

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2676**

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**Introduced by Assembly Member ~~Bass~~ Ma**

February 19, 2010

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An act to amend Sections 6452.1, 6453, 6487.3, 6829, and 18510 of, *and to add Sections 6225.1, 7984, 9034, 43448.6, 45609.6, 46465, 55210, and 60494 to, the Revenue and Taxation Code, and to amend Section 1088.5 of the Unemployment Insurance Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2676, as amended, ~~Bass~~ Ma. ~~Sales and use taxes: use tax: income tax return. State Board of Equalization: administration.~~

The Sales and Use Tax Law imposes a sales tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. Use tax is imposed on the purchaser, who is liable for the tax and must pay the tax to the State Board of Equalization, unless he or she has paid the use tax to a retailer registered to collect the use tax.

Existing law requires retailers, as specified, to register with, and to obtain a seller's permit or certification of registration-use tax from, the State Board of Equalization, ~~and also requires specified businesses to register with the board and to annually report their use tax owed for the previous calendar year.~~ For taxable years beginning on January 1, 2003, and ending on December 31, 2009, persons not otherwise registered

with the board *may* make an irrevocable election to report qualified use tax, as defined, on that person's income tax return. The Franchise Tax Board is required to revise the income tax returns to allow a person to report and remit qualified use taxes to it and to remit the qualified use taxes collected to the board.

This bill would continue the authorization for an eligible person to make an irrevocable election to report qualified use tax, as defined, on that person's income tax return, for taxable years ending after December 31, 2009, and would require the Franchise Tax Board to continue to allow a person to report and remit qualified use taxes to it and to remit the qualified use taxes collected to the board.

*The Sales and Use Tax Law also requires a person having annual gross receipts from business operations of \$100,000 or more, who is not registered with the board, to register with the board and annually report and pay use tax, other than with respect to a purchase of a vehicle, vessel, or aircraft.*

*This bill would require a person not registered with the board, who regularly incurs a specified use tax liability annually, other than a liability with respect to the purchase of a vehicle, vessel, or aircraft, to also register with the board and annually report and pay use tax.*

*The Sales and Use Tax Law imposes personal liability for unpaid taxes, interest, and penalties on specified responsible persons who willfully fail to pay these amounts, upon the termination, dissolution, or abandonment of business of the corporation or other business entity, with the sum due to be collected by deficiency determination and collection in the manner provided under this law.*

*This bill would also impose personal liability under the Sales and Use Tax Law for unpaid taxes, interest, and penalties on specified responsible persons who fail to pay these amounts during the time the rights, powers, and responsibilities of a closely held corporation or closely held limited liability company are suspended, as specified.*

*This bill would additionally impose responsible person liability for unpaid taxes or fees, interest, and penalties on specified responsible persons who willfully fail to pay these amounts, upon the termination, dissolution, or abandonment of business of the corporation or other business entity, or who fail to pay these amounts during the time the rights, powers, and responsibilities of a closely held corporation or closely held limited liability company are suspended, as specified, under the Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill*

*Response, Prevention, and Administration Fees Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law.*

*Existing law provides for the payment of unemployment compensation benefits to eligible unemployed individuals, and requires the Employment Development Department to implement and administer the unemployment insurance system in the state. Existing law requires each employer to file with the department a report of wages paid to his or her workers and to furnish to each employee a written statement showing, among other things, the total amount of wages, and total wages subject to personal income tax, as provided. Existing law also requires each employer to file with the department specified information on new employees, and authorizes the use of that information for specified purposes including, among other things, providing employer or employee information to the Franchise Tax Board for the purpose of tax enforcement.*

*This bill would also authorize the Employment Development Department to provide employer or employee information to the State Board of Equalization with information for tax or fee enforcement.*

*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 6225.1 is added to the Revenue and
- 2     Taxation Code, to read:
- 3     6225.1. (a) Notwithstanding Section 6225, every person who
- 4     regularly incurs a use tax liability by purchasing tangible personal
- 5     property from a retailer for storage, use, or other consumption in
- 6     this state, which is stored, used, or otherwise consumed in this
- 7     state, shall register with the board on a form prescribed by the
- 8     board and shall set forth the name and location of the person, and
- 9     other information as the board may require.
- 10    (b) (1) Article 1 (commencing with Section 6451) of Chapter
- 11    5 of this part shall apply to a person who regularly incurs a use
- 12    tax liability, except that a return showing the total sales price of
- 13    the tangible personal property, purchased by the person who
- 14    regularly incurs use tax, the storage, use, or other consumption
- 15    of which became subject to the use tax during the calendar year,
- 16    and which was not paid to a retailer required to collect the use
- 17    tax or which was not paid to a retailer the person who regularly

1 incurred the use tax reasonably believed was required to collect  
2 the tax, shall be filed, together with a remittance of the amount of  
3 tax due, with the board on or before April 15 of the next succeeding  
4 calendar year.

5 (2) The first returns due under this section shall be filed on or  
6 before April 15, 2011.

7 (c) "Regularly" means a person incurs or has incurred one  
8 thousand dollars (\$1,000) or more in use tax liability each calendar  
9 year for a period of at least three consecutive calendar years.

10 (d) This section shall not apply to a person who meets any of  
11 the following conditions:

12 (1) The person is required to hold a seller's permit pursuant to  
13 this part.

14 (2) The person is required to be registered pursuant to Section  
15 6226.

16 (3) The person is a holder of a use tax direct payment permit  
17 as described in Section 7051.3.

18 (4) The person is otherwise registered with the board to report  
19 use tax.

20 (e) This section shall not apply to the purchase of a vehicle,  
21 vessel, or aircraft as defined in Article 1 (commencing with Section  
22 6271) of Chapter 3.5 of this part.

23 **SECTION 1.**

24 **SEC. 2.** Section 6452.1 of the Revenue and Taxation Code is  
25 amended to read:

26 6452.1. (a) Notwithstanding Section 6451, every person that  
27 purchases tangible personal property, the storage, use, or other  
28 consumption of which is subject to qualified use tax, as defined  
29 in subdivision (d), that is otherwise required to report and remit  
30 that tax pursuant to this part, may elect to report and remit qualified  
31 use tax on an acceptable tax return.

32 (b) (1) A person that reports qualified use tax on an acceptable  
33 tax return is deemed to have made the election authorized by this  
34 section.

35 (2) (A) In the case of a married individual filing a separate  
36 California personal income tax return, an election may be made  
37 to report either one-half of the qualified use tax or the entire  
38 qualified use tax on his or her separate California personal income  
39 tax return.

1 (B) If an individual elects to report one-half of the qualified use  
2 tax, that election will not be binding with respect to the remaining  
3 one-half of the qualified use tax owed by that individual and that  
4 individual's spouse.

5 (c) An election to report qualified use tax on an acceptable tax  
6 return shall be irrevocable. An acceptable tax return that contains  
7 use tax shall be considered a tax return for purposes of this part.

8 (d) For purposes of this section:

9 (1) "Acceptable tax return" means a timely filed original return  
10 that is filed pursuant to Article 1 (commencing with Section  
11 18501), Article 2 (commencing with Section 18601), Section  
12 18633, Section 18633.5 of Chapter 2 (commencing with Section  
13 18501) of Part 10.2, or Article 3 (commencing with Section 23771)  
14 of Chapter 4 of Part 11.

15 (2) (A) Except as provided in subparagraph (B), "qualified use  
16 tax" means the use tax imposed under this part, Section 35 of  
17 Article XIII of the California Constitution, the Bradley-Burns  
18 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
19 with Section 7200)), or in accordance with the Transactions and  
20 Use Tax Law (Part 1.6 (commencing with Section 7251)) that has  
21 not been paid to a retailer holding a seller's permit or certificate  
22 of registration-use tax.

23 (B) "Qualified use tax" does not include:

24 (i) Use tax that applies to a mobilehome or a commercial coach  
25 that is required to be registered annually pursuant to the Health  
26 and Safety Code or use tax that applies to a vehicle subject to  
27 identification under Division 16.5 (commencing with Section  
28 38000) of the Vehicle Code, or to a vehicle that qualifies under  
29 the permanent trailer identification plate program pursuant to  
30 subdivision (a) of Section 5014.1 of the Vehicle Code.

31 (ii) Use tax imposed on a vehicle, vessel, or aircraft.

32 (iii) Use tax imposed on a lessee of tangible personal property.

33 (e) If a person elects to report qualified use tax on an acceptable  
34 tax return, that person shall comply with all of the following:

35 (1) The qualified use tax shall be reported on and remitted with  
36 an acceptable tax return.

37 (2) The qualified use tax shall be reported on and remitted with  
38 an acceptable tax return that is required to be filed for the taxable  
39 year in which the liability for the qualified use tax was incurred.

(f) (1) The penalties and interest imposed under this part, the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) shall apply to use tax reported as qualified use tax on an acceptable return.

(2) Any claims for refunds or credits of any use tax reported as qualified use tax on an acceptable tax return shall be made in accordance with Chapter 7 (commencing with Section 6901) of this part.

(3) Qualified use tax shall be considered to be timely reported and remitted for purposes of this part, the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), if the qualified use tax is timely reported on and remitted with an acceptable tax return in accordance with the provisions of this section.

(g) Notwithstanding a person's election to remit and to report qualified use tax on an acceptable tax return, the State Board of Equalization is not precluded from making any determinations for understatements of qualified use tax against that person in accordance with Part 5 (commencing with Section 6451).

