
35 “the secretary” authorizing an election for federal income tax
36 purposes apply for purposes of this part, Part 10 (commencing
37 with Section 17001), or Part 10.2 (commencing with Section
38 18401).

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

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

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

11 (1) For purposes of Chapter 2 (commencing with Section
12 23101), Chapter 2.5 (commencing with Section 23400), and
13 Chapter 3 (commencing with Section 23501), the term “taxable
14 income” shall mean “net income.”

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

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

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

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

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

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

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

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

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

SEC. 53.5. *Section 23051.5 of the Revenue and Taxation Code is amended to read:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 SEC. 54. Section 23456 of the Revenue and Taxation Code is
18 amended to read:

19 23456. For purposes of this part, Section 56 of the Internal
20 Revenue Code is modified as follows:

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

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

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

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

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

39 (c) Section 56(d)(1) of the Internal Revenue Code is modified
40 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

1 Section 24349.5, the amount allowable as depreciation or
2 amortization with respect to that property shall be determined by
3 each of the following:

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

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

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

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

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

20 (A) (i) A deduction shall be allowed for amounts allowable as
21 a deduction for purposes of the regular tax under Sections 24402,
22 24410, 24411, and 25106.

23 (ii) For each taxable year beginning on or after January 1, 1990,
24 a deduction shall be allowed for amounts allowable as a deduction
25 to a credit union for purposes of the regular tax under Section
26 24405.

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

29 (C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code,
30 relating to treatment of taxes on dividends from 936 corporations,
31 shall not be applicable.

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

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

39 (3) With respect to corporations that are not subject to the tax
40 imposed under Chapter 2 (commencing with Section 23101), the

1 amount of interest income included in the adjusted current earnings
2 shall not exceed the amount of interest income included for
3 purposes of the regular tax.

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

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

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

11 23609. For each taxable year beginning on or after January 1,
12 1987, there shall be allowed as a credit against the “tax” (as defined
13 by Section 23036) an amount determined in accordance with
14 Section 41 of the Internal Revenue Code, except as follows:

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

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

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

21 (b) (1) For each taxable year beginning on or after January 1,
22 1997, and before January 1, 1999, both of the following
23 modifications shall apply:

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

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

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

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

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

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

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

38 (B) The reference to “20 percent” in Section 41(a)(2) of the
39 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

1 “specialized laboratory cancer center,” and has received Clinical
2 Cancer Research Center status from the National Cancer Institute.

3 (2) For purposes of this subdivision:

4 (A) “Biopharmaceutical research activities” means those
5 activities that use organisms or materials derived from organisms,
6 and their cellular, subcellular, or molecular components, in order
7 to provide pharmaceutical products for human or animal
8 therapeutics and diagnostics. Biopharmaceutical activities make
9 use of living organisms to make commercial products, as opposed
10 to pharmaceutical activities that make use of chemical compounds
11 to produce commercial products.

12 (B) “Other biotechnology research and development activities”
13 means research and development activities consisting of the
14 application of recombinant DNA technology to produce
15 commercial products, as well as research and development
16 activities regarding pharmaceutical delivery systems designed to
17 provide a measure of control over the rate, duration, and site of
18 pharmaceutical delivery.

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

23 (g) For each taxable year beginning on or after January 1, 1998,
24 the reference to “Section 501(a)” in Section 41(b)(3)(C) of the
25 Internal Revenue Code, relating to contract research expenses, is
26 modified to read “this part or Part 10 (commencing with Section
27 17001).”

28 (h) (1) For each taxable year beginning on or after January 1,
29 2000:

30 (A) The reference to “3 percent” in Section 41(c)(4)(A)(i) of
31 the Internal Revenue Code is modified to read “one and forty-nine
32 hundredths of one percent.”

33 (B) The reference to “4 percent” in Section 41(c)(4)(A)(ii) of
34 the Internal Revenue Code is modified to read “one and
35 ninety-eight hundredths of one percent.”

36 (C) The reference to “5 percent” in Section 41(c)(4)(A)(iii) of
37 the Internal Revenue Code is modified to read “two and forty-eight
38 hundredths of one percent.”

39 (2) Section 41(c)(4)(B) shall not apply and in lieu thereof an
40 election under Section 41(c)(4)(A) of the Internal Revenue Code

1 may be made for any taxable year of the taxpayer beginning on or
2 after January 1, 1998. That election shall apply to the taxable year
3 for which made and all succeeding taxable years unless revoked
4 with the consent of the Franchise Tax Board.

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

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

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

15 (j) Section 41(g) of the Internal Revenue Code, relating to
16 special rule for pass-thru of credit, is modified by each of the
17 following:

18 (1) The last sentence shall not apply.

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

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

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

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

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

35 23703.7. Section 501(q) of the Internal Revenue Code, relating
36 to special rules for credit counseling organizations, shall apply,
37 except as otherwise provided.

38 (a) The phrase "Section 23701" shall be substituted for
39 "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” for the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” for “section 511.”

