

1988

1988 Summary of Legislation

Franchise Tax Board

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**Franchise Tax
Board**

**prepared by
Legislative Services
Bureau**

1988 Summary of Legislation

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**SUMMARY OF
1988 LEGISLATION**

**Prepared by: Legislative Services Bureau
Franchise Tax Board
Sacramento, California
December 1, 1988**

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INTRODUCTION

This report includes a summary, in section number order, of changes to the Personal Income Tax Law (PITL), the Senior Citizens Property Tax Assistance and Postponement Law (SCPTAL), and the Bank and Corporation Tax Law (B&CTL), enacted by the Legislature in 1988, and approved by the Governor. A section number in parenthesis below the number of the section summarized indicates a corresponding or related change was also made to the respective B&CTL or PITL section shown. Also included is a section-by-section summary of the new Taxpayer Bill of Rights Act, and changes to the Business & Professions Code (B&P), Code of Civil Procedure (CCP) and the Government Code (GC), which are related to the PITL and the B&CTL.

NOTE: This report does not include changes enacted in February and March, 1988, which were the subject of a separate report dated March 18, 1988.

Preceding the Section-By-Section Summary are:

Contacts	Tax Tables - PIT
Exemption Credits	1988 Chaptered Bills
Standard Deduction Amounts	Major Bills Vetoed
Low-Income Credit Amounts	Sections Added, Amended, Repealed
Tax Rate Schedules - PIT	

Legislative Change Reports (LCs), giving a brief description of the changes made by each legislative bill, are indicated below each section number in the summary and follow the Section-By-Section Summary. For more detailed information refer to the specific bill. No LCs were issued for bills which only made minor technical corrections to the PITL, SCPTAL, and B&CTL, or for changes in other codes related to these laws.

Other than for those changes made by AB 2130 (Ch. 88-11), enacted February 19, 1988, which included five provisions of the Federal Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), no other 1987 or 1988 changes to the IRC have been incorporated into California law this year.

The five provisions of P.L. 100-203 incorporated into California law by AB 2130 (Ch. 88-11) include: (1) Indirect deductions through a publicly traded regulated investment company (mutual fund) are subject to the two-percent floor on miscellaneous deductions for taxable years beginning on or after January 1, 1988 [Sec 17076(b)]. (2) Retention of or change in the taxable year of a partnership or the income year of an S corporation or personal service corporation (but without the "required payments" provisions), and the required use of the same taxable or income year adopted under federal law, operative for taxable and income years beginning on or after January 1, 1987 [Secs. 17024.5(d)(4), 17551(b), 17551.5(a), 23051.5(g)(4), 24633.5(a), and 24637]. (3) Treatment of net income and losses from publicly traded partnerships, operative for taxable and income years beginning on or after January 1, 1987 (Secs. 17561(d) and 24692(e)). (4) Limitations on use of net operating

losses of corporations where there is a change of ownership after December 15, 1987, and where a worthless stock deduction is claimed in taxable years beginning on or after January 1, 1988 [Sec. 24592]. (5) Limitations on tax loss mergers and acquisitions after December 15, 1987 [Sec. 24594].

Those provisions of P.L. 100-203 not adopted include those relating to treatment of certain publicly traded partnerships as corporations [IRC Sec. 7704], limitations on deduction of interest on first and second home mortgages [IRC Sec. 163(h)], denial of overnight camp expenses in the dependent care tax credit [IRC Sec. 21(b)(2)], strengthening of the rules for defined benefit plans [IRC Secs. 401(a)(29), 404(a)(1), 411(c)(2), 412(b), 414(b)], exclusion of wages paid to temporary employees hired during labor disputes in the targeted jobs tax credit [IRC Sec 51(c)(3)], illegal federal irrigation subsidies [IRC Sec. 90], clarification of treatment of federal judges [IRC Sec. 219(g)], subjection of past service pension costs to the uniform capitalization rules [IRC Sec. 263A], repeal of the proportionate disallowance rules and installment sales by dealers [IRC Secs. 453, 453A, 453C], repeal of vacation pay accrual [IRC Sec. 463], references to nonparticipation of tax exempt organizations in political campaigns [IRC Secs. 170(c)(2)(D), 501(c)(3), 504(a)(2)], treatment of publicly traded partnerships for unrelated business tax [IRC Sec. 512(c)(3)], treatment of unrelated debt-financed income in certain partnership allocations [IRC Sec. 514], 50% exclusion of interest received on certain loans used to acquire employer securities [IRC Sec. 133], distributions of property received by "20-percent" corporate shareholders [IRC Sec. 301], treatment of mirror subsidiary transactions of related corporations [IRC Sec. 304(b)], requirements as to active business in corporate reorganizations [IRC Sec. 355(b)], and LIFO recapture in case of S corporations [IRC Sec. 472].

None of the income tax provisions in the Family Support Act of 1988 (P.L. 100-485), or the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) (P.L. 100-647) have been included in California law to date. The "Omnibus Taxpayer Bill of Rights" included in TAMRA is similar, but not identical, to the "Katz-Harris Taxpayers' Bill of Rights Act" (AB 2788, Statutes of 1988, Chapter 1573).

Exception: The federal Tax Reform Act of 1986 added IRC Section 460, which required either that 100% of a long-term contract be taken into account currently under the percentage of completion method, or that 40% be taken into account currently under the percentage of completion method and 60% be taken into account under the taxpayer's normal accounting method [Percentage of Completion-Capitalized Cost Method]. California adopted these provisions by reference in Revenue and Taxation Code Sections 17551 and 24673.2, (AB 53, Ch. 88-1138, SB 572, Ch. 88-1139). The Revenue Act of 1987 (P.L. 100-203) changed the percentage amounts to 70% and 30%, respectively, for contracts entered into after October 13, 1987. The Technical and Miscellaneous Revenue Act of 1988 [TAMRA] (P.L. 100-647) further modified the percentages to 90% and 10%, respectively, for contracts (with specified exceptions) entered into after June 20, 1988. California has not yet (by statute) conformed to these changes. However, to maintain consistency in accounting for state and federal purposes, California will allow taxpayers to use the federal percentages, as specified above, rather than the 40%-60% statutory division.