(h) Any payments and credits shown on the return, together with any other credits associated with that person's account, of a person that elects to report qualified use tax on an acceptable tax return shall be applied in the following order:

(1) Taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), including penalties and interest, if any, imposed under Part 10.2 (commencing with Section 18401).

(2) Qualified use tax reported on the acceptable tax return in accordance with this section.

(i) (1) This section does not apply to a person who is otherwise required to hold a seller's permit or to register with the State Board of Equalization pursuant to Part 1 (commencing with Section 6001) of this division.

(2) This section applies to purchases of tangible personal property made on or after January 1, 2003, in taxable years beginning on or after January 1, 2003.

~~SEC. 2.~~

*SEC. 3.* Section 6453 of the Revenue and Taxation Code is amended to read:

6453. For purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period and, in the case of a person who is liable for the sales tax and is not a seller, the gross receipts of such person for the period in which the liability was incurred. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him or her, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, except as provided in Section 6452.1, the return shall show the total sales price of the property purchased by him or her, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return and any other information which the board deems necessary for the proper administration of this part.

~~SEC. 3.~~

*SEC. 4.* Section 6487.3 of the Revenue and Taxation Code is amended to read:

6487.3. (a) (1) For persons that elect to report qualified use tax in accordance with Section 6452.1, except in the case of fraud, intent to avoid this part or authorized rules and regulations issued by the board, or the gross understatement of qualified use taxes, every notice of a deficiency determination with respect to the qualified use tax shall be mailed within three years after the last day for which an acceptable tax return is due or filed, whichever occurs later.

(2) In the case of a gross understatement of qualified use tax, every notice of a deficiency determination with respect to the qualified use tax shall be mailed within six years after the last day for which an acceptable tax return is due or filed, whichever occurs later.

(3) For purposes of this subdivision a “gross understatement of qualified used tax” is a deficiency that is in excess of 25 percent of the amount of qualified use tax reported on a person’s acceptable tax return. In the case of married individuals filing separate California personal income tax returns, the total amount of qualified

1 use tax reported will be considered in determining whether there  
2 is a gross understatement of qualified use tax.

3 (4) For purposes of this section “acceptable tax return” means  
4 a timely filed original return that is filed pursuant to Article 1  
5 (commencing with Section 18501), Article 2 (commencing with  
6 Section 18601), Section 18633, Section 18633.5 of Chapter 2  
7 (commencing with Section 18501) of Part 10.2, or Article 3  
8 (commencing with Section 23771) of Chapter 4 of Part 11.

9 (b) This section applies to reporting of purchases of tangible  
10 personal property made on or after January 1, 2003, in taxable  
11 years beginning on or after January 1, 2003.

12 *SEC. 5. Section 6829 of the Revenue and Taxation Code is*  
13 *amended to read:*

14 6829. (a) Upon the termination, dissolution, or abandonment  
15 of the business of a corporation, partnership, limited partnership,  
16 limited liability partnership, or limited liability company, any  
17 officer, member, manager, partner, or other person having control  
18 or supervision of, or who is charged with the responsibility for the  
19 filing of returns or the payment of tax, or who is under a duty to  
20 act for the corporation, partnership, limited partnership, limited  
21 liability partnership, or limited liability company in complying  
22 with any requirement of this part, shall, notwithstanding any  
23 provision in the Corporations Code to the contrary, be personally  
24 liable for any unpaid taxes and interest and penalties on those  
25 taxes, if the officer, member, manager, partner, or other person  
26 willfully fails to pay or to cause to be paid any taxes due from the  
27 corporation, partnership, limited partnership, limited liability  
28 partnership, or limited liability company pursuant to this part.

29 (b) The officer, member, manager, partner, or other person shall  
30 be liable only for taxes that became due during the period he or  
31 she had the control, supervision, responsibility, or duty to act for  
32 the corporation, partnership, limited partnership, limited liability  
33 partnership, or limited liability company described in subdivision  
34 (a), plus interest and penalties on those taxes.

35 (c) Personal liability may be imposed pursuant to this section,  
36 only if the board can establish that the corporation, partnership,  
37 limited partnership, limited liability partnership, or limited liability  
38 company had included tax reimbursement in the selling price of,  
39 or added tax reimbursement to the selling price of, tangible  
40 personal property sold in the conduct of its business, or when it

1 can be established that the corporation, partnership, limited  
2 partnership, limited liability partnership, or limited liability  
3 company consumed tangible personal property and failed to pay  
4 the tax to the seller or has included use tax on the billing and  
5 collected the use tax or has issued a receipt for the use tax and  
6 failed to report and pay use tax.

7 *(d) (1) Upon suspension of a closely held corporation or closely*  
8 *held limited liability company, a corporate officer, shareholder,*  
9 *or member with control over operations or management of the*  
10 *closely held corporation or closely held limited liability company*  
11 *during a time in which the corporation's or limited liability*  
12 *company's powers, rights, and privileges are suspended or any*  
13 *responsible person who fails to pay or to cause to be paid any*  
14 *taxes due from the closely held corporation or closely held limited*  
15 *liability company during a time in which the corporation's or*  
16 *limited liability company's powers, rights, and privileges are*  
17 *suspended shall, notwithstanding any provision in the Corporations*  
18 *Code to the contrary, be personally liable under the circumstances*  
19 *set forth below for any unpaid sales or use tax liability of that*  
20 *suspended corporation or limited liability company incurred during*  
21 *the period of that suspension. The corporate officer, shareholder,*  
22 *member, or responsible person shall be liable for the unpaid tax,*  
23 *and interest and penalties on those taxes not paid, regardless of*  
24 *the basis for the suspension of the corporation's or limited liability*  
25 *company's powers, rights, and privileges.*

26 *(2) Notwithstanding paragraph (1), if the closely held*  
27 *corporation or closely held limited liability company can establish*  
28 *that it has taken all actions necessary to qualify for revival within*  
29 *60 days from the date the suspension was imposed, no corporate*  
30 *officer, shareholder, member, or responsible person shall be held*  
31 *to be personally liable for any unpaid tax, interest, or penalty*  
32 *incurred by the corporation or limited liability company during*  
33 *that period of suspension.*

34 *(e) Personal liability under subdivision (d) applies only when*  
35 *the board establishes that, during the period of suspension, the*  
36 *corporation or limited liability company did any of the following:*

37 *(1) Sold tangible personal property in the conduct of its business*  
38 *and collected sales tax reimbursement on the selling price (whether*  
39 *separately itemized or included in the selling price) and failed to*  
40 *remit such tax when due.*

1     (2) *Collected use tax and failed to report and pay the tax.*

2     (3) *Consumed tangible personal property and failed to pay the*  
3 *applicable tax to the seller or the board.*

4     (f) *For purposes of subdivisions (d) and (e), all of the following*  
5 *definitions shall apply:*

6     (1) *“Closely held corporation” means a corporation in which*  
7 *ownership is concentrated in one individual, one family, or a small*  
8 *number of individuals and the majority stockholders manage the*  
9 *business or have delegated or assigned the management to the*  
10 *corporate officers.*

11     (2) *“Closely held limited liability company” means a limited*  
12 *liability company in which ownership is concentrated in one*  
13 *individual, one family, or a small number of individuals and the*  
14 *majority members manage the business or have delegated or*  
15 *assigned the management to the company officers.*

16     (3) *“Control over operations or management” means the power*  
17 *to manage or affect day-to-day operations of the business. For the*  
18 *purposes of subdivisions (d) and (e), it is rebuttably presumed that*  
19 *a corporate or company officer has control over operations and*  
20 *management of the closely held corporation or closely held limited*  
21 *liability company, respectively.*

22     (4) (i) *“Period of suspension” means that period of time,*  
23 *beginning on the date the suspension is imposed, during which a*  
24 *closely held corporation or closely held limited liability company*  
25 *was suspended for any reason.*

26     (ii) *Notwithstanding clause (i), “period of suspension” does*  
27 *not mean a period of time of 60 consecutive days or less, beginning*  
28 *on the day the suspension was imposed, during which a closely*  
29 *held corporation or closely held limited liability company was*  
30 *suspended, but only if the corporation or limited liability company*  
31 *has taken all actions necessary to qualify for revival on or before*  
32 *the 60th day.*

33     (5) *“Responsible person” means any officer, shareholder, or*  
34 *member who is charged with the responsibility for the filing of*  
35 *returns or the payment of tax or who has a duty to act for the*  
36 *closely held corporation or closely held limited liability company*  
37 *in complying with any provision of this part, and who derives a*  
38 *direct financial benefit from the failure to pay the tax liability.*

39     (g) *A suspended corporation or limited liability company shall*  
40 *remain liable for the unpaid tax, interest, and penalties incurred*

during the period in which its corporate or limited liability company powers, rights, and privileges were suspended without regard to any personal liability determined under subdivisions (d), (e), and (f). Payments made pursuant to subdivisions (d), (e), and (f) shall be applied to the liability of the corporation or limited liability company.

~~(d)~~

(h) For purposes of ~~this section~~ subdivisions (a), (b), and (c), “willfully fails to pay or to cause to be paid” means that the failure was the result of an intentional, conscious, and voluntary course of action.

(e)

(i) Except as provided in subdivision ~~(f)~~ (j), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701).