(b) For taxable years beginning before January 1, 2002, Section 530(b)(1) of the Internal Revenue Code, relating to Coverdell

1 education savings account, is modified to additionally require that
2 upon the date that the designated beneficiary becomes 30 years of
3 age, any balance to the credit of the beneficiary shall be distributed
4 within 30 days after the date the beneficiary becomes 30 years of
5 age to that beneficiary.

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

8 (1) By substituting the phrase “under Part 10 (commencing with
9 Section 17001) in the manner as provided in Section 72(b) of the
10 Internal Revenue Code, as modified by Part 10” for the phrase “in
11 the manner as provided in Section 72(b)” in Section 530(d)(1) of
12 the Internal Revenue Code.

13 (2) (A) By substituting the phrase “tax imposed by Part 10
14 (commencing with Section 17001)” for the phrase “tax imposed
15 by this chapter” in Section 530(d)(4)(A) of the Internal Revenue
16 Code.

17 (B) By substituting the phrase “increased by 2 ½ percent” for
18 the phrase “increased by 10 percent” in Section 530(d)(4)(A) of
19 the Internal Revenue Code.

20 (C) By substituting the phrase “shall be included in the
21 contributor’s gross income under Part 10 (commencing with
22 Section 17001) or this part” for the phrase “shall be included in
23 gross income” in Section 530(d)(4)(C) of the Internal Revenue
24 Code.

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

26 (i) By additionally providing that Section 530(d)(4)(A) of the
27 Internal Revenue Code shall not apply if the payment or
28 distribution is made on account of the attendance of the designated
29 beneficiary at the United States Military Academy, the United
30 States Naval Academy, the United States Air Force Academy, the
31 United States Coast Guard Academy, or the United States Merchant
32 Marine Academy, to the extent that the amount of the payment or
33 distribution does not exceed the costs of advanced education (as
34 defined by Section 2005(e)(3) of Title 10 of the United States
35 Code, as in effect on November 11, 2003) attributable to that
36 attendance.

37 (ii) The amendments made to this section by Section 12 of
38 Chapter 552 of the Statutes of 2004 shall apply to taxable years
39 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 rule for foreign organizations, shall not be applicable.

(b) Section 512(a)(3) of the Internal Revenue Code, relating to special rules applicable to organizations described in paragraph (7), (9), (17), or (20) of Section 501(c), shall be modified as follows:

(1) The reference to Section 501(c)(7) of the Internal Revenue Code shall be modified to refer to Section 23701g.

(2) The reference to Section 501(c)(9) of the Internal Revenue Code shall be modified to refer to Section 23701i.

(3) The reference to Section 501(c)(17) of the Internal Revenue Code shall be modified to refer to Section 23701n.

(4) The reference to Section 501(c)(20) of the Internal Revenue Code 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" 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

1 by this chapter” in Section 512(b)(13)(E)(ii) of the Internal
2 Revenue Code.

3 (2) The phrase “January 1, 2009,” shall be substituted for “the
4 date of the enactment of this subparagraph” in Section
5 512(b)(13)(iii)(I) of the Internal Revenue Code.

6 (3) The amendments made by the act adding this subdivision
7 shall apply to payments received or accrued on or after January 1,
8 2009.

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

11 23772. (a) For the purposes of this part—

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

25 (2) Exceptions from filing—

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

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

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

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

34 (B) Discretionary exceptions—The Franchise Tax Board may
35 permit the filing of a simplified return for organizations based on
36 either gross receipts or total assets or both gross receipts and total
37 assets, or may permit the filing of an information statement
38 (without fee), or may permit the filing of a group return for
39 incorporated or unincorporated branches of a state or national

1 organization where it determines that an information return is not
2 necessary to the efficient administration of this part.

3 (3) An organization that is required to file an annual information
4 return shall pay a filing fee of ten dollars (\$10) on or before the
5 due date for filing the annual information return (determined with
6 regard to any extension of time for filing the return) required by
7 this section. In case of failure to pay the fee on or before the due
8 date, unless it is shown that the failure is due to reasonable cause,
9 the filing fee shall be twenty-five dollars (\$25). All collection
10 remedies provided in Article 5 (commencing with Section 18661)
11 of Chapter 2 of Part 10.2 are applicable to collection of the filing
12 fee. However, the filing fee does not apply to the organization
13 described in paragraph (4).

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

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

34 (1) Its gross income for the year.

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

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

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

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

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

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

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

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

14 (B) The lobbying nontaxable amount (as defined in Section
15 4911(c)(2) of the Internal Revenue Code).

16 (C) The grassroots expenditures (as defined in Section
17 4911(c)(3) of the Internal Revenue Code).

18 (D) The grassroots nontaxable amount (as defined in Section
19 4911(c)(4) of the Internal Revenue Code). For purposes of this
20 paragraph, if Section 23740 applies to the organization for the
21 taxable year, the organization shall furnish the amounts with respect
22 to the affiliated group as well as with respect to the organization.

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

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

30 (B) Misallocation of revenue or expense.

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

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

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

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

4 (B) Any loans made to each controlled entity.