CONTACTS

For information regarding changes in tax law:

Franchise Tax Board
Legislative Services Bureau
Jack Monroe
P.O. Box 1468
Sacramento, CA 95812-1468
(916) 369-4334

For information regarding changes in form design, questions on specific forms, and availability of forms or reproduction proofs for printers and computerized processors:

Franchise Tax Board
Tax Forms Design Unit
Gina Rodriguez
P.O. Box 1468
Sacramento, CA 95812-1468
(916) 369-3442

For practitioner's orders of Personal Income Tax Forms:

Franchise Tax Board
Tax Forms Request Unit
P.O. Box 942840
Sacramento, CA 94240-0070

For practitioner's orders of Corporation Tax Forms:

Franchise Tax Board
Tax Forms Request
P.O. Box 942840
Sacramento, CA 94240-0570

For copies of legislative bills (one copy of each bill will be furnished free):

Legislative Bill Room
State Capitol, Room B32
Sacramento, CA 95814

TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1988
AND ENDING ON OR BEFORE NOVEMBER 30, 1989

PERSONAL EXEMPTION CREDITS

Single, or Married filing separate return	\$52
Married filing joint return, Head of household, or Qualifying widow(er)	\$104
Dependent (each)	\$52
65 or over (taxpayer and/or spouse - each)	\$52
Blind (taxpayer and/or spouse - each)	\$52

STANDARD DEDUCTION

Single or Married filing separate return	\$1,966
Married filing joint return, Head of household, or Qualifying widow(er)	\$3,932

LOW-INCOME CREDIT AMOUNTS
(Round off to nearest dollar)

Single, Married filing separate return, or Head of household

<u>If Adjusted Gross Income Is</u>	<u>Percentage of Computational Tax</u>
\$6,110 or less	100%
Over \$6,110, but not over \$7,060	80%
Over \$7,060, but not over \$8,020	60%
Over \$8,020, but not over \$8,970	40%
Over \$8,970, but not over \$9,930	20%
Over \$9,930	0%

Married filing joint return, and Qualifying widow(er)

<u>If Adjusted Gross Income Is</u>	<u>Percentage of Computational Tax</u>
\$12,230 or less	100%
Over \$12,230, but not over \$14,130	80%
Over \$14,130, but not over \$16,040	60%
Over \$16,040, but not over \$17,950	40%
Over \$17,950, but not over \$19,850	20%
Over \$19,850	0%

"Computational tax" is:

- Form 540 - Line 24b (omit Sch. G1 tax), less the sum of lines 25 and 26, or less line 27.
- Form 540A - Line 17, less the sum of lines 18 and 19.
- Form 540NR - Line 22, less the sum of lines 31, 34 and 35, or the sum of lines 31 and 36.

**CALIFORNIA TAX RATES FOR TAXABLE YEAR 1988
TAX SCHEDULES**

**SCHEDULE 1. (A) SINGLE TAXPAYERS
(B) MARRIED FILING SEPARATE RETURNS
(C) FIDUCIARY TAX RETURNS**

IF THE TAXABLE INCOME IS . . .		COMPUTED TAX IS . . .				-----
OVER	BUT NOT OVER					OF AMOUNT OVER . . .
\$0	\$3,818 . . .	\$0.00	PLUS	1.0%		\$0
\$3,818	\$9,048 . . .	\$38.18	PLUS	2.0%		\$3,818
\$9,048	\$14,278 . . .	\$142.78	PLUS	4.0%		\$9,048
\$14,278	\$19,822 . . .	\$351.98	PLUS	6.0%		\$14,278
\$19,822	\$25,052 . . .	\$684.62	PLUS	8.0%		\$19,822
\$25,052	and over. . .	\$1,103.02	PLUS	9.3%		\$25,052

**SCHEDULE 2. (A) JOINT TAXPAYERS AND
(B) SURVIVING SPOUSE WITH DEPENDENTS**

IF THE TAXABLE INCOME IS . . .		COMPUTED TAX IS . . .				-----
OVER	BUT NOT OVER					OF AMOUNT OVER . . .
\$0	\$7,636 . . .	\$0.00	PLUS	1.0%		\$0
\$7,636	\$18,096 . . .	\$76.36	PLUS	2.0%		\$7,636
\$18,096	\$28,556 . . .	\$285.56	PLUS	4.0%		\$18,096
\$28,556	\$39,644 . . .	\$703.96	PLUS	6.0%		\$28,556
\$39,644	\$50,104 . . .	\$1,369.24	PLUS	8.0%		\$39,644
\$50,104	and over. . .	\$2,206.04	PLUS	9.3%		\$50,104

SCHEDULE 3. (A) UNMARRIED HEAD OF HOUSEHOLD

IF THE TAXABLE INCOME IS . . .		COMPUTED TAX IS . . .				-----
OVER	BUT NOT OVER					OF AMOUNT OVER . . .
\$0	\$7,636 . . .	\$0.00	PLUS	1.0%		\$0
\$7,636	\$18,096 . . .	\$76.36	PLUS	2.0%		\$7,636
\$18,096	\$23,326 . . .	\$285.56	PLUS	4.0%		\$18,096
\$23,326	\$28,870 . . .	\$494.76	PLUS	6.0%		\$23,326
\$28,870	\$34,100 . . .	\$827.40	PLUS	8.0%		\$28,870
\$34,100	and over. . .	\$1,245.80	PLUS	9.3%		\$34,100

California Tax Table

To Find Your Tax:

1. Find the amount of your taxable income on line 16 of Form 540A or line 18 of Form 540.
2. Read down the column titled "If The Taxable Income Is . . ." Find the amounts which apply to your taxable income.
3. Read across the column titled "The Tax For Filing Status." Find the amount of tax that applies to your filing status.