~~(f)~~

(j) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the board obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, *or of the suspension of the closely held corporation or closely held limited liability company*, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned *or in which the closely held corporation or closely held limited liability company was suspended*, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the board, *or if the Secretary of State held limited liability company that it is suspended*, this filing shall not constitute actual knowledge by the board under this section.

(k) *Notwithstanding subdivision (j), when the board mails acknowledgment to a closely held corporation or closely held*

1 limited liability company that the closely held corporation or  
2 closely held limited liability company has been suspended and the  
3 acknowledgment is mailed within three years of the date on which  
4 the board obtained actual knowledge as described in subdivision  
5 (j) of the suspension of the closely held corporation or closely held  
6 limited liability company, a notice of deficiency determination  
7 under this section shall be mailed, at the latest, within three years  
8 after the last day of the calendar month following the quarterly  
9 period following the revival of that closely held corporation or  
10 closely held limited liability company.

11 SEC. 6. Section 7984 is added to the Revenue and Taxation  
12 Code, to read:

13 7984. (a) Upon the termination, dissolution, or abandonment  
14 of the business of a corporation, partnership, limited partnership,  
15 limited liability partnership, or limited liability company, any  
16 officer, member, manager, partner, or other person having control  
17 or supervision of, or who is charged with the responsibility for the  
18 filing of returns or the payment of tax under this part, or who is  
19 under a duty to act for the corporation, partnership, limited  
20 partnership, limited liability partnership, or limited liability  
21 company in complying with any requirement of this part, shall,  
22 notwithstanding any provision in the Corporations Code to the  
23 contrary, be personally liable for any unpaid taxes and interest  
24 and penalties on those taxes, if the officer, member, manager,  
25 partner, or other person willfully fails to pay or to cause to be  
26 paid any taxes due from the corporation, partnership, limited  
27 partnership, limited liability partnership, or limited liability  
28 company pursuant to this part.

29 (b) The officer, member, manager, partner, or other person  
30 shall be liable only for taxes that became due during the period  
31 he or she had the control, supervision, responsibility, or duty to  
32 act for the corporation, partnership, limited partnership, limited  
33 liability partnership, or limited liability company described in  
34 subdivision (a), plus interest and penalties on those taxes.

35 (c) Personal liability may be imposed pursuant to this section,  
36 only if the board can establish that the corporation, partnership,  
37 limited partnership, limited liability partnership, or limited liability  
38 company had included the tax in the selling price of, or added the  
39 tax to the selling price of, motor vehicle fuel or aircraft jet fuel  
40 sold in the conduct of its business.

(d) (1) Upon suspension of a closely held corporation or closely held limited liability company, a corporate officer, shareholder, or member with control over operations or management of the closely held corporation or closely held limited liability company during a time in which the corporation's or limited liability company's powers, rights, and privileges are suspended or any responsible person who fails to pay or to cause to be paid any taxes due from the closely held corporation or closely held limited liability company during a time in which the corporation's or limited liability company's powers, rights, and privileges are suspended shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable under the circumstances set forth below for any unpaid tax liability of that suspended corporation or limited liability company incurred during the period of that suspension. The corporate officer, shareholder, member, or responsible person shall be liable for the unpaid tax, and interest and penalties on those taxes not paid, regardless of the basis for the suspension of the corporation's or limited liability company's powers, rights, and privileges.

(2) Notwithstanding paragraph (1), if the closely held corporation or closely held limited liability company can establish that it has taken all actions necessary to qualify for revival within 60 days from the date the suspension was imposed, no corporate officer, shareholder, member, or responsible person shall be held to be personally liable for any unpaid tax, interest, or penalty incurred by the corporation or limited liability company during that period of suspension.

(e) Personal liability under subdivision (d) applies only when the board establishes that, during the period of suspension, the closely held corporation or closely held limited liability company sold motor vehicle fuel or aircraft jet fuel in the conduct of its business and collected tax on the selling price (whether separately itemized or included in the selling price) and failed to remit such tax when due.

(f) For purposes of subdivisions (d) and (e), all of the following definitions shall apply:

(1) "Closely held corporation" means a corporation in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority stockholders manage the

1 business or have delegated or assigned the management to the  
2 corporate officers.

3 (2) “Closely held limited liability company” means a limited  
4 liability company in which ownership is concentrated in one  
5 individual, one family, or a small number of individuals and the  
6 majority members manage the business or have delegated or  
7 assigned the management to the company officers.

8 (3) “Control over operations or management” means the power  
9 to manage or affect day-to-day operations of the business. For the  
10 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
11 a corporate or company officer has control over operations and  
12 management of the closely held corporation or closely held limited  
13 liability company, respectively.

14 (4) (i) “Period of suspension” means that period of time,  
15 beginning on the date the suspension is imposed, during which a  
16 closely held corporation or closely held limited liability company  
17 was suspended for any reason.

18 (ii) Notwithstanding clause (i), “period of suspension” does  
19 not mean a period of time of 60 consecutive days or less, beginning  
20 on the day the suspension was imposed, during which a closely  
21 held corporation or closely held limited liability company was  
22 suspended, but only if the corporation or limited liability company  
23 has taken all actions necessary to qualify for revival on or before  
24 the 60th day.

25 (5) “Responsible person” means any officer, shareholder, or  
26 member who is charged with the responsibility for the filing of  
27 returns or the payment of tax or who has a duty to act for the  
28 closely held corporation or closely held limited liability company  
29 in complying with any provision of this part, and who derives a  
30 direct financial benefit from the failure to pay the tax liability.

31 (g) A suspended corporation or limited liability company shall  
32 remain liable for the unpaid tax, interest, and penalties incurred  
33 during the period in which its corporate or limited liability  
34 company powers, rights, and privileges were suspended without  
35 regard to any personal liability determined under subdivisions  
36 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
37 and (f) shall be applied to the liability of the corporation or limited  
38 liability company.

(h) For purposes of subdivisions (a), (b), and (c), “willfully fails to pay or to cause to be paid” means that the failure was the result of an intentional, conscious, and voluntary course of action.

(i) Except as provided in subdivision (j), the sum due for the liability under this section may be collected by determination and collection in the manner provided in Chapter 5 (commencing with Section 7651) and Chapter 6 (commencing with Section 7851).

(j) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the board obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or of the suspension of the closely held corporation or closely held limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned or in which the closely held corporation or closely held limited liability company was suspended, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the board, or if the Secretary of State or the Franchise Tax Board notifies a closely held corporation or closely held limited liability company that it is suspended, such filing or notice shall not constitute actual knowledge by the board under this section.

(k) Notwithstanding subdivision (j), when the board mails acknowledgment to a closely held corporation or closely held limited liability company that the closely held corporation or closely held limited liability company has been suspended and the acknowledgment is mailed within three years of the date on which the board obtained actual knowledge as described in subdivision (j) of the suspension of the closely held corporation or closely held limited liability company, a notice of deficiency determination under this section shall be mailed, at the latest, within three years after the last day of the calendar month following the quarterly

1 period following the revival of that closely held corporation or  
2 closely held limited liability company.

3 SEC. 7. Section 9034 is added to the Revenue and Taxation  
4 Code, to read:

5 9034. (a) Upon the termination, dissolution, or abandonment  
6 of the business of a corporation, partnership, limited partnership,  
7 limited liability partnership, or limited liability company, any  
8 officer, member, manager, partner, or other person having control  
9 or supervision of, or who is charged with the responsibility for the  
10 filing of returns or the payment of tax under this part, or who is  
11 under a duty to act for the corporation, partnership, limited  
12 partnership, limited liability partnership, or limited liability  
13 company in complying with any requirement of this part, shall,  
14 notwithstanding any provision in the Corporations Code to the  
15 contrary, be personally liable for any unpaid taxes and interest  
16 and penalties on those taxes, if the officer, member, manager,  
17 partner, or other person willfully fails to pay or to cause to be  
18 paid any taxes due from the corporation, partnership, limited  
19 partnership, limited liability partnership, or limited liability  
20 company pursuant to this part.

21 (b) The officer, member, manager, partner, or other person  
22 shall be liable only for taxes that became due during the period  
23 he or she had the control, supervision, responsibility, or duty to  
24 act for the corporation, partnership, limited partnership, limited  
25 liability partnership, or limited liability company described in  
26 subdivision (a), plus interest and penalties on those taxes.

27 (c) Personal liability may be imposed pursuant to this section,  
28 only if the board can establish that the corporation, partnership,  
29 limited partnership, limited liability partnership, or limited liability  
30 company had included the tax in the selling price of, or added the  
31 tax to the selling price of, fuel, as defined in Section 8604, sold in  
32 the conduct of its business.

33 (d) (1) Upon suspension of a closely held corporation or closely  
34 held limited liability company, a corporate officer, shareholder,  
35 or member with control over operations or management of the  
36 closely held corporation or closely held limited liability company  
37 during a time in which the corporation's or limited liability  
38 company's powers, rights, and privileges are suspended or any  
39 responsible person who fails to pay or to cause to be paid any  
40 taxes due from the closely held corporation or closely held limited

1 liability company during a time in which the corporation's or  
2 limited liability company's powers, rights, and privileges are  
3 suspended shall, notwithstanding any provision in the Corporations  
4 Code to the contrary, be personally liable under the circumstances  
5 set forth below for any unpaid tax liability of that suspended  
6 corporation or limited liability company incurred during the period  
7 of that suspension. The corporate officer, shareholder, member,  
8 or responsible person shall be liable for the unpaid tax, and interest  
9 and penalties on those taxes not paid, regardless of the basis for  
10 the suspension of the corporation's or limited liability company's  
11 powers, rights, and privileges.