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

7 (13) (A) Any organization, the gross receipts of which in any
8 taxable year result in the organization being referred to in clause
9 (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or
10 subparagraph (B) of paragraph (2) of subdivision (a), shall do both
11 of the following:

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

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

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

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

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

39 (C) If, upon application for reinstatement of status as an
40 organization exempt from tax under Section 23701, an organization

1 described in subparagraph (A) can show to the satisfaction of the
2 Franchise Tax Board evidence of reasonable cause for the failure
3 described in that subparagraph, the organization's exempt status
4 may, in the discretion of the Franchise Tax Board, be reinstated
5 effective from the date of the revocation under that subparagraph.

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

8 (c) For the purposes of this part—

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

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

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

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

1 24305. (a) Except as provided in subdivisions (b) and (c),
2 amounts received under life insurance policies and contracts paid
3 by reason of the death of the insured but if such amounts are held
4 by the insurer under an agreement to pay interest thereon, the
5 interest payments shall be included in gross income.

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

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

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

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

22 24329. Section 139 of the Internal Revenue Code, relating to
23 disaster relief payments, shall apply, except as otherwise provided.

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

26 24349.2. Section 280G of the Internal Revenue Code, relating
27 to golden parachute payments, shall apply, except as otherwise
28 provided.

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

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

33 24356. (a) (1) In the case of Section 24356 property, the term
34 “reasonable allowance” as used in subdivision (a) of Section 24349,
35 may, at the election of the taxpayer, include an allowance, for the
36 first taxable year for which a deduction is allowable under Sections
37 24349 through 24354 to the taxpayer with respect to such property,
38 of 20 percent of the cost of that property.

39 (2) If in any one taxable year the cost of Section 24349 property
40 with respect to which the taxpayer may elect an allowance under

1 paragraph (1) for that taxable year exceeds ten thousand dollars
2 (\$10,000), then paragraph (1) shall apply with respect to those
3 items selected by the taxpayer, but only to the extent of an
4 aggregate cost of ten thousand dollars (\$10,000).

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

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

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

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

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

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

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

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

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

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

3 (d) (1) For purposes of this section, the term “Section 24356
4 property” means tangible personal property—

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

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

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

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

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

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

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

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

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

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

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

1 (5) For purposes of paragraphs (2) and (4), the term “affiliated
2 group” has the meaning assigned to it by Section 1504 of the
3 Internal Revenue Code, except that, for those purposes, the phrase
4 “more than 50 percent” shall be substituted for the phrase “at least
5 80 percent” each place it appears in Section 1504(a) of the Internal
6 Revenue Code.

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

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

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

16 24357. (a) There shall be allowed as a deduction any charitable
17 contribution (as defined in Section 24359) payment of which is
18 made within the taxable year. A charitable contribution shall be
19 allowable as a deduction only if verified under regulations
20 prescribed by the Franchise Tax Board.

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

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

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

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

33 (c) For purposes of this section, payment of a charitable
34 contribution that consists of a future interest in tangible personal
35 property shall be treated as made only when all intervening interests
36 in, and rights to the actual possession or enjoyment of, the property
37 have expired or are held by persons other than the taxpayer or
38 those standing in a relationship to the taxpayer described in Section
39 24428. For purposes of the preceding sentence, a fixture which is

1 intended to be severed from the real property shall be treated as
2 tangible personal property.

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

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

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

16 (f) Section 170(f)(9) of the Internal Revenue Code, relating to
17 denial of deduction where ~~contributions~~ *contribution* for lobbying
18 activities, shall apply, except as otherwise provided.

19 (g) (1) Notwithstanding any other provision of law to the
20 contrary, for purposes of this section and Section 24341, Section
21 170 of the Internal Revenue Code, relating to charitable, etc.,
22 contributions and gifts, shall be applied to allow a taxpayer to elect
23 to treat any contribution described in paragraph (2) made in January
24 2005, as if that contribution was made on December 31, 2004, and
25 not in January 2005.

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

31 (h) (1) Section 170(f)(11)(E) of the Internal Revenue Code,
32 relating to qualified appraisal and appraiser, shall apply, except as
33 otherwise provided.

34 (2) This subdivision shall apply to appraisals prepared with
35 respect to returns or submissions filed on or after January 1, 2009.

36 (i) (1) Section 170(f)(16) of the Internal Revenue Code, relating
37 to contributions of clothing and household items, shall apply,
38 except as otherwise provided.

39 (2) This subdivision shall apply to contributions made on or
40 after January 1, 2009.

1 (j) (1) Section 170(f)(17) of the Internal Revenue Code, relating
2 to recordkeeping, shall apply, except as otherwise provided.

3 (2) This subdivision shall apply to contributions made on or
4 after January 1, 2009.

5 (k) (1) Section 170(o) of the Internal Revenue Code, relating
6 to special rules for fractional gifts, shall apply, except as otherwise
7 provided.

8 (2) This subdivision shall apply to contributions made on or
9 after January 1, 2009.

10 SEC. 66. Section 24357.1 of the Revenue and Taxation Code
11 is amended to read:

12 24357.1. (a) The amount of any charitable contribution of
13 property otherwise taken into account under Section 24357 shall
14 be reduced by the amount of gain that would have been realized
15 if the property contributed had been sold by the taxpayer at its fair
16 market value (determined at the time of that contribution).