If The Taxable Income Is . . .		The Tax For Filing Status Box:			If The Taxable Income Is . . .		The Tax For Filing Status Box:			If The Taxable Income Is . . .		The Tax For Filing Status Box:		
At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is
\$1	\$50	\$0	\$0	\$0	\$6,451	\$6,550	\$92	\$65	\$65	\$12,951	\$13,050	\$301	\$184	\$184
\$51	\$150	\$1	\$1	\$1	\$6,551	\$6,650	\$94	\$66	\$66	\$13,051	\$13,150	\$305	\$186	\$186
\$151	\$250	\$2	\$2	\$2	\$6,651	\$6,750	\$96	\$67	\$67	\$13,151	\$13,250	\$309	\$188	\$188
\$251	\$350	\$3	\$3	\$3	\$6,751	\$6,850	\$98	\$68	\$68	\$13,251	\$13,350	\$313	\$190	\$190
\$351	\$450	\$4	\$4	\$4	\$6,851	\$6,950	\$100	\$69	\$69	\$13,351	\$13,450	\$317	\$192	\$192
\$451	\$550	\$5	\$5	\$5	\$6,951	\$7,050	\$102	\$70	\$70	\$13,451	\$13,550	\$321	\$194	\$194
\$551	\$650	\$6	\$6	\$6	\$7,051	\$7,150	\$104	\$71	\$71	\$13,551	\$13,650	\$325	\$196	\$196
\$651	\$750	\$7	\$7	\$7	\$7,151	\$7,250	\$106	\$72	\$72	\$13,651	\$13,750	\$329	\$198	\$198
\$751	\$850	\$8	\$8	\$8	\$7,251	\$7,350	\$108	\$73	\$73	\$13,751	\$13,850	\$333	\$200	\$200
\$851	\$950	\$9	\$9	\$9	\$7,351	\$7,450	\$110	\$74	\$74	\$13,851	\$13,950	\$337	\$202	\$202
\$951	\$1,050	\$10	\$10	\$10	\$7,451	\$7,550	\$112	\$75	\$75	\$13,951	\$14,050	\$341	\$204	\$204
\$1,051	\$1,150	\$11	\$11	\$11	\$7,551	\$7,650	\$114	\$76	\$76	\$14,051	\$14,150	\$345	\$206	\$206
\$1,151	\$1,250	\$12	\$12	\$12	\$7,651	\$7,750	\$116	\$78	\$78	\$14,151	\$14,250	\$349	\$208	\$208
\$1,251	\$1,350	\$13	\$13	\$13	\$7,751	\$7,850	\$118	\$80	\$80	\$14,251	\$14,350	\$353	\$210	\$210
\$1,351	\$1,450	\$14	\$14	\$14	\$7,851	\$7,950	\$120	\$82	\$82	\$14,351	\$14,450	\$359	\$212	\$212
\$1,451	\$1,550	\$15	\$15	\$15	\$7,951	\$8,050	\$122	\$84	\$84	\$14,451	\$14,550	\$365	\$214	\$214
\$1,551	\$1,650	\$16	\$16	\$16	\$8,051	\$8,150	\$124	\$86	\$86	\$14,551	\$14,650	\$371	\$216	\$216
\$1,651	\$1,750	\$17	\$17	\$17	\$8,151	\$8,250	\$126	\$88	\$88	\$14,651	\$14,750	\$377	\$218	\$218
\$1,751	\$1,850	\$18	\$18	\$18	\$8,251	\$8,350	\$128	\$90	\$90	\$14,751	\$14,850	\$383	\$220	\$220
\$1,851	\$1,950	\$19	\$19	\$19	\$8,351	\$8,450	\$130	\$92	\$92	\$14,851	\$14,950	\$389	\$222	\$222
\$1,951	\$2,050	\$20	\$20	\$20	\$8,451	\$8,550	\$132	\$94	\$94	\$14,951	\$15,050	\$395	\$224	\$224
\$2,051	\$2,150	\$21	\$21	\$21	\$8,551	\$8,650	\$134	\$96	\$96	\$15,051	\$15,150	\$401	\$226	\$226
\$2,151	\$2,250	\$22	\$22	\$22	\$8,651	\$8,750	\$136	\$98	\$98	\$15,151	\$15,250	\$407	\$228	\$228
\$2,251	\$2,350	\$23	\$23	\$23	\$8,751	\$8,850	\$138	\$100	\$100	\$15,251	\$15,350	\$413	\$230	\$230
\$2,351	\$2,450	\$24	\$24	\$24	\$8,851	\$8,950	\$140	\$102	\$102	\$15,351	\$15,450	\$419	\$232	\$232
\$2,451	\$2,550	\$25	\$25	\$25	\$8,951	\$9,050	\$142	\$104	\$104	\$15,451	\$15,550	\$425	\$234	\$234
\$2,551	\$2,650	\$26	\$26	\$26	\$9,051	\$9,150	\$145	\$106	\$106	\$15,551	\$15,650	\$431	\$236	\$236
\$2,651	\$2,750	\$27	\$27	\$27	\$9,151	\$9,250	\$149	\$108	\$108	\$15,651	\$15,750	\$437	\$238	\$238
\$2,751	\$2,850	\$28	\$28	\$28	\$9,251	\$9,350	\$153	\$110	\$110	\$15,751	\$15,850	\$443	\$240	\$240
\$2,851	\$2,950	\$29	\$29	\$29	\$9,351	\$9,450	\$157	\$112	\$112	\$15,851	\$15,950	\$449	\$242	\$242
\$2,951	\$3,050	\$30	\$30	\$30	\$9,451	\$9,550	\$161	\$114	\$114	\$15,951	\$16,050	\$455	\$244	\$244
\$3,051	\$3,150	\$31	\$31	\$31	\$9,551	\$9,650	\$165	\$116	\$116	\$16,051	\$16,150	\$461	\$246	\$246