12 (2) Notwithstanding paragraph (1), if the closely held  
13 corporation or closely held limited liability company can establish  
14 that it has taken all actions necessary to qualify for revival within  
15 60 days from the date the suspension was imposed, no corporate  
16 officer, shareholder, member, or responsible person shall be held  
17 to be personally liable for any unpaid tax, interest, or penalty  
18 incurred by the corporation or limited liability company during  
19 that period of suspension.

20 (e) Personal liability under subdivision (d) applies only when  
21 the board establishes that, during the period of suspension, the  
22 closely held corporation or closely held limited liability company  
23 sold fuel, as defined in Section 8604, in the conduct of its business  
24 and collected tax on the selling price (whether separately itemized  
25 or included in the selling price) and failed to remit such tax when  
26 due.

27 (f) For purposes of subdivisions (d) and (e), all of the following  
28 definitions shall apply:

29 (1) "Closely held corporation" means a corporation in which  
30 ownership is concentrated in one individual, one family, or a small  
31 number of individuals and the majority stockholders manage the  
32 business or have delegated or assigned the management to the  
33 corporate officers.

34 (2) "Closely held limited liability company" means a limited  
35 liability company in which ownership is concentrated in one  
36 individual, one family, or a small number of individuals and the  
37 majority members manage the business or have delegated or  
38 assigned the management to the company officers.

39 (3) "Control over operations or management" means the power  
40 to manage or affect day-to-day operations of the business. For the

1 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
2 a corporate or company officer has control over operations and  
3 management of the closely held corporation or closely held limited  
4 liability company, respectively.

5 (4) (i) “Period of suspension” means that period of time,  
6 beginning on the date the suspension is imposed, during which a  
7 closely held corporation or closely held limited liability company  
8 was suspended for any reason.

9 (ii) Notwithstanding clause (i), “period of suspension” does  
10 not mean a period of time of 60 consecutive days or less, beginning  
11 on the day the suspension was imposed, during which a closely  
12 held corporation or closely held limited liability company was  
13 suspended, but only if the corporation or limited liability company  
14 has taken all actions necessary to qualify for revival on or before  
15 the 60th day.

16 (5) “Responsible person” means any officer, shareholder, or  
17 member who is charged with the responsibility for the filing of  
18 returns or the payment of tax or who has a duty to act for the  
19 closely held corporation or closely held limited liability company  
20 in complying with any provision of this part, and who derives a  
21 direct financial benefit from the failure to pay the tax liability.

22 (g) A suspended corporation or limited liability company shall  
23 remain liable for the unpaid tax, interest, and penalties incurred  
24 during the period in which its corporate or limited liability  
25 company powers, rights, and privileges were suspended without  
26 regard to any personal liability determined under subdivisions  
27 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
28 and (f) shall be applied to the liability of the corporation or limited  
29 liability company.

30 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
31 to pay or to cause to be paid” means that the failure was the result  
32 of an intentional, conscious, and voluntary course of action.

33 (i) Except as provided in subdivision (j), the sum due for the  
34 liability under this section may be collected by determination and  
35 collection in the manner provided in Chapter 4 (commencing with  
36 Section 8751) and Chapter 5 (commencing with Section 8951).

37 (j) A notice of deficiency determination under this section shall  
38 be mailed within three years after the last day of the calendar  
39 month following the quarterly period in which the board obtains  
40 actual knowledge, through its audit or compliance activities, or

1 by written communication by the business or its representative, of  
2 the termination, dissolution, or abandonment of the business of  
3 the corporation, partnership, limited partnership, limited liability  
4 partnership, or limited liability company, or of the suspension of  
5 the closely held corporation or closely held limited liability  
6 company, or, within eight years after the last day of the calendar  
7 month following the quarterly period in which the corporation,  
8 partnership, limited partnership, limited liability partnership, or  
9 limited liability company business was terminated, dissolved, or  
10 abandoned or in which the closely held corporation or closely  
11 held limited liability company was suspended, whichever period  
12 expires earlier. If a business or its representative files a notice of  
13 termination, dissolution, or abandonment of its business with a  
14 state or local agency other than the board, or if the Secretary of  
15 State or the Franchise Tax Board notifies a closely held  
16 corporation or closely held limited liability company that it is  
17 suspended, such filing or notice shall not constitute actual  
18 knowledge by the board under this section.

19 (k) Notwithstanding subdivision (j), when the board mails  
20 acknowledgment to a closely held corporation or closely held  
21 limited liability company that the closely held corporation or  
22 closely held limited liability company has been suspended and the  
23 acknowledgment is mailed within three years of the date on which  
24 the board obtained actual knowledge as described in subdivision  
25 (j) of the suspension of the closely held corporation or closely held  
26 limited liability company, a notice of deficiency determination  
27 under this section shall be mailed, at the latest, within three years  
28 after the last day of the calendar month following the quarterly  
29 period following the revival of that closely held corporation or  
30 closely held limited liability company.

31 ~~SEC. 4.~~

32 SEC. 8. Section 18510 of the Revenue and Taxation Code is  
33 amended to read:

34 18510. (a) (1) The Franchise Tax Board shall revise the returns  
35 required to be filed pursuant to this article, Article 2 (commencing  
36 with Section 18601), Section 18633, Section 18633.5, and Article  
37 3 (commencing with Section 23771) of Chapter 4 of Part 11 in a  
38 form and manner approved by the State Board of Equalization, to  
39 allow a person to report and pay qualified use tax in accordance  
40 with the provisions of Section 6452.1.

(2) Within 10 working days of receiving from the Franchise Tax Board the returns described in paragraph (1), the State Board of Equalization shall do either of the following:

(A) Approve the form and manner of the returns and notify the Franchise Tax Board of this approval.

(B) Submit comments to the Franchise Tax Board regarding changes to the returns that shall be incorporated before the State Board of Equalization approves the form and manner of the returns.

(b) Any payments and credits shown on the return, together with any other credits associated with that person's account, of a person that elects to report qualified use tax on an acceptable tax return shall be applied in the following order:

(1) Taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001), including penalties and interest, if any, imposed under this part.

(2) Qualified use tax as reported on the acceptable tax return, in accordance with Section 6452.1.

(c) The Franchise Tax Board shall transfer the qualified use tax received pursuant to Section 6452.1, and any information the State Board of Equalization deems necessary for its administration of the use tax, to the State Board of Equalization within 60 days from the date the use tax is received or the acceptable tax return is processed, whichever is later.

(d) This section shall be operative for returns filed for taxable years on and after January 1, 2003.

*SEC. 9. Section 43448.6 is added to the Revenue and Taxation Code, to read:*

*43448.6. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of tax or fees under Sections 43051 and 43151 of this part, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part pertaining to the tax or fee imposed pursuant to Sections 43051 and 43151, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid taxes or fees and*

1 interest and penalties on those taxes or fees, if the officer, member,  
2 manager, partner, or other person willfully fails to pay or to cause  
3 to be paid any taxes or fees due from the corporation, partnership,  
4 limited partnership, limited liability partnership, or limited liability  
5 company pursuant to Sections 43051 and 43151 of this part.

6 (b) The officer, member, manager, partner, or other person  
7 shall be liable only for taxes or fees that became due during the  
8 period he or she had the control, supervision, responsibility, or  
9 duty to act for the corporation, partnership, limited partnership,  
10 limited liability partnership, or limited liability company described  
11 in subdivision (a), plus interest and penalties on those taxes or  
12 fees.

13 (c) Personal liability may be imposed pursuant to this section,  
14 only if the board can establish that the corporation, partnership,  
15 limited partnership, limited liability partnership, or limited liability  
16 company had collected the tax or fee on the hazardous waste  
17 submitted to it, pursuant to Section 25174.1 of the Health and  
18 Safety Code, in the conduct of its business.

19 (d) (1) Upon suspension of a closely held corporation or closely  
20 held limited liability company, a corporate officer, shareholder,  
21 or member with control over operations or management of the  
22 closely held corporation or closely held limited liability company  
23 during a time in which the corporation's or limited liability  
24 company's powers, rights, and privileges are suspended or any  
25 responsible person who fails to pay or to cause to be paid any  
26 taxes or fees due from the closely held corporation or closely held  
27 limited liability company during a time in which the corporation's  
28 or limited liability company's powers, rights, and privileges are  
29 suspended shall, notwithstanding any provision in the Corporations  
30 Code to the contrary, be personally liable under the circumstances  
31 set forth below for any unpaid tax or fee liability of that suspended  
32 corporation or limited liability company incurred during the period  
33 of that suspension. The corporate officer, shareholder, member,  
34 or responsible person shall be liable for the unpaid tax or fees,  
35 and interest and penalties on those taxes or fees not paid,  
36 regardless of the basis for the suspension of the corporation's or  
37 limited liability company's powers, rights, and privileges.

38 (2) Notwithstanding paragraph (1), if the closely held  
39 corporation or closely held limited liability company can establish  
40 that it has taken all actions necessary to qualify for revival within

1 60 days from the date the suspension was imposed, no corporate  
2 officer, shareholder, member, or responsible person shall be held  
3 to be personally liable for any unpaid tax or fees, interest, or  
4 penalty incurred by the corporation or limited liability company  
5 during that period of suspension.