17 (b) For purposes of subdivision (a), in the case of a charitable
18 contribution of less than the taxpayer's entire interest in the
19 property contributed, the taxpayer's adjusted basis in that property
20 shall be allocated between the interest contributed and any interest
21 not contributed in accordance with regulations prescribed by the
22 Franchise Tax Board.

23 (c) The provisions of subdivision (a) shall apply in the case of
24 a charitable contribution of tangible personal property if either of
25 the following conditions is satisfied:

26 (1) The use by the donee is unrelated to the purpose or function
27 constituting the basis for its exemption under Section 501 of the
28 Internal Revenue Code or Section 23701, or, in the case of a
29 governmental unit, to any purpose or function described in Section
30 24359.

31 (2) The tangible personal property is applicable property that
32 is sold, exchanged, or otherwise disposed of by the donee before
33 the last day of the taxable year in which the contribution was made
34 and with respect to which the donee has not made a certification
35 in accordance with paragraph (3) of subdivision (d).

36 (d) (1) In the case of an applicable disposition of applicable
37 property, there shall be included in the income of the donor of that
38 property for the taxable year of the donor in which the applicable
39 disposition occurs an amount equal to the excess, if any, of the
40 following amount:

1 (A) The amount of the deduction allowed to the donor under
2 Section 24357 with respect to that property, over

3 (B) The donor's basis in that property at the time that property
4 was contributed.

5 (2) For purposes of this section:

6 (A) "Applicable disposition" means any sale, exchange, or other
7 disposition by the donee of applicable property after the last day
8 of the taxable year of the donor in which that property was
9 contributed, and before the last day of the three-year period
10 beginning on the date of the contribution of that property, unless
11 the donee makes a certification in accordance with paragraph (3).

12 (B) "Applicable property" means charitable deduction property,
13 as defined in Section 6050L(a)(2)(A) of the Internal Revenue Code,
14 that is tangible personal property, the use of which identified by
15 the donee as related to the purpose or function constituting the
16 basis of the donee's exemption under Section 501 of the Internal
17 Revenue Code or Section 23701, and for which a deduction in
18 excess of the donor's basis is allowed.

19 (3) A certification meets the requirements of this paragraph if
20 it is a written statement, which is signed under penalty of perjury
21 by an officer of the donee organization, that meets either of the
22 following conditions:

23 (A) Certifies that the use of the property by the donee was
24 related to the purpose or function constituting the basis for the
25 donee's exemption under Section 501 of the Internal Revenue
26 Code or Section 23701 and describes how the property was used
27 and how that use furthered that purpose or function.

28 (B) States the intended use of the property by the donee at the
29 time of the contribution and certifies that the intended use has
30 become impossible or infeasible to implement.

31 (e) (1) For purposes of Section 24357 and subdivision (a), and
32 notwithstanding Section 24912, in the case of a charitable
33 contribution of taxidermy property that is made by the person who
34 prepared, stuffed, or mounted the property, or by any person who
35 paid or incurred the cost of such preparation, stuffing, or mounting,
36 only the cost of the preparing, stuffing, or mounting shall be
37 included in the basis of that property.

38 (2) For purposes of this section, "taxidermy property" means
39 any work of art that satisfies all of the following requirements:

1 (A) Is the reproduction or preservation of an animal, in whole
2 or in part.

3 (B) Is prepared, stuffed, or mounted for purposes of recreating
4 one or more characteristics of the animal.

5 (C) Contains a part of the body of the dead animal.

6 (f) The amendments made to this section by the act adding this
7 subdivision shall apply to contributions made on or after January
8 1, 2009, without regard to taxable year.

9 SEC. 67. Section 24357.7 of the Revenue and Taxation Code
10 is amended to read:

11 24357.7. (a) (1) For purposes of paragraph (3) of subdivision
12 (b) of Section 24357.2, the term “qualified conservation
13 contribution” means a contribution—

14 (A) Of a qualified real property interest,

15 (B) To a qualified organization,

16 (C) Exclusively for conservation purposes.

17 (2) For purposes of this subdivision, the term “qualified real
18 property interest” means any of the following interests in real
19 property:

20 (i) The entire interest of the donor other than a qualified mineral
21 interest.

22 (ii) A remainder interest.

23 (iii) A restriction (granted in perpetuity) on the use which may
24 be made of the real property.

25 (b) For purposes of subdivision (a), the term “qualified
26 organization” means an organization which:

27 (1) Is described in subdivision (a) or (b) of Section 24359, or

28 (2) Is described in Section 23701(d), and—

29 (A) Meets the requirements of Section 509(a)(2) of the Internal
30 Revenue Code, or

31 (B) Meets the requirements of Section 509(a)(3) of the Internal
32 Revenue Code and is controlled by an organization described in
33 paragraph (1) or in subparagraph (A).

34 (c) For purposes of this section, the term “conservation purpose”
35 means any of the following:

36 (1) The preservation of land areas for outdoor recreation by, or
37 the education of, the general public.

38 (2) The protection of a relatively natural habitat of fish, wildlife,
39 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.

(e) The term "certified historic structure" means either of the following:

(1) Any building, structure, or land area that is listed in the National Register.