\$3,151	\$3,250	\$32	\$32	\$32	\$9,651	\$9,750	\$169	\$118	\$118	\$16,151	\$16,250	\$467	\$248	\$248
\$3,251	\$3,350	\$33	\$33	\$33	\$9,751	\$9,850	\$173	\$120	\$120	\$16,251	\$16,350	\$473	\$250	\$250
\$3,351	\$3,450	\$34	\$34	\$34	\$9,851	\$9,950	\$177	\$122	\$122	\$16,351	\$16,450	\$479	\$252	\$252
\$3,451	\$3,550	\$35	\$35	\$35	\$9,951	\$10,050	\$181	\$124	\$124	\$16,451	\$16,550	\$485	\$254	\$254
\$3,551	\$3,650	\$36	\$36	\$36	\$10,051	\$10,150	\$185	\$126	\$126	\$16,551	\$16,650	\$491	\$256	\$256
\$3,651	\$3,750	\$37	\$37	\$37	\$10,151	\$10,250	\$189	\$128	\$128	\$16,651	\$16,750	\$497	\$258	\$258
\$3,751	\$3,850	\$38	\$38	\$38	\$10,251	\$10,350	\$193	\$130	\$130	\$16,751	\$16,850	\$503	\$260	\$260
\$3,851	\$3,950	\$40	\$39	\$39	\$10,351	\$10,450	\$197	\$132	\$132	\$16,851	\$16,950	\$509	\$262	\$262
\$3,951	\$4,050	\$42	\$40	\$40	\$10,451	\$10,550	\$201	\$134	\$134	\$16,951	\$17,050	\$515	\$264	\$264
\$4,051	\$4,150	\$44	\$41	\$41	\$10,551	\$10,650	\$205	\$136	\$136	\$17,051	\$17,150	\$521	\$266	\$266
\$4,151	\$4,250	\$46	\$42	\$42	\$10,651	\$10,750	\$209	\$138	\$138	\$17,151	\$17,250	\$527	\$268	\$268
\$4,251	\$4,350	\$48	\$43	\$43	\$10,751	\$10,850	\$213	\$140	\$140	\$17,251	\$17,350	\$533	\$270	\$270
\$4,351	\$4,450	\$50	\$44	\$44	\$10,851	\$10,950	\$217	\$142	\$142	\$17,351	\$17,450	\$539	\$272	\$272
\$4,451	\$4,550	\$52	\$45	\$45	\$10,951	\$11,050	\$221	\$144	\$144	\$17,451	\$17,550	\$545	\$274	\$274
\$4,551	\$4,650	\$54	\$46	\$46	\$11,051	\$11,150	\$225	\$146	\$146	\$17,551	\$17,650	\$551	\$276	\$276
\$4,651	\$4,750	\$56	\$47	\$47	\$11,151	\$11,250	\$229	\$148	\$148	\$17,651	\$17,750	\$557	\$278	\$278
\$4,751	\$4,850	\$58	\$48	\$48	\$11,251	\$11,350	\$233	\$150	\$150	\$17,751	\$17,850	\$563	\$280	\$280
\$4,851	\$4,950	\$60	\$49	\$49	\$11,351	\$11,450	\$237	\$152	\$152	\$17,851	\$17,950	\$569	\$282	\$282
\$4,951	\$5,050	\$62	\$50	\$50	\$11,451	\$11,550	\$241	\$154	\$154	\$17,951	\$18,050	\$575	\$284	\$284
\$5,051	\$5,150	\$64	\$51	\$51	\$11,551	\$11,650	\$245	\$156	\$156	\$18,051	\$18,150	\$581	\$286	\$286
\$5,151	\$5,250	\$66	\$52	\$52	\$11,651	\$11,750	\$249	\$158	\$158	\$18,151	\$18,250	\$587	\$290	\$290
\$5,251	\$5,350	\$68	\$53	\$53	\$11,751	\$11,850	\$253	\$160	\$160	\$18,251	\$18,350	\$593	\$294	\$294
\$5,351	\$5,450	\$70	\$54	\$54	\$11,851	\$11,950	\$257	\$162	\$162	\$18,351	\$18,450	\$599	\$298	\$298
\$5,451	\$5,550	\$72	\$55	\$55	\$11,951	\$12,050	\$261	\$164	\$164	\$18,451	\$18,550	\$605	\$302	\$302
\$5,551	\$5,650	\$74	\$56	\$56	\$12,051	\$12,150	\$265	\$166	\$166	\$18,551	\$18,650	\$611	\$306	\$306
\$5,651	\$5,750	\$76	\$57	\$57	\$12,151	\$12,250	\$269	\$168	\$168	\$18,651	\$18,750	\$617	\$310	\$310
\$5,751	\$5,850	\$78	\$58	\$58	\$12,251	\$12,350	\$273	\$170	\$170	\$18,751	\$18,850	\$623	\$314	\$314
\$5,851	\$5,950	\$80	\$59	\$59	\$12,351	\$12,450	\$277	\$172	\$172	\$18,851	\$18,950	\$629	\$318	\$318
\$5,951	\$6,050	\$82	\$60	\$60	\$12,451	\$12,550	\$281	\$174	\$174	\$18,951	\$19,050	\$635	\$322	\$322
\$6,051	\$6,150	\$84	\$61	\$61	\$12,551	\$12,650	\$285	\$176	\$176	\$19,051	\$19,150	\$641	\$326	\$326
\$6,151	\$6,250	\$86	\$62	\$62	\$12,651	\$12,750	\$289	\$178	\$178	\$19,151	\$19,250	\$647	\$330	\$330
\$6,251	\$6,350	\$88	\$63	\$63	\$12,751	\$12,850	\$293	\$180	\$180	\$19,251	\$19,350	\$653	\$334	\$334
\$6,351	\$6,450	\$90	\$64	\$64	\$12,851	\$12,950	\$297	\$182	\$182	\$19,351	\$19,450	\$659	\$338	\$338