6 (e) Personal liability under subdivision (d) applies only when  
7 the board establishes that, during the period of suspension, the  
8 closely held corporation or closely held limited liability company  
9 collected the tax or fee on the hazardous waste submitted to it,  
10 pursuant to Section 25174.1 of the Health and Safety Code, in the  
11 conduct of its business and failed to remit such tax or fee when  
12 due.

13 (f) For purposes of subdivisions (d) and (e), all of the following  
14 definitions shall apply:

15 (1) "Closely held corporation" means a corporation in which  
16 ownership is concentrated in one individual, one family, or a small  
17 number of individuals and the majority stockholders manage the  
18 business or have delegated or assigned the management to the  
19 corporate officers.

20 (2) "Closely held limited liability company" means a limited  
21 liability company in which ownership is concentrated in one  
22 individual, one family, or a small number of individuals and the  
23 majority members manage the business or have delegated or  
24 assigned the management to the company officers.

25 (3) "Control over operations or management" means the power  
26 to manage or affect day-to-day operations of the business. For the  
27 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
28 a corporate or company officer has control over operations and  
29 management of the closely held corporation or closely held limited  
30 liability company, respectively.

31 (4) (i) "Period of suspension" means that period of time,  
32 beginning on the date the suspension is imposed, during which a  
33 closely held corporation or closely held limited liability company  
34 was suspended for any reason.

35 (ii) Notwithstanding clause (i), "period of suspension" does  
36 not mean a period of time of 60 consecutive days or less, beginning  
37 on the day the suspension was imposed, during which a closely  
38 held corporation or closely held limited liability company was  
39 suspended, but only if the corporation or limited liability company

1 *has taken all actions necessary to qualify for revival on or before*  
2 *the 60th day.*

3 (5) “Responsible person” means any officer, shareholder, or  
4 member who is charged with the responsibility for the filing of  
5 returns or the payment of tax or fees or who has a duty to act for  
6 the closely held corporation or closely held limited liability  
7 company in complying with any provision of this part, and who  
8 derives a direct financial benefit from the failure to pay the tax or  
9 fee liability.

10 (g) A suspended corporation or limited liability company shall  
11 remain liable for the unpaid tax or fees, interest, and penalties  
12 incurred during the period in which its corporate or limited liability  
13 company powers, rights, and privileges were suspended without  
14 regard to any personal liability determined under subdivisions  
15 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
16 and (f) shall be applied to the liability of the corporation or limited  
17 liability company.

18 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
19 to pay or to cause to be paid” means that the failure was the result  
20 of an intentional, conscious, and voluntary course of action.

21 (i) Except as provided in subdivision (j), the sum due for the  
22 liability under this section may be collected by determination and  
23 collection in the manner provided in Chapter 3 (commencing with  
24 Section 43151) and Chapter 4 (commencing with Section 43401),  
25 as they pertain to the tax or fee imposed pursuant to Sections 43051  
26 and 43151.

27 (j) A notice of deficiency determination under this section shall  
28 be mailed within three years after the last day of the calendar  
29 month following the quarterly period in which the board obtains  
30 actual knowledge, through its audit or compliance activities, or  
31 by written communication by the business or its representative, of  
32 the termination, dissolution, or abandonment of the business of  
33 the corporation, partnership, limited partnership, limited liability  
34 partnership, or limited liability company, or of the suspension of  
35 the closely held corporation or closely held limited liability  
36 company, or, within eight years after the last day of the calendar  
37 month following the quarterly period in which the corporation,  
38 partnership, limited partnership, limited liability partnership, or  
39 limited liability company business was terminated, dissolved, or  
40 abandoned or in which the closely held corporation or closely

1 held limited liability company was suspended, whichever period  
2 expires earlier. If a business or its representative files a notice of  
3 termination, dissolution, or abandonment of its business with a  
4 state or local agency other than the board, or if the Secretary of  
5 State or the Franchise Tax Board notifies a closely held  
6 corporation or closely held limited liability company that it is  
7 suspended, such filing or notice shall not constitute actual  
8 knowledge by the board under this section.

9 (k) Notwithstanding subdivision (j), when the board mails  
10 acknowledgment to a closely held corporation or closely held  
11 limited liability company that the closely held corporation or  
12 closely held limited liability company has been suspended and the  
13 acknowledgment is mailed within three years of the date on which  
14 the board obtained actual knowledge as described in subdivision  
15 (j) of the suspension of the closely held corporation or closely held  
16 limited liability company, a notice of deficiency determination  
17 under this section shall be mailed, at the latest, within three years  
18 after the last day of the calendar month following the quarterly  
19 period following the revival of that closely held corporation or  
20 closely held limited liability company.

21 SEC. 10. Section 45609.6 is added to the Revenue and Taxation  
22 Code, to read:

23 45609.6. (a) Upon the termination, dissolution, or  
24 abandonment of the business of a corporation, partnership, limited  
25 partnership, limited liability partnership, or limited liability  
26 company, any officer, member, manager, partner, or other person  
27 having control or supervision of, or who is charged with the  
28 responsibility for the filing of returns or the payment of fees under  
29 this part, or who is under a duty to act for the corporation,  
30 partnership, limited partnership, limited liability partnership, or  
31 limited liability company in complying with any requirement of  
32 this part, shall, notwithstanding any provision in the Corporations  
33 Code to the contrary, be personally liable for any unpaid fees and  
34 interest and penalties on those fees, if the officer, member,  
35 manager, partner, or other person willfully fails to pay or to cause  
36 to be paid any fees due from the corporation, partnership, limited  
37 partnership, limited liability partnership, or limited liability  
38 company pursuant to this part.

39 (b) The officer, member, manager, partner, or other person  
40 shall be liable only for fees that became due during the period he

1 or she had the control, supervision, responsibility, or duty to act  
2 for the corporation, partnership, limited partnership, limited  
3 liability partnership, or limited liability company described in  
4 subdivision (a), plus interest and penalties on those fees.

5 (c) Personal liability may be imposed pursuant to this section,  
6 only if the board can establish that the corporation, partnership,  
7 limited partnership, limited liability partnership, or limited liability  
8 company had collected the fee on the solid waste disposed of at  
9 each disposal site, pursuant to Section 48000 of the Public  
10 Resources Code, in the conduct of its business.

11 (d) (1) Upon suspension of a closely held corporation or closely  
12 held limited liability company, a corporate officer, shareholder,  
13 or member with control over operations or management of the  
14 closely held corporation or closely held limited liability company  
15 during a time in which the corporation's or limited liability  
16 company's powers, rights, and privileges are suspended or any  
17 responsible person who fails to pay or to cause to be paid any fees  
18 due from the closely held corporation or closely held limited  
19 liability company during a time in which the corporation's or  
20 limited liability company's powers, rights, and privileges are  
21 suspended shall, notwithstanding any provision in the Corporations  
22 Code to the contrary, be personally liable under the circumstances  
23 set forth below for any unpaid fee liability of that suspended  
24 corporation or limited liability company incurred during the period  
25 of that suspension. The corporate officer, shareholder, member,  
26 or responsible person shall be liable for the unpaid fees, and  
27 interest and penalties on those fees not paid, regardless of the  
28 basis for the suspension of the corporation's or limited liability  
29 company's powers, rights, and privileges.

30 (2) Notwithstanding paragraph (1), if the closely held  
31 corporation or closely held limited liability company can establish  
32 that it has taken all actions necessary to qualify for revival within  
33 60 days from the date the suspension was imposed, no corporate  
34 officer, shareholder, member, or responsible person shall be held  
35 to be personally liable for any unpaid fees, interest, or penalty  
36 incurred by the corporation or limited liability company during  
37 that period of suspension.

38 (e) Personal liability under subdivision (d) applies only when  
39 the board establishes that, during the period of suspension, the  
40 closely held corporation or closely held limited liability company

1 collected the fee on the solid waste disposed of at each disposal  
2 site, pursuant to Section 48000 of the Public Resources Code, in  
3 the conduct of its business and failed to remit such fee when due.

4 (f) For purposes of subdivisions (d) and (e), all of the following  
5 definitions shall apply:

6 (1) “Closely held corporation” means a corporation in which  
7 ownership is concentrated in one individual, one family, or a small  
8 number of individuals and the majority stockholders manage the  
9 business or have delegated or assigned the management to the  
10 corporate officers.

11 (2) “Closely held limited liability company” means a limited  
12 liability company in which ownership is concentrated in one  
13 individual, one family, or a small number of individuals and the  
14 majority members manage the business or have delegated or  
15 assigned the management to the company officers.

16 (3) “Control over operations or management” means the power  
17 to manage or affect day-to-day operations of the business. For the  
18 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
19 a corporate or company officer has control over operations and  
20 management of the closely held corporation or closely held limited  
21 liability company, respectively.

22 (4) (i) “Period of suspension” means that period of time,  
23 beginning on the date the suspension is imposed, during which a  
24 closely held corporation or closely held limited liability company  
25 was suspended for any reason.

26 (ii) Notwithstanding clause (i), “period of suspension” does  
27 not mean a period of time of 60 consecutive days or less, beginning  
28 on the day the suspension was imposed, during which a closely  
29 held corporation or closely held limited liability company was  
30 suspended, but only if the corporation or limited liability company  
31 has taken all actions necessary to qualify for revival on or before  
32 the 60th day.