1 (2) (A) Any building that is located in a registered historic
2 district (as defined in Section 47(c)(3)(B) of the Internal Revenue
3 Code) and is certified by the Secretary of the Interior to the
4 secretary as being of historic significance to the district.

5 (B) A building, structure, or land area satisfies the requirements
6 of subparagraph (A) if it satisfies those requirements either at the
7 time of the transfer or on the due date (including extensions) for
8 filing the transferor's return under this part for the taxable year in
9 which the transfer is made.

10 (f) For purposes of this section:

11 (1) A contribution shall not be treated as exclusively for
12 conservation purposes unless the conservation purpose is protected
13 in perpetuity.

14 (2) (A) Except as provided in subparagraph (B), in the case of
15 a contribution of any interest where there is a retention of a
16 qualified mineral interest, this subdivision shall not be treated as
17 met if at any time there may be extraction or removal of minerals
18 by any surface mining method.

19 (B) With respect to any contribution of property in which the
20 ownership of the surface estate and mineral interests has been and
21 remains separated, paragraph (1) shall be treated as met if the
22 probability of surface mining occurring on that property is so
23 remote as to be negligible.

24 (g) For purposes of this section, the term "qualified mineral
25 interest" means either of the following:

26 (1) Subsurface oil, gas, or other minerals.

27 (2) The right to access to those minerals.

28 (h) The amendments made to this section by the act adding this
29 subdivision shall apply to contributions made on or after January
30 1, 2009.

31 SEC. 68. Section 24358 of the Revenue and Taxation Code is
32 amended to read:

33 24358. (a) In the case of a corporation, the total deductions
34 under Section 24357 for any taxable year, other than for
35 contributions to which subdivision (b) applies, shall not exceed
36 10 percent of the taxpayer's net income computed without regard
37 to any of the following:

38 (1) Subdivision (e) of Section 23802.

39 (2) Sections 24357 to 24359, inclusive.

(3) Article 2 (commencing with Section 24401) of Chapter 7 (except Sections 24407 to 24409, inclusive).

(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.

(c) Section 170(d)(2) of the Internal Revenue Code, relating to corporations, shall apply with respect to excess contributions made during taxable years beginning on or after January 1, 1996.

SEC. 69. 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 amount of carrybacks and 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

1 be absorbed before the amount described in clause (i) of
2 subparagraph (B).

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

9 (5) In the case of a taxpayer who has a net operating loss in a
10 taxable year beginning on or after January 1, 1994, and who
11 operates more than one business, and more than one of those
12 businesses qualifies as either a new business or an eligible small
13 business under this section, paragraph (2) shall be applied first,
14 except that if there is any remaining portion of the net operating
15 loss after application of clause (i) of subparagraph (B) of paragraph
16 (2), paragraph (3) shall be applied to the remaining portion of the
17 net operating loss as though that remaining portion of the net
18 operating loss constituted the entire net operating loss.

19 (6) For purposes of this section, “net loss” means the amount
20 of net loss after application of Sections 465 and 469 of the Internal
21 Revenue Code.

22 (c) For any taxable year in which the taxpayer has in effect a
23 water’s-edge election under Section 25110, the deduction of a net
24 operating loss carryover shall be denied to the extent that the net
25 operating loss carryover was determined by taking into account
26 the income and factors of an affiliated corporation in a combined
27 report whose income and apportionment factors would not have
28 been taken into account if a water’s-edge election under Section
29 25110 had been in effect for the taxable year in which the loss was
30 incurred.

31 (d) Section 172(b)(1) of the Internal Revenue Code, relating to
32 years to which the loss may be carried, is modified as follows:

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

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

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

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

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

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

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

21 (e) (1) (A) For a net operating loss for any taxable year
22 beginning on or after January 1, 1987, and before January 1, 2000,
23 Section 172(b)(1)(A)(ii) of the Internal Revenue Code is modified
24 to substitute “five taxable years” in lieu of “20 years” except as
25 otherwise provided in paragraphs (2), (3), and (4).

26 (B) For a net operating loss for any income year beginning on
27 or after January 1, 2000, and before January 1, 2008, Section
28 172(b)(1)(A)(ii) of the Internal Revenue Code is modified to
29 substitute “10 taxable years” in lieu of “20 taxable years.”

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

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

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

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

1 (3) For any carryover of a net operating loss for which a
2 deduction is denied by Section 24416.3, the carryover period
3 specified in this subdivision shall be extended as follows:

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

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

8 (4) The net operating loss attributable to taxable years beginning
9 on or after January 1, 1987, and before January 1, 1994, shall be
10 a net operating loss carryover to each of the 10 taxable years
11 following the year of the loss if it is incurred by a corporation that
12 was either of the following:

13 (A) Under the jurisdiction of the court in a Title 11 or similar
14 case at any time prior to January 1, 1994. The loss carryover
15 provided in the preceding sentence shall not apply to any loss
16 incurred in an income year after the taxable year during which the
17 corporation is no longer under the jurisdiction of the court in a
18 Title 11 or similar case.

19 (B) In receipt of assets acquired in a transaction that qualifies
20 as a tax-free reorganization under Section 368(a)(1)(G) of the
21 Internal Revenue Code.