California Tax Table

To Find Your Tax:

1. Find the amount of your taxable income on line 16 of Form 540A or line 18 of Form 540.
2. Read down the column titled "If The Taxable Income Is ..." Find the amounts which apply to your taxable income.
3. Read across the column titled "The Tax For Filing Status." Find the amount of tax that applies to your filing status.

If The Taxable Income Is ...		The Tax For Filing Status Box:			If The Taxable Income Is ...		The Tax For Filing Status Box:			If The Taxable Income Is ...		The Tax For Filing Status Box:		
At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is
\$19.451	\$19,550	\$665	\$342	\$342	\$25.951	\$26,050	\$1,191	\$602	\$655	\$32.451	\$32,550	\$1,796	\$941	\$1,118
\$19.551	\$19,650	\$671	\$346	\$346	\$26.051	\$26,150	\$1,200	\$606	\$661	\$32.551	\$32,650	\$1,805	\$947	\$1,126
\$19.651	\$19,750	\$677	\$350	\$350	\$26.151	\$26,250	\$1,210	\$610	\$667	\$32.651	\$32,750	\$1,814	\$953	\$1,134
\$19.751	\$19,850	\$683	\$354	\$354	\$26.251	\$26,350	\$1,219	\$614	\$673	\$32.751	\$32,850	\$1,824	\$959	\$1,142
\$19.851	\$19,950	\$691	\$358	\$358	\$26.351	\$26,450	\$1,228	\$618	\$679	\$32.851	\$32,950	\$1,833	\$965	\$1,150
\$19.951	\$20,050	\$699	\$362	\$362	\$26.451	\$26,550	\$1,238	\$622	\$685	\$32.951	\$33,050	\$1,842	\$971	\$1,158
\$20.051	\$20,150	\$707	\$366	\$366	\$26.551	\$26,650	\$1,247	\$626	\$691	\$33.051	\$33,150	\$1,851	\$977	\$1,166
\$20.151	\$20,250	\$715	\$370	\$370	\$26.651	\$26,750	\$1,256	\$630	\$697	\$33.151	\$33,250	\$1,861	\$983	\$1,174
\$20.251	\$20,350	\$723	\$374	\$374	\$26.751	\$26,850	\$1,266	\$634	\$703	\$33.251	\$33,350	\$1,870	\$989	\$1,182
\$20.351	\$20,450	\$731	\$378	\$378	\$26.851	\$26,950	\$1,275	\$638	\$709	\$33.351	\$33,450	\$1,879	\$995	\$1,190
\$20.451	\$20,550	\$739	\$382	\$382	\$26.951	\$27,050	\$1,284	\$642	\$715	\$33.451	\$33,550	\$1,889	\$1,001	\$1,198
\$20.551	\$20,650	\$747	\$386	\$386	\$27.051	\$27,150	\$1,293	\$646	\$721	\$33.551	\$33,650	\$1,898	\$1,007	\$1,206
\$20.651	\$20,750	\$755	\$390	\$390	\$27.151	\$27,250	\$1,303	\$650	\$727	\$33.651	\$33,750	\$1,907	\$1,013	\$1,214
\$20.751	\$20,850	\$763	\$394	\$394	\$27.251	\$27,350	\$1,312	\$654	\$733	\$33.751	\$33,850	\$1,917	\$1,019	\$1,222
\$20.851	\$20,950	\$771	\$398	\$398	\$27.351	\$27,450	\$1,321	\$658	\$739	\$33.851	\$33,950	\$1,926	\$1,025	\$1,230
\$20.951	\$21,050	\$779	\$402	\$402	\$27.451	\$27,550	\$1,331	\$662	\$745	\$33.951	\$34,050	\$1,935	\$1,031	\$1,238
\$21.051	\$21,150	\$787	\$406	\$406	\$27.551	\$27,650	\$1,340	\$666	\$751	\$34.051	\$34,150	\$1,944	\$1,037	\$1,246
\$21.151	\$21,250	\$795	\$410	\$410	\$27.651	\$27,750	\$1,349	\$670	\$757	\$34.151	\$34,250	\$1,954	\$1,043	\$1,255
\$21.251	\$21,350	\$803	\$414	\$414	\$27.751	\$27,850	\$1,359	\$674	\$763	\$34.251	\$34,350	\$1,963	\$1,049	\$1,264
\$21.351	\$21,450	\$811	\$418	\$418	\$27.851	\$27,950	\$1,368	\$678	\$769	\$34.351	\$34,450	\$1,972	\$1,055	\$1,274
\$21.451	\$21,550	\$819	\$422	\$422	\$27.951	\$28,050	\$1,377	\$682	\$775	\$34.451	\$34,550	\$1,982	\$1,061	\$1,283
\$21.551	\$21,650	\$827	\$426	\$426	\$28.051	\$28,150	\$1,386	\$686	\$781	\$34.551	\$34,650	\$1,991	\$1,067	\$1,292
\$21.651	\$21,750	\$835	\$430	\$430	\$28.151	\$28,250	\$1,396	\$690	\$787	\$34.651	\$34,750	\$2,000	\$1,073	\$1,302
\$21.751	\$21,850	\$843	\$434	\$434	\$28.251	\$28,350	\$1,405	\$694	\$793	\$34.751	\$34,850	\$2,010	\$1,079	\$1,311
\$21.851	\$21,950	\$851	\$438	\$438	\$28.351	\$28,450	\$1,414	\$698	\$799	\$34.851	\$34,950	\$2,019	\$1,085	\$1,320
\$21.951	\$22,050	\$859	\$442	\$442	\$28.451	\$28,550	\$1,424	\$702	\$805	\$34.951	\$35,050	\$2,028	\$1,091	\$1,330
\$22.051	\$22,150	\$867	\$446	\$446	\$28.551	\$28,650	\$1,433	\$707	\$811	\$35.051	\$35,150	\$2,037	\$1,097	\$1,339
\$22.151	\$22,250	\$875	\$450	\$450	\$28.651	\$28,750	\$1,442	\$713	\$817	\$35.151	\$35,250	\$2,047	\$1,103	\$1,348
\$22.251	\$22,350	\$883	\$454	\$454	\$28.751	\$28,850	\$1,452	\$719	\$823	\$35.251	\$35,350	\$2,056	\$1,109	\$1,357
\$22.351	\$22,450	\$891	\$458	\$458	\$28.851	\$28,950	\$1,461	\$725	\$830	\$35.351	\$35,450	\$2,065	\$1,115	\$1,367