33 (5) “Responsible person” means any officer, shareholder, or  
34 member who is charged with the responsibility for the filing of  
35 returns or the payment of fees or who has a duty to act for the  
36 closely held corporation or closely held limited liability company  
37 in complying with any provision of this part, and who derives a  
38 direct financial benefit from the failure to pay the fee liability.

39 (g) A suspended corporation or limited liability company shall  
40 remain liable for the unpaid fees, interest, and penalties incurred

1 during the period in which its corporate or limited liability  
2 company powers, rights, and privileges were suspended without  
3 regard to any personal liability determined under subdivisions  
4 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
5 and (f) shall be applied to the liability of the corporation or limited  
6 liability company.

7 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
8 to pay or to cause to be paid” means that the failure was the result  
9 of an intentional, conscious, and voluntary course of action.

10 (i) Except as provided in subdivision (j), the sum due for the  
11 liability under this section may be collected by determination and  
12 collection in the manner provided in Chapter 3 (commencing with  
13 Section 45151) and Chapter 4 (commencing with Section 45401).

14 (j) A notice of deficiency determination under this section shall  
15 be mailed within three years after the last day of the calendar  
16 month following the quarterly period in which the board obtains  
17 actual knowledge, through its audit or compliance activities, or  
18 by written communication by the business or its representative, of  
19 the termination, dissolution, or abandonment of the business of  
20 the corporation, partnership, limited partnership, limited liability  
21 partnership, or limited liability company, or of the suspension of  
22 the closely held corporation or closely held limited liability  
23 company, or, within eight years after the last day of the calendar  
24 month following the quarterly period in which the corporation,  
25 partnership, limited partnership, limited liability partnership, or  
26 limited liability company business was terminated, dissolved, or  
27 abandoned or in which the closely held corporation or closely  
28 held limited liability company was suspended, whichever period  
29 expires earlier. If a business or its representative files a notice of  
30 termination, dissolution, or abandonment of its business with a  
31 state or local agency other than the board, or if the Secretary of  
32 State or the Franchise Tax Board notifies a closely held  
33 corporation or closely held limited liability company that it is  
34 suspended, such filing or notice shall not constitute actual  
35 knowledge by the board under this section.

36 (k) Notwithstanding subdivision (j), when the board mails  
37 acknowledgment to a closely held corporation or closely held  
38 limited liability company that the closely held corporation or  
39 closely held limited liability company has been suspended and the  
40 acknowledgment is mailed within three years of the date on which

1 the board obtained actual knowledge as described in subdivision  
2 (j) of the suspension of the closely held corporation or closely held  
3 limited liability company, a notice of deficiency determination  
4 under this section shall be mailed, at the latest, within three years  
5 after the last day of the calendar month following the quarterly  
6 period following the revival of that closely held corporation or  
7 closely held limited liability company.

8 SEC. 11. Section 46465 is added to the Revenue and Taxation  
9 Code, to read:

10 46465. (a) Upon the termination, dissolution, or abandonment  
11 of the business of a corporation, partnership, limited partnership,  
12 limited liability partnership, or limited liability company, any  
13 officer, member, manager, partner, or other person having control  
14 or supervision of, or who is charged with the responsibility for the  
15 filing of returns or the payment of fees under this part, or who is  
16 under a duty to act for the corporation, partnership, limited  
17 partnership, limited liability partnership, or limited liability  
18 company in complying with any requirement of this part, shall,  
19 notwithstanding any provision in the Corporations Code to the  
20 contrary, be personally liable for any unpaid fees and interest and  
21 penalties on those fees, if the officer, member, manager, partner,  
22 or other person willfully fails to pay or to cause to be paid any  
23 fees due from the corporation, partnership, limited partnership,  
24 limited liability partnership, or limited liability company pursuant  
25 to this part.

26 (b) The officer, member, manager, partner, or other person  
27 shall be liable only for fees that became due during the period he  
28 or she had the control, supervision, responsibility, or duty to act  
29 for the corporation, partnership, limited partnership, limited  
30 liability partnership, or limited liability company described in  
31 subdivision (a), plus interest and penalties on those fees.

32 (c) Personal liability may be imposed pursuant to this section,  
33 only if the board can establish that the corporation, partnership,  
34 limited partnership, limited liability partnership, or limited liability  
35 company had collected the fees on crude oil and petroleum  
36 products, pursuant to Sections 8670.40 and 8670.48 of the  
37 Government Code, in the conduct of its business.

38 (d) (1) Upon suspension of a closely held corporation or closely  
39 held limited liability company, a corporate officer, shareholder,  
40 or member with control over operations or management of the

1 *closely held corporation or closely held limited liability company*  
2 *during a time in which the corporation's or limited liability*  
3 *company's powers, rights, and privileges are suspended or any*  
4 *responsible person who fails to pay or to cause to be paid any fees*  
5 *due from the closely held corporation or closely held limited*  
6 *liability company during a time in which the corporation's or*  
7 *limited liability company's powers, rights, and privileges are*  
8 *suspended shall, notwithstanding any provision in the Corporations*  
9 *Code to the contrary, be personally liable under the circumstances*  
10 *set forth below for any unpaid fee liability of that suspended*  
11 *corporation or limited liability company incurred during the period*  
12 *of that suspension. The corporate officer, shareholder, member,*  
13 *or responsible person shall be liable for the unpaid fees, and*  
14 *interest and penalties on those fees not paid, regardless of the*  
15 *basis for the suspension of the corporation's or limited liability*  
16 *company's powers, rights, and privileges.*

17 (2) *Notwithstanding paragraph (1), if the closely held*  
18 *corporation or closely held limited liability company can establish*  
19 *that it has taken all actions necessary to qualify for revival within*  
20 *60 days from the date the suspension was imposed, no corporate*  
21 *officer, shareholder, member, or responsible person shall be held*  
22 *to be personally liable for any unpaid fees, interest, or penalty*  
23 *incurred by the corporation or limited liability company during*  
24 *that period of suspension.*

25 (e) *Personal liability under subdivision (d) applies only when*  
26 *the board establishes that, during the period of suspension, the*  
27 *closely held corporation or closely held limited liability company*  
28 *collected the fees on crude oil and petroleum products, pursuant*  
29 *to Sections 8670.40 and 8670.48 of the Government Code, in the*  
30 *conduct of its business and failed to remit such fee when due.*

31 (f) *For purposes of subdivisions (d) and (e), all of the following*  
32 *definitions shall apply:*

33 (1) *"Closely held corporation" means a corporation in which*  
34 *ownership is concentrated in one individual, one family, or a small*  
35 *number of individuals and the majority stockholders manage the*  
36 *business or have delegated or assigned the management to the*  
37 *corporate officers.*

38 (2) *"Closely held limited liability company" means a limited*  
39 *liability company in which ownership is concentrated in one*  
40 *individual, one family, or a small number of individuals and the*

1 majority members manage the business or have delegated or  
2 assigned the management to the company officers.

3 (3) “Control over operations or management” means the power  
4 to manage or affect day-to-day operations of the business. For the  
5 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
6 a corporate or company officer has control over operations and  
7 management of the closely held corporation or closely held limited  
8 liability company, respectively.

9 (4) (i) “Period of suspension” means that period of time,  
10 beginning on the date the suspension is imposed, during which a  
11 closely held corporation or closely held limited liability company  
12 was suspended for any reason.

13 (ii) Notwithstanding clause (i), “period of suspension” does  
14 not mean a period of time of 60 consecutive days or less, beginning  
15 on the day the suspension was imposed, during which a closely  
16 held corporation or closely held limited liability company was  
17 suspended, but only if the corporation or limited liability company  
18 has taken all actions necessary to qualify for revival on or before  
19 the 60th day.

20 (5) “Responsible person” means any officer, shareholder, or  
21 member who is charged with the responsibility for the filing of  
22 returns or the payment of fees or who has a duty to act for the  
23 closely held corporation or closely held limited liability company  
24 in complying with any provision of this part, and who derives a  
25 direct financial benefit from the failure to pay the fee liability.

26 (g) A suspended corporation or limited liability company shall  
27 remain liable for the unpaid fees, interest, and penalties incurred  
28 during the period in which its corporate or limited liability  
29 company powers, rights, and privileges were suspended without  
30 regard to any personal liability determined under subdivisions  
31 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
32 and (f) shall be applied to the liability of the corporation or limited  
33 liability company.

34 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
35 to pay or to cause to be paid” means that the failure was the result  
36 of an intentional, conscious, and voluntary course of action.

37 (i) Except as provided in subdivision (j), the sum due for the  
38 liability under this section may be collected by determination and  
39 collection in the manner provided in Chapter 3 (commencing with  
40 Section 46151) and Chapter 4 (commencing with Section 46401).

(j) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the board obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or of the suspension of the closely held corporation or closely held limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company business was terminated, dissolved, or abandoned or in which the closely held corporation or closely held limited liability company was suspended, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the board, or if the Secretary of State or the Franchise Tax Board notifies a closely held corporation or closely held limited liability company that it is suspended, such filing or notice shall not constitute actual knowledge by the board under this section.

(k) Notwithstanding subdivision (j), when the board mails acknowledgment to a closely held corporation or closely held limited liability company that the closely held corporation or closely held limited liability company has been suspended and the acknowledgment is mailed within three years of the date on which the board obtained actual knowledge as described in subdivision (j) of the suspension of the closely held corporation or closely held limited liability company, a notice of deficiency determination under this section shall be mailed, at the latest, within three years after the last day of the calendar month following the quarterly period following the revival of that closely held corporation or closely held limited liability company.