22 (f) For purposes of this section:

23 (1) "Eligible small business" means any trade or business that
24 has gross receipts, less returns and allowances, of less than one
25 million dollars (\$1,000,000) during the income year.

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

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

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

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

37 (1) In any case where a taxpayer purchases or otherwise acquires
38 all or any portion of the assets of an existing trade or business
39 (irrespective of the form of entity) that is doing business in this
40 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

1 shall be disregarded and the determination of whether the trade or
2 business activity is a new business shall be made by treating the
3 taxpayer as having purchased or otherwise acquired all or any
4 portion of the assets of an existing trade or business under the rules
5 of paragraph (1) of this subdivision.

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

9 (6) “Acquire” shall include any transfer, whether or not for
10 consideration.

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

19 (B) For purposes of this paragraph:

20 (i) “Biopharmaceutical activities” means those activities that
21 use organisms or materials derived from organisms, and their
22 cellular, subcellular, or molecular components, in order to provide
23 pharmaceutical products for human or animal therapeutics and
24 diagnostics. Biopharmaceutical activities make use of living
25 organisms to make commercial products, as opposed to
26 pharmaceutical activities that make use of chemical compounds
27 to produce commercial products.

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

33 (h) For purposes of corporations whose net income is determined
34 under Chapter 17 (commencing with Section 25101), Section
35 25108 shall apply to each of the following:

36 (1) The amount of net operating loss incurred in any taxable
37 year that may be carried forward to another taxable year.

38 (2) The amount of any loss carry forward that may be deducted
39 in any taxable year.

1 (i) The provisions of Section 172(b)(1)(D) of the Internal
2 Revenue Code, relating to bad debt losses of commercial banks,
3 shall not be applicable.

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

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

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

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

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

22 SEC. 70. Section 24462 is added to the Revenue and Taxation
23 Code, to read:

24 24462. (a) Section 355(g) of the Internal Revenue Code,
25 relating to section not to apply to distributions involving
26 disqualified investment corporations, is modified by substituting
27 the phrase “January 1, 2009,” for “the date of the enactment of
28 this subsection” in Section 355(g)(2)(A)(i) of the Internal Revenue
29 Code.

30 (b) The provisions of Section 4(d)(2) of the Tax Technical
31 Corrections Act of 2007 (Public Law 110-172), relating to
32 modification of active business definition under Section 355, shall
33 apply and are modified by substituting “January 1, 2009” for “May
34 17, 2006”.

35 (c) The provisions of Section 507(b) of the Tax Increase
36 Prevention and Reconciliation Act of 2005 (Public Law 109-222),
37 relating to effective dates, shall apply and are modified as follows:

38 (1) The phrase “January 1, 2009,” shall be substituted for “the
39 date of the enactment of this Act” in Section 507(b)(1) of the Tax

1 Increase Prevention and Reconciliation Act of 2005 (Public Law
2 109-222).

3 (2) The phrase “January 1, 2009,” shall be substituted for “such
4 date of enactment” in Section 507(b)(2)(A) of the Tax Increase
5 Prevention and Reconciliation Act of 2005 (Public Law 109-222).

6 (d) This section shall apply as of the dates specified in this
7 section, without regard to taxable year.

8 SEC. 70.5. Section 24831.3 is added to the Revenue and
9 Taxation Code, to read:

10 24831.3. The amendments made to Section 613A(d)(4) of the
11 Internal Revenue Code, relating to certain refiners excluded, by
12 Section 1328 of the Energy Tax Incentives Act of 2005 (Title XIII
13 of the Energy Policy Act of 2005, Public Law 109-58) shall not
14 apply.

15 SEC. 71. Section 24941.5 is added to the Revenue and Taxation
16 Code, to read:

17 24941.5. Section 1031(i) of the Internal Revenue Code, relating
18 to special rules for mutual ditch, reservoir, or irrigation company
19 stock, shall not apply.

20 SEC. 72. Section 24949.5 of the Revenue and Taxation Code
21 is amended to read:

22 24949.5. (a) For purposes of Sections 24943 through 24946,
23 Section 1033(h) of the Internal Revenue Code, relating to special
24 rules for property damaged by federally declared disasters, shall
25 apply, except as otherwise provided.

26 (b) For purposes of Sections 24943 through 24946, Section
27 1033(i) of the Internal Revenue Code, relating to replacement
28 property must be acquired from unrelated person in certain cases,
29 shall apply, except as otherwise provided.

30 (c) For purposes of Sections 24943 through 24946, Section
31 1033(j) of the Internal Revenue Code, relating to sales or exchanges
32 to implement microwave relocation policy, shall apply, except as
33 otherwise provided.

34 (d) For purposes of Sections 24943 to 24946, inclusive, Section
35 1033(k) of the Internal Revenue Code, relating to sales or
36 exchanges under certain hazard mitigation programs, shall apply,
37 except as otherwise provided.

38 SEC. 73. Section 24950.5 is added to the Revenue and Taxation
39 Code, to read:

1 24950.5. The amendments made by Section 844 of the Pension
2 Protection Act of 2006 (Public Law 109-280) to Section 1035 of
3 the Internal Revenue Code shall not apply.