\$22.451	\$22,550	\$899	\$462	\$462	\$28.951	\$29,050	\$1,470	\$731	\$838	\$35.451	\$35,550	\$2,075	\$1,121	\$1,376
\$22.551	\$22,650	\$907	\$466	\$466	\$29.051	\$29,150	\$1,479	\$737	\$846	\$35.551	\$35,650	\$2,084	\$1,127	\$1,385
\$22.651	\$22,750	\$915	\$470	\$470	\$29.151	\$29,250	\$1,489	\$743	\$854	\$35.651	\$35,750	\$2,093	\$1,133	\$1,395
\$22.751	\$22,850	\$923	\$474	\$474	\$29.251	\$29,350	\$1,498	\$749	\$862	\$35.751	\$35,850	\$2,103	\$1,139	\$1,404
\$22.851	\$22,950	\$931	\$478	\$478	\$29.351	\$29,450	\$1,507	\$755	\$870	\$35.851	\$35,950	\$2,112	\$1,145	\$1,413
\$22.951	\$23,050	\$939	\$482	\$482	\$29.451	\$29,550	\$1,517	\$761	\$878	\$35.951	\$36,050	\$2,121	\$1,151	\$1,423
\$23.051	\$23,150	\$947	\$486	\$486	\$29.551	\$29,650	\$1,526	\$767	\$886	\$36.051	\$36,150	\$2,130	\$1,157	\$1,432
\$23.151	\$23,250	\$955	\$490	\$490	\$29.651	\$29,750	\$1,535	\$773	\$894	\$36.151	\$36,250	\$2,140	\$1,163	\$1,441
\$23.251	\$23,350	\$963	\$494	\$494	\$29.751	\$29,850	\$1,545	\$779	\$902	\$36.251	\$36,350	\$2,149	\$1,169	\$1,450
\$23.351	\$23,450	\$971	\$498	\$499	\$29.851	\$29,950	\$1,554	\$785	\$910	\$36.351	\$36,450	\$2,158	\$1,175	\$1,460
\$23.451	\$23,550	\$979	\$502	\$505	\$29.951	\$30,050	\$1,563	\$791	\$918	\$36.451	\$36,550	\$2,168	\$1,181	\$1,469
\$23.551	\$23,650	\$987	\$506	\$511	\$30.051	\$30,150	\$1,572	\$797	\$926	\$36.551	\$36,650	\$2,177	\$1,187	\$1,478
\$23.651	\$23,750	\$995	\$510	\$517	\$30.151	\$30,250	\$1,582	\$803	\$934	\$36.651	\$36,750	\$2,186	\$1,193	\$1,488
\$23.751	\$23,850	\$1,003	\$514	\$523	\$30.251	\$30,350	\$1,591	\$809	\$942	\$36.751	\$36,850	\$2,196	\$1,199	\$1,497
\$23.851	\$23,950	\$1,011	\$518	\$529	\$30.351	\$30,450	\$1,600	\$815	\$950	\$36.851	\$36,950	\$2,205	\$1,205	\$1,506
\$23.951	\$24,050	\$1,019	\$522	\$535	\$30.451	\$30,550	\$1,610	\$821	\$958	\$36.951	\$37,050	\$2,214	\$1,211	\$1,516
\$24.051	\$24,150	\$1,027	\$526	\$541	\$30.551	\$30,650	\$1,619	\$827	\$966	\$37.051	\$37,150	\$2,223	\$1,217	\$1,525
\$24.151	\$24,250	\$1,035	\$530	\$547	\$30.651	\$30,750	\$1,628	\$833	\$974	\$37.151	\$37,250	\$2,233	\$1,223	\$1,534
\$24.251	\$24,350	\$1,043	\$534	\$553	\$30.751	\$30,850	\$1,638	\$839	\$982	\$37.251	\$37,350	\$2,242	\$1,229	\$1,543
\$24.351	\$24,450	\$1,051	\$538	\$559	\$30.851	\$30,950	\$1,647	\$845	\$990	\$37.351	\$37,450	\$2,251	\$1,235	\$1,553
\$24.451	\$24,550	\$1,059	\$542	\$565	\$30.951	\$31,050	\$1,656	\$851	\$998	\$37.451	\$37,550	\$2,261	\$1,241	\$1,562
\$24.551	\$24,650	\$1,067	\$546	\$571	\$31.051	\$31,150	\$1,665	\$857	\$1,006	\$37.551	\$37,650	\$2,270	\$1,247	\$1,571
\$24.651	\$24,750	\$1,075	\$550	\$577	\$31.151	\$31,250	\$1,675	\$863	\$1,014	\$37.651	\$37,750	\$2,279	\$1,253	\$1,581
\$24.751	\$24,850	\$1,083	\$554	\$583	\$31.251	\$31,350	\$1,684	\$869	\$1,022	\$37.751	\$37,850	\$2,289	\$1,259	\$1,590
\$24.851	\$24,950	\$1,091	\$558	\$589	\$31.351	\$31,450	\$1,693	\$875	\$1,030	\$37.851	\$37,950	\$2,298	\$1,265	\$1,599
\$24.951	\$25,050	\$1,099	\$562	\$595	\$31.451	\$31,550	\$1,703	\$881	\$1,038	\$37.951	\$38,050	\$2,307	\$1,271	\$1,609
\$25.051	\$25,150	\$1,107	\$566	\$601	\$31.551	\$31,650	\$1,712	\$887	\$1,046	\$38.051	\$38,150	\$2,316	\$1,277	\$1,618
\$25.151	\$25,250	\$1,117	\$570	\$607	\$31.651	\$31,750	\$1,721	\$893	\$1,054	\$38.151	\$38,250	\$2,326	\$1,283	\$1,627
\$25.251	\$25,350	\$1,126	\$574	\$613	\$31.751	\$31,850	\$1,731	\$899	\$1,062	\$38.251	\$38,350	\$2,335	\$1,289	\$1,636
\$25.351	\$25,450	\$1,135	\$578	\$619	\$31.851	\$31,950	\$1,740	\$905	\$1,070	\$38.351	\$38,450	\$2,344	\$1,295	\$1,646
\$25.451	\$25,550	\$1,145	\$582	\$625	\$31.951	\$32,050	\$1,749	\$911	\$1,078	\$38.451	\$38,550	\$2,354	\$1,301	\$1,655
\$25.551	\$25,650	\$1,154	\$586	\$631	\$32.051	\$32,150	\$1,758	\$917	\$1,086	\$38.551	\$38,650	\$2,363	\$1,307	\$1,664
\$25.651	\$25,750	\$1,163	\$590	\$637	\$32.151	\$32,250	\$1,768	\$923	\$1,094	\$38.651	\$38,750	\$2,372	\$1,313	\$1,674
\$25.751	\$25,850	\$1,173	\$594	\$643	\$32.251	\$32,350	\$1,777	\$929	\$1,102	\$38.751	\$38,850	\$2,382	\$1,319	\$1,683
\$25.851	\$25,950	\$1,182	\$598	\$649	\$32.351	\$32,450	\$1,786	\$935	\$1,110	\$38.851	\$38,950	\$2,391	\$1,325	\$1,692