SEC. 12. Section 55210 is added to the Revenue and Taxation Code, to read:

55210. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control

1 or supervision of, or who is charged with the responsibility for the  
2 filing of returns or the payment of fees under Sections 42464,  
3 42464.4, 42885, 42886, and 42886.1 of the Public Resources Code,  
4 or who is under a duty to act for the corporation, partnership,  
5 limited partnership, limited liability partnership, or limited liability  
6 company in complying with any requirement of this part pertaining  
7 to the fees imposed pursuant to Sections 42464, 42464.4, 42885,  
8 42886, and 42886.1 of the Public Resources Code, shall,  
9 notwithstanding any provision in the Corporations Code to the  
10 contrary, be personally liable for any unpaid fees and interest and  
11 penalties on those fees, if the officer, member, manager, partner,  
12 or other person willfully fails to pay or to cause to be paid any  
13 fees due from the corporation, partnership, limited partnership,  
14 limited liability partnership, or limited liability company pursuant  
15 to Sections 42464, 42464.4, 42885, 42886, and 42886.1 of the  
16 Public Resources Code.

17 (b) The officer, member, manager, partner, or other person  
18 shall be liable only for fees that became due during the period he  
19 or she had the control, supervision, responsibility, or duty to act  
20 for the corporation, partnership, limited partnership, limited  
21 liability partnership, or limited liability company described in  
22 subdivision (a), plus interest and penalties on those fees.

23 (c) Personal liability may be imposed pursuant to this section,  
24 only if the board can establish that the corporation, partnership,  
25 limited partnership, limited liability partnership, or limited liability  
26 company had included the fee in the selling price of, or added the  
27 fee to the selling price of, covered electronic devices, pursuant to  
28 Section 42464 of the Public Resources Code, or new tires, pursuant  
29 to Section 42885 of the Public Resources Code, sold to consumers  
30 in the conduct of its business.

31 (d) (1) Upon suspension of a closely held corporation or closely  
32 held limited liability company, a corporate officer, shareholder,  
33 or member with control over operations or management of the  
34 closely held corporation or closely held limited liability company  
35 during a time in which the corporation's or limited liability  
36 company's powers, rights, and privileges are suspended or any  
37 responsible person who fails to pay or to cause to be paid any fees  
38 due from the closely held corporation or closely held limited  
39 liability company during a time in which the corporation's or  
40 limited liability company's powers, rights, and privileges are

1 *suspended shall, notwithstanding any provision in the Corporations*  
2 *Code to the contrary, be personally liable under the circumstances*  
3 *set forth below for any unpaid fee liability of that suspended*  
4 *corporation or limited liability company incurred during the period*  
5 *of that suspension. The corporate officer, shareholder, member,*  
6 *or responsible person shall be liable for the unpaid fees, and*  
7 *interest and penalties on those fees not paid, regardless of the*  
8 *basis for the suspension of the corporation's or limited liability*  
9 *company's powers, rights, and privileges.*

10 *(2) Notwithstanding paragraph (1), if the closely held*  
11 *corporation or closely held limited liability company can establish*  
12 *that it has taken all actions necessary to qualify for revival within*  
13 *60 days from the date the suspension was imposed, no corporate*  
14 *officer, shareholder, member, or responsible person shall be held*  
15 *to be personally liable for any unpaid fees, interest, or penalty*  
16 *incurred by the corporation or limited liability company during*  
17 *that period of suspension.*

18 *(e) Personal liability under subdivision (d) applies only when*  
19 *the board establishes that, during the period of suspension, the*  
20 *closely held corporation or closely held limited liability company*  
21 *sold covered electronic devices, pursuant to Section 42464 of the*  
22 *Public Resources Code, or new tires, pursuant to Section 42885*  
23 *of the Public Resources Code, in the conduct of its business and*  
24 *collected the fee imposed with respect to the covered electronic*  
25 *devices or new tires (whether separately itemized or included in*  
26 *the selling price) and failed to remit such fee when due.*

27 *(f) For purposes of subdivisions (d) and (e), all of the following*  
28 *definitions shall apply:*

29 *(1) "Closely held corporation" means a corporation in which*  
30 *ownership is concentrated in one individual, one family, or a small*  
31 *number of individuals and the majority stockholders manage the*  
32 *business or have delegated or assigned the management to the*  
33 *corporate officers.*

34 *(2) "Closely held limited liability company" means a limited*  
35 *liability company in which ownership is concentrated in one*  
36 *individual, one family, or a small number of individuals and the*  
37 *majority members manage the business or have delegated or*  
38 *assigned the management to the company officers.*

39 *(3) "Control over operations or management" means the power*  
40 *to manage or affect day-to-day operations of the business. For the*

1 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
2 a corporate or company officer has control over operations and  
3 management of the closely held corporation or closely held limited  
4 liability company, respectively.

5 (4) (i) “Period of suspension” means that period of time,  
6 beginning on the date the suspension is imposed, during which a  
7 closely held corporation or closely held limited liability company  
8 was suspended for any reason.

9 (ii) Notwithstanding clause (i), “period of suspension” does  
10 not mean a period of time of 60 consecutive days or less, beginning  
11 on the day the suspension was imposed, during which a closely  
12 held corporation or closely held limited liability company was  
13 suspended, but only if the corporation or limited liability company  
14 has taken all actions necessary to qualify for revival on or before  
15 the 60th day.

16 (5) “Responsible person” means any officer, shareholder, or  
17 member who is charged with the responsibility for the filing of  
18 returns or the payment of fees or who has a duty to act for the  
19 closely held corporation or closely held limited liability company  
20 in complying with any provision of this part, and who derives a  
21 direct financial benefit from the failure to pay the fee liability.

22 (g) A suspended corporation or limited liability company shall  
23 remain liable for the unpaid fees, interest, and penalties incurred  
24 during the period in which its corporate or limited liability  
25 company powers, rights, and privileges were suspended without  
26 regard to any personal liability determined under subdivisions  
27 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
28 and (f) shall be applied to the liability of the corporation or limited  
29 liability company.

30 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
31 to pay or to cause to be paid” means that the failure was the result  
32 of an intentional, conscious, and voluntary course of action.

33 (i) Except as provided in subdivision (j), the sum due for the  
34 liability under this section may be collected by determination and  
35 collection in the manner provided in Sections 42464.2 and 42464.4  
36 or 42886 and 42886.1 of the Public Resources Code and Chapter  
37 3 (commencing with Section 55040) and Chapter 4 (commencing  
38 with Section 55121) of this part, as they pertain to the fees imposed  
39 pursuant to Sections 42464 or 42885 of the Public Resources Code.

(j) A notice of deficiency determination under this section shall be mailed within three years after the last day of the calendar month following the quarterly period in which the board obtains actual knowledge, through its audit or compliance activities, or by written communication by the business or its representative, of the termination, dissolution, or abandonment of the business of the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, or of the suspension of the closely held corporation or closely held limited liability company, or, within eight years after the last day of the calendar month following the quarterly period in which the corporation, partnership, limited partnership, limited liability partnership, or limited liability company, business was terminated, dissolved, or abandoned or in which the closely held corporation or closely held limited liability company was suspended, whichever period expires earlier. If a business or its representative files a notice of termination, dissolution, or abandonment of its business with a state or local agency other than the board, or if the Secretary of State or the Franchise Tax Board notifies a closely held corporation or closely held limited liability company that it is suspended, such filing or notice shall not constitute actual knowledge by the board under this section.

(k) Notwithstanding subdivision (j), when the board mails acknowledgment to a closely held corporation or closely held limited liability company that the closely held corporation or closely held limited liability company has been suspended and the acknowledgment is mailed within three years of the date on which the board obtained actual knowledge as described in subdivision (j) of the suspension of the closely held corporation or closely held limited liability company, a notice of deficiency determination under this section shall be mailed, at the latest, within three years after the last day of the calendar month following the quarterly period following the revival of that closely held corporation or closely held limited liability company.

SEC. 13. Section 60494 is added to the Revenue and Taxation Code, to read:

60494. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control

1 or supervision of, or who is charged with the responsibility for the  
2 filing of returns or the payment of tax due under this part, or who  
3 is under a duty to act for the corporation, partnership, limited  
4 partnership, limited liability partnership, or limited liability  
5 company in complying with any requirement of this part, shall,  
6 notwithstanding any provision in the Corporations Code to the  
7 contrary, be personally liable for any unpaid taxes and interest  
8 and penalties on those taxes, if the officer, member, manager,  
9 partner, or other person willfully fails to pay or to cause to be  
10 paid any taxes due from the corporation, partnership, limited  
11 partnership, limited liability partnership, or limited liability  
12 company pursuant to this part.

13 (b) The officer, member, manager, partner, or other person  
14 shall be liable only for taxes that became due during the period  
15 he or she had the control, supervision, responsibility, or duty to  
16 act for the corporation, partnership, limited partnership, limited  
17 liability partnership, or limited liability company described in  
18 subdivision (a), plus interest and penalties on those taxes.

19 (c) Personal liability may be imposed pursuant to this section,  
20 only if the board can establish that the corporation, partnership,  
21 limited partnership, limited liability partnership, or limited liability  
22 company had included the tax in the selling price of, or added the  
23 tax to the selling price of, diesel fuel sold in the conduct of its  
24 business.