4 SEC. 74. Section 24981 of the Revenue and Taxation Code is
5 repealed.

6 SEC. 75. Section 24988 of the Revenue and Taxation Code is
7 repealed.

8 SEC. 76. Section 24990.2 is added to the Revenue and Taxation
9 Code, to read:

10 24990.2. Section 301 of Title III of Division A of the
11 Emergency Economic Stabilization Act of 2008 (Public Law
12 110-343), relating to gain or loss from sale of certain preferred
13 stock, shall not apply.

14 SEC. 77. Section 24990.6 of the Revenue and Taxation Code
15 is amended to read:

16 24990.6. (a) Section 1245(a)(2)(C) of the Internal Revenue
17 Code, relating to certain deductions treated as amortization, is
18 modified to also refer to Sections 24356.2, 24356.3, and 24356.4.

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

22 SEC. 78. Section 24990.8 is added to the Revenue and Taxation
23 Code, to read:

24 24990.8. For taxable years beginning on or after January 1,
25 2009, specific reference to Sections 1223(4) to (16), inclusive, of
26 the Internal Revenue Code in this part shall instead be treated as
27 a reference to Sections 1223(3) to (15), inclusive, of the Internal
28 Revenue Code, respectively.

29 SEC. 79. Section 24993 of the Revenue and Taxation Code is
30 amended to read:

31 24993. (a) Section 7872 of the Internal Revenue Code, relating
32 to the treatment of loans with below market interest rates, shall
33 apply, except as otherwise provided.

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

38 SEC. 80. Sections 1 to 11, inclusive, of the Tax Technical
39 Corrections Act of 2007 (Public Law 110-172), Section 426 of
40 Division A of the Tax Reform and Health Care Act of 2006 (Public

1 Law 109-432), Section 1 of the Disaster Mitigation Payments Act
2 of 2005 (Public Law 109-7), and Sections 402 to 413, inclusive,
3 of the Gulf Opportunity Zone Act of 2005 (Subtitle A of Title IV
4 of Public Law 109-135) enacted numerous technical corrections
5 and clarifications to provisions of the Internal Revenue Code,
6 including technical corrections and clarifications relating to the
7 Tax Relief and Health Care Act of 2006 (Public Law ~~109-143~~)
8 109-432), Title XII of the Pension Protection Act of 2006 (Public
9 Law 109-280), the Tax Increase Prevention and Reconciliation
10 Act of 2005 (Public Law 109-222), the Energy Tax Incentives Act
11 (Title XIII of the Energy Policy Act of 2005) (Public Law 109-58),
12 the Working Families Tax Relief Act of 2004 (Public Law
13 108-311), the American Jobs Creation Act of 2004 (Public Law
14 108-357), the Jobs and Growth Tax Relief Reconciliation Act of
15 2003 (Public Law 108-27), the Victims of Terrorism Tax Relief
16 Act of 2001 (Public Law 107-134), the Economic Growth and Tax
17 Relief Reconciliation Act of 2001 (Public Law 107-16), the Tax
18 Relief Extension Act of 1999 (Title V of the Ticket to Work and
19 Work Incentives Improvement Act of 1999) (Public Law 106-170),
20 the Internal Revenue Service Restructuring and Reform Act of
21 1998 (Public Law 105-206), the Taxpayer Relief Act of 1997
22 (Public Law 105-34), the Omnibus Budget Reconciliation Act of
23 1990 (Public Law 101-508), the Omnibus Budget Reconciliation
24 Act of 1987 (Revenue Act of 1987) (Public Law 100-203), some
25 of which are incorporated by reference into Part 10 (commencing
26 with Section 17001), Part 10.2 (commencing with Section 18401),
27 and Part 11 (commencing with Section 23001) of Division 2 of
28 the Revenue and Taxation Code. Unless otherwise specifically
29 provided, the technical corrections and clarifications described in
30 the preceding sentence, to the extent that they correct or clarify
31 provisions that are incorporated by specific reference into the
32 Revenue and Taxation Code, are declaratory of existing law and
33 shall be applied in the same manner and for the same periods as
34 specified in the Disaster Mitigation Payments Act of 2005 (Public
35 Law 109-7), the Gulf Opportunity Zone Act of 2005 (Subtitle A
36 of Title IV of Public Law 109-135), the Tax Reform and Health
37 Care Act of 2006 (Public Law 109-432), the Tax Technical
38 Corrections Act of 2007 (Public Law 110-172), or if later, the
39 specified date of incorporation.

SEC. 81. (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. 82. 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. 83. (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

1 Act” in Section 1220(c)(1) of the Pension Protection Act of 2006
2 (Public Law 109-280).

3 (2) The phrase “described in Section 23701d or Section 23701f”
4 shall be substituted for “described in paragraph (3) or (4) of Section
5 501(c) of the Internal Revenue Code of 1986” in Section 1220(c)(2)
6 of the Pension Protection Act of 2006 (Public Law 109-280).

7 (3) The phrase “January 1, 2009” shall be substituted for “the
8 date of the enactment of this Act” in each place that it appears in
9 Section 1220(c)(2) of the Pension Protection Act of 2006 (Public
10 Law 109-280).