California Tax Table

To Find Your Tax:

1. Find the amount of your taxable income on line 16 of Form 540A or line 18 of Form 540.
2. Read down the column titled "If The Taxable Income Is . . ." Find the amounts which apply to your taxable income.
3. Read across the column titled "The Tax For Filing Status." Find the amount of tax which applies to your filing status.

If The Taxable Income Is . . .		The Tax For Filing Status Box:			If The Taxable Income Is . . .		The Tax For Filing Status Box:			If The Taxable Income Is . . .		The Tax For Filing Status Box:		
At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is	At Least	But Not Over	1 Or 3 Is	2 Or 5 Is	4 Is
\$38,951	\$39,050	\$2,400	\$1,331	\$1,702	\$42,951	\$43,050	\$2,772	\$1,638	\$2,074	\$46,951	\$47,050	\$3,144	\$1,958	\$2,446
\$39,051	\$39,150	\$2,409	\$1,337	\$1,711	\$43,051	\$43,150	\$2,781	\$1,646	\$2,083	\$47,051	\$47,150	\$3,153	\$1,966	\$2,455
\$39,151	\$39,250	\$2,419	\$1,343	\$1,720	\$43,151	\$43,250	\$2,791	\$1,654	\$2,092	\$47,151	\$47,250	\$3,163	\$1,974	\$2,464
\$39,251	\$39,350	\$2,428	\$1,349	\$1,729	\$43,251	\$43,350	\$2,800	\$1,662	\$2,101	\$47,251	\$47,350	\$3,172	\$1,982	\$2,473
\$39,351	\$39,450	\$2,437	\$1,355	\$1,739	\$43,351	\$43,450	\$2,809	\$1,670	\$2,111	\$47,351	\$47,450	\$3,181	\$1,990	\$2,483
\$39,451	\$39,550	\$2,447	\$1,361	\$1,748	\$43,451	\$43,550	\$2,819	\$1,678	\$2,120	\$47,451	\$47,550	\$3,191	\$1,998	\$2,492
\$39,551	\$39,650	\$2,456	\$1,367	\$1,757	\$43,551	\$43,650	\$2,828	\$1,686	\$2,129	\$47,551	\$47,650	\$3,200	\$2,006	\$2,501
\$39,651	\$39,750	\$2,465	\$1,374	\$1,767	\$43,651	\$43,750	\$2,837	\$1,694	\$2,139	\$47,651	\$47,750	\$3,209	\$2,014	\$2,511
\$39,751	\$39,850	\$2,475	\$1,382	\$1,776	\$43,751	\$43,850	\$2,847	\$1,702	\$2,148	\$47,751	\$47,850	\$3,219	\$2,022	\$2,520
\$39,851	\$39,950	\$2,484	\$1,390	\$1,785	\$43,851	\$43,950	\$2,856	\$1,710	\$2,157	\$47,851	\$47,950	\$3,228	\$2,030	\$2,529
\$39,951	\$40,050	\$2,493	\$1,398	\$1,795	\$43,951	\$44,050	\$2,865	\$1,718	\$2,167	\$47,951	\$48,050	\$3,237	\$2,038	\$2,539
\$40,051	\$40,150	\$2,502	\$1,406	\$1,804	\$44,051	\$44,150	\$2,874	\$1,726	\$2,176	\$48,051	\$48,150	\$3,246	\$2,046	\$2,548
\$40,151	\$40,250	\$2,512	\$1,414	\$1,813	\$44,151	\$44,250	\$2,884	\$1,734	\$2,185	\$48,151	\$48,250	\$3,256	\$2,054	\$2,557
\$40,251	\$40,350	\$2,521	\$1,422	\$1,822	\$44,251	\$44,350	\$2,893	\$1,742	\$2,194	\$48,251	\$48,350	\$3,265	\$2,062	\$2,566
\$40,351	\$40,450	\$2,530	\$1,430	\$1,832	\$44,351	\$44,450	\$2,902	\$1,750	\$2,204	\$48,351	\$48,450	\$3,274	\$2,070	\$2,576
\$40,451	\$40,550	\$2,540	\$1,438	\$1,841	\$44,451	\$44,550	\$2,912	\$1,758	\$2,213	\$48,451	\$48,550	\$3,284	\$2,078	\$2,585
\$40,551	\$40,650	\$2,549	\$1,446	\$1,850	\$44,551	\$44,650	\$2,921	\$1,766	\$2,222	\$48,551	\$48,650	\$3,293	\$2,086	\$2,594