25 (d) (1) Upon suspension of a closely held corporation or closely  
26 held limited liability company, a corporate officer, shareholder,  
27 or member with control over operations or management of the  
28 closely held corporation or closely held limited liability company  
29 during a time in which the corporation's or limited liability  
30 company's powers, rights, and privileges are suspended or any  
31 responsible person who fails to pay or to cause to be paid any  
32 taxes due from the closely held corporation or closely held limited  
33 liability company during a time in which the corporation's or  
34 limited liability company's powers, rights, and privileges are  
35 suspended shall, notwithstanding any provision in the Corporations  
36 Code to the contrary, be personally liable under the circumstances  
37 set forth below for any unpaid tax liability of that suspended  
38 corporation or limited liability company incurred during the period  
39 of that suspension. The corporate officer, shareholder, member,  
40 or responsible person shall be liable for the unpaid tax, and interest

1 *and penalties on those taxes not paid, regardless of the basis for*  
2 *the suspension of the corporation's or limited liability company's*  
3 *powers, rights, and privileges.*

4 *(2) Notwithstanding paragraph (1), if the closely held*  
5 *corporation or closely held limited liability company can establish*  
6 *that it has taken all actions necessary to qualify for revival within*  
7 *60 days from the date the suspension was imposed, no corporate*  
8 *officer, shareholder, member, or responsible person shall be held*  
9 *to be personally liable for any unpaid tax, interest, or penalty*  
10 *incurred by the corporation or limited liability company during*  
11 *that period of suspension.*

12 *(e) Personal liability under subdivision (d) applies only when*  
13 *the board establishes that, during the period of suspension, the*  
14 *closely held corporation or closely held limited liability company*  
15 *sold diesel fuel in the conduct of its business and collected tax on*  
16 *the selling price (whether separately itemized or included in the*  
17 *selling price) and failed to remit such tax when due.*

18 *(f) For purposes of subdivisions (d) and (e), all of the following*  
19 *definitions shall apply:*

20 *(1) "Closely held corporation" means a corporation in which*  
21 *ownership is concentrated in one individual, one family, or a small*  
22 *number of individuals and the majority stockholders manage the*  
23 *business or have delegated or assigned the management to the*  
24 *corporate officers.*

25 *(2) "Closely held limited liability company" means a limited*  
26 *liability company in which ownership is concentrated in one*  
27 *individual, one family, or a small number of individuals and the*  
28 *majority members manage the business or have delegated or*  
29 *assigned the management to the company officers.*

30 *(3) "Control over operations or management" means the power*  
31 *to manage or affect day-to-day operations of the business. For the*  
32 *purposes of subdivisions (d) and (e), it is rebuttably presumed that*  
33 *a corporate or company officer has control over operations and*  
34 *management of the closely held corporation or closely held limited*  
35 *liability company, respectively.*

36 *(4) (i) "Period of suspension" means that period of time,*  
37 *beginning on the date the suspension is imposed, during which a*  
38 *closely held corporation or closely held limited liability company*  
39 *was suspended for any reason.*

1 (ii) Notwithstanding clause (i), “period of suspension” does  
2 not mean a period of time of 60 consecutive days or less, beginning  
3 on the day the suspension was imposed, during which a closely  
4 held corporation or closely held limited liability company was  
5 suspended, but only if the corporation or limited liability company  
6 has taken all actions necessary to qualify for revival on or before  
7 the 60th day.

8 (5) “Responsible person” means any officer, shareholder, or  
9 member who is charged with the responsibility for the filing of  
10 returns or the payment of tax or who has a duty to act for the  
11 closely held corporation or closely held limited liability company  
12 in complying with any provision of this part, and who derives a  
13 direct financial benefit from the failure to pay the tax liability.

14 (g) A suspended corporation or limited liability company shall  
15 remain liable for the unpaid tax, interest, and penalties incurred  
16 during the period in which its corporate or limited liability  
17 company powers, rights, and privileges were suspended without  
18 regard to any personal liability determined under subdivisions  
19 (d), (e), and (f). Payments made pursuant to subdivisions (d), (e),  
20 and (f) shall be applied to the liability of the corporation or limited  
21 liability company.

22 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
23 to pay or to cause to be paid” means that the failure was the result  
24 of an intentional, conscious, and voluntary course of action.

25 (i) Except as provided in subdivision (j), the sum due for the  
26 liability under this section may be collected by determination and  
27 collection in the manner provided in Chapter 6 (commencing with  
28 Section 60201) and Chapter 7 (commencing with Section 60401).

29 (j) A notice of deficiency determination under this section shall  
30 be mailed within three years after the last day of the calendar  
31 month following the quarterly period in which the board obtains  
32 actual knowledge, through its audit or compliance activities, or  
33 by written communication by the business or its representative, of  
34 the termination, dissolution, or abandonment of the business of  
35 the corporation, partnership, limited partnership, limited liability  
36 partnership, or limited liability company, or of the suspension of  
37 the closely held corporation or closely held limited liability  
38 company, or, within eight years after the last day of the calendar  
39 month following the quarterly period in which the corporation,  
40 partnership, limited partnership, limited liability partnership, or

1 *limited liability company business was terminated, dissolved, or*  
2 *abandoned or in which the closely held corporation or closely*  
3 *held limited liability company was suspended, whichever period*  
4 *expires earlier. If a business or its representative files a notice of*  
5 *termination, dissolution, or abandonment of its business with a*  
6 *state or local agency other than the board, or if the Secretary of*  
7 *State or the Franchise Tax Board notifies a closely held*  
8 *corporation or closely held limited liability company that it is*  
9 *suspended, such filing or notice shall not constitute actual*  
10 *knowledge by the board under this section.*

11 *(k) Notwithstanding subdivision (j), when the board mails*  
12 *acknowledgment to a closely held corporation or closely held*  
13 *limited liability company that the closely held corporation or*  
14 *closely held limited liability company has been suspended and the*  
15 *acknowledgment is mailed within three years of the date on which*  
16 *the board obtained actual knowledge as described in subdivision*  
17 *(j) of the suspension of the closely held corporation or closely held*  
18 *limited liability company, a notice of deficiency determination*  
19 *under this section shall be mailed, at the latest, within three years*  
20 *after the last day of the calendar month following the quarterly*  
21 *period following the revival of that closely held corporation or*  
22 *closely held limited liability company.*

23 *SEC. 14. Section 1088.5 of the Unemployment Insurance Code*  
24 *is amended to read:*

25 *1088.5. (a) In addition to information reported in accordance*  
26 *with Section 1088, effective July 1, 1998, each employer shall file,*  
27 *with the department, the information provided for in subdivision*  
28 *(b) on new employees.*

29 *(b) Each employer shall report the hiring of any employee who*  
30 *works in this state and to whom the employer anticipates paying*  
31 *wages.*

32 *(c) (1) This section shall not apply to any department, agency,*  
33 *or instrumentality of the United States.*

34 *(2) State agency employers shall not be required to report*  
35 *employees performing intelligence or counterintelligence functions,*  
36 *if the head of the agency has determined that reporting pursuant*  
37 *to this section would endanger the safety of the employee or*  
38 *compromise an ongoing investigation or intelligence mission.*

1 (d) (1) Employers shall submit a report as described in  
2 paragraph (4) within 20 days of hiring any employee whom the  
3 employer is required to report pursuant to this section.

4 (2) Notwithstanding subdivision (a), employers transmitting  
5 reports magnetically or electronically shall submit the report by  
6 two monthly transmissions not less than 12 days no more than 16  
7 days apart.

8 (3) For purposes of this section, an employer that has employees  
9 in two or more states and that transmits reports magnetically or  
10 electronically may designate one state in which the employer has  
11 employees to which the employer will transmit the report described  
12 in paragraph (4). Any employer that transmits reports pursuant to  
13 this paragraph shall notify the Secretary of Health and Human  
14 Services in writing as to which state the employer designates for  
15 the purpose of sending reports.

16 (4) The report shall contain the following:

17 (A) The name, address, and social security number of the  
18 employees.

19 (B) The employer's name, address, state employer identification  
20 number (if one has been issued), and identifying number assigned  
21 to the employer under Section 6109 of the Internal Revenue Code  
22 of 1986.

23 (C) The first date the employee worked.

24 (5) Employers may report pursuant to this section by submitting  
25 a copy of the employee's W-4 form, a form provided by the  
26 department, or any other hiring document transmitted by first-class  
27 mail, magnetically, or electronically.

28 (e) For each failure to report the hiring of an employee, as  
29 required and within the time required by this section, unless the  
30 failure is due to good cause, the department may assess a penalty  
31 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)  
32 if the failure is the result of conspiracy between the employer and  
33 employee not to supply the required report or to supply a false or  
34 incomplete report.

35 (f) Information collected pursuant to this section may be used  
36 for the following purposes:

37 (1) Administration of this code.

38 (2) Locating individuals for purposes of establishing paternity  
39 and establishing, modifying, and enforcing child support  
40 obligations.

1 (3) Administration of employment security and workers'  
2 compensation programs.

3 (4) Providing employer or employee information to the  
4 Franchise Tax Board *and the State Board of Equalization* for the  
5 purpose of tax *or fee* enforcement.

6 (5) Verification of eligibility of applicants for, or recipients of,  
7 the public assistance programs listed in Section 1320b-7(b) of Title  
8 42 of the United States Code.

9 (g) For purposes of this section, “employer” includes a labor  
10 union hiring hall.

11 (h) This section shall become operative on July 1, 1998.