11 SEC. 84. The Legislature finds and declares that the
12 amendments made by this act to Section 17952.5 of the Revenue
13 and Taxation Code make that code compatible with the technical
14 changes made by Public Law 109-264 to Section 114 of Title 4 of
15 the United States Code, relating to limitation on state income
16 taxation of certain pension income, and do not constitute a change
17 in, but are declaratory of, existing law and shall be applied in the
18 same manner and for the same periods as specified in Section 1
19 of Public Law 109-264. The Legislature finds and declares that
20 this act and the retroactive application contained in the preceding
21 sentence are necessary to clarify that the Legislature intended for
22 Chapter 506 of the Statutes of 1996 to apply to certain retired
23 partners. Additionally, the Legislature finds and declares that this
24 act serves a public purpose by ensuring the fair and consistent
25 application of California law to “qualified retirement income”
26 received on or after January 1, 1996, for any part of the taxable
27 year during which the taxpayer was not a resident of this state and,
28 thereby, preventing unnecessary litigation to determine the
29 taxability of that “qualified retirement income.”

30 SEC. 85. (a) The Legislature finds and declares that the
31 amendments made by this act to Section 24949.5 of the Revenue
32 and Taxation Code, the addition of Section 24329 to the Revenue
33 and Taxation Code, and the incorporation by reference of the
34 amendments made by Section 1 of the Disaster Mitigation
35 Payments Act of 2005 (Public Law 109-7), which amended
36 Sections 139 and 1033 of the Internal Revenue Code, in the
37 Revenue and Taxation Code, conform California law to the
38 amendments made to Sections 139 and 1033 of the Internal
39 Revenue Code by Section 1 of the Disaster Mitigation Payments
40 Act of 2005 (Public Law 109-7) and do not constitute a change

1 in, but are declaratory of, existing law and shall be applied in the
2 same manner and for the same periods as specified in Section 1
3 of the Disaster Mitigation Payments Act of 2005 (Public Law
4 109-7). The Legislature finds and declares that this act and the
5 retroactive application contained in the preceding sentence are
6 necessary to clarify that, when the Legislature enacted the exclusion
7 from gross income for disaster relief payments in Chapter 807 of
8 the Statutes of 2002, it intended to exclude disaster mitigation
9 payments from gross income and treat sales and exchanges under
10 certain hazard mitigation programs as involuntary conversions.

11 (b) Additionally, the Legislature finds and declares that this act
12 serves a public purpose by ensuring the fair and consistent
13 application of California law to all property owners, many of whom
14 are low-income people, that have taken or will take necessary
15 preventive measures to mitigate risk of harm and property damage
16 from disasters, thereby saving lives and reducing the need for
17 future taxpayer assistance.

18 SEC. 86. The Legislature finds and declares that the application
19 of Section 17132.8 without regard to fiscal year serves a public
20 purpose and is necessary to provide equitable treatment to residents
21 of this state who were affected by the events at Virginia
22 Polytechnic Institute and State University on April 6, 2007.

23 SEC. 87. (a) *Section 4.5 of this bill incorporates amendments*
24 *to Section 17024.5 of the Revenue and Taxation Code proposed*
25 *by both this bill and AB 692. It shall only become operative if (1)*
26 *both bills are enacted and become effective on or before January*
27 *1, 2010, but this bill becomes operative first, (2) each bill amends*
28 *Section 17024.5 of the Revenue and Taxation Code, and (3) this*
29 *bill is enacted after AB 692, in which case Section 17024.5 of the*
30 *Revenue and Taxation Code, as amended by Section 4 of this bill,*
31 *shall remain operative only until the operative date of AB 692, at*
32 *which time Section 4.5 of this bill shall become operative.*

33 (b) *Section 39.5 of this bill incorporates amendments to Section*
34 *19116 of the Revenue and Taxation Code proposed by both this*
35 *bill and SB 401. It shall only become operative if (1) both bills are*
36 *enacted and become effective on or before January 1, 2010, but*
37 *this bill becomes operative first, (2) each bill amends Section 19116*
38 *of the Revenue and Taxation Code, and (3) this bill is enacted after*
39 *SB 401, in which case Section 19116 of the Revenue and Taxation*
40 *Code, as amended by Section 39 of this bill, shall remain operative*

1 only until the operative date of SB 401, at which time Section 39.5
2 of this bill shall become operative.

3 (c) Section 53.5 of this bill incorporates amendments to Section
4 23051.5 of the Revenue and Taxation Code proposed by both this
5 bill and AB 692. It shall only become operative if (1) both bills
6 are enacted and become effective on or before January 1, 2010,
7 but this bill becomes operative first, (2) each bill amends Section
8 23051.5 of the Revenue and Taxation Code, and (3) this bill is
9 enacted after AB 692, in which case Section 23051.5 of the Revenue
10 and Taxation Code, as amended by Section 53 of this bill, shall
11 remain operative only until the operative date of AB 692, at which
12 time Section 53.5 of this bill shall become operative.

13 ~~SEC. 87.~~

14 SEC. 88. This act provides for a tax levy within the meaning
15 of Article IV of the Constitution and shall go into immediate effect.