\$40,651	\$40,750	\$2,558	\$1,454	\$1,860	\$44,651	\$44,750	\$2,930	\$1,774	\$2,232	\$48,651	\$48,750	\$3,302	\$2,094	\$2,604
\$40,751	\$40,850	\$2,568	\$1,462	\$1,869	\$44,751	\$44,850	\$2,940	\$1,782	\$2,241	\$48,751	\$48,850	\$3,312	\$2,102	\$2,613
\$40,851	\$40,950	\$2,577	\$1,470	\$1,878	\$44,851	\$44,950	\$2,949	\$1,790	\$2,250	\$48,851	\$48,950	\$3,321	\$2,110	\$2,622
\$40,951	\$41,050	\$2,586	\$1,478	\$1,888	\$44,951	\$45,050	\$2,958	\$1,798	\$2,260	\$48,951	\$49,050	\$3,330	\$2,118	\$2,632
\$41,051	\$41,150	\$2,595	\$1,486	\$1,897	\$45,051	\$45,150	\$2,967	\$1,806	\$2,269	\$49,051	\$49,150	\$3,339	\$2,126	\$2,641
\$41,151	\$41,250	\$2,605	\$1,494	\$1,906	\$45,151	\$45,250	\$2,977	\$1,814	\$2,278	\$49,151	\$49,250	\$3,349	\$2,134	\$2,650
\$41,251	\$41,350	\$2,614	\$1,502	\$1,915	\$45,251	\$45,350	\$2,986	\$1,822	\$2,287	\$49,251	\$49,350	\$3,358	\$2,142	\$2,659
\$41,351	\$41,450	\$2,623	\$1,510	\$1,925	\$45,351	\$45,450	\$2,995	\$1,830	\$2,297	\$49,351	\$49,450	\$3,367	\$2,150	\$2,669
\$41,451	\$41,550	\$2,633	\$1,518	\$1,934	\$45,451	\$45,550	\$3,005	\$1,838	\$2,306	\$49,451	\$49,550	\$3,377	\$2,158	\$2,678
\$41,551	\$41,650	\$2,642	\$1,526	\$1,943	\$45,551	\$45,650	\$3,014	\$1,846	\$2,315	\$49,551	\$49,650	\$3,386	\$2,166	\$2,687
\$41,651	\$41,750	\$2,651	\$1,534	\$1,953	\$45,651	\$45,750	\$3,023	\$1,854	\$2,325	\$49,651	\$49,750	\$3,395	\$2,174	\$2,697
\$41,751	\$41,850	\$2,661	\$1,542	\$1,962	\$45,751	\$45,850	\$3,033	\$1,862	\$2,334	\$49,751	\$49,850	\$3,405	\$2,182	\$2,706
\$41,851	\$41,950	\$2,670	\$1,550	\$1,971	\$45,851	\$45,950	\$3,042	\$1,870	\$2,343	\$49,851	\$49,950	\$3,414	\$2,190	\$2,715
\$41,951	\$42,050	\$2,679	\$1,558	\$1,981	\$45,951	\$46,050	\$3,051	\$1,878	\$2,353	\$49,951	\$50,050	\$3,423	\$2,198	\$2,725
\$42,051	\$42,150	\$2,688	\$1,566	\$1,990	\$46,051	\$46,150	\$3,060	\$1,886	\$2,362	\$50,051	\$50,150	\$3,432	\$2,206	\$2,734
\$42,151	\$42,250	\$2,698	\$1,574	\$1,999	\$46,151	\$46,250	\$3,070	\$1,894	\$2,371	\$50,151	\$50,250	\$3,442	\$2,215	\$2,743
\$42,251	\$42,350	\$2,707	\$1,582	\$2,008	\$46,251	\$46,350	\$3,079	\$1,902	\$2,380	OVER	\$50,250	\$3,446	\$2,220	\$2,748
\$42,351	\$42,450	\$2,716	\$1,590	\$2,018	\$46,351	\$46,450	\$3,088	\$1,910	\$2,390	PLUS 9.3% OF THE AMOUNT OVER \$50,250				
\$42,451	\$42,550	\$2,726	\$1,598	\$2,027	\$46,451	\$46,550	\$3,098	\$1,918	\$2,399					
\$42,551	\$42,650	\$2,735	\$1,606	\$2,036	\$46,551	\$46,650	\$3,107	\$1,926	\$2,408					
\$42,651	\$42,750	\$2,744	\$1,614	\$2,046	\$46,651	\$46,750	\$3,116	\$1,934	\$2,418					
\$42,751	\$42,850	\$2,754	\$1,622	\$2,055	\$46,751	\$46,850	\$3,126	\$1,942	\$2,427					
\$42,851	\$42,950	\$2,763	\$1,630	\$2,064	\$46,851	\$46,950	\$3,135	\$1,950	\$2,436					

Information About California Sales And Use Tax

If you purchased goods from an out-of-state retailer (such as a mail-order firm) and sales tax would have been charged if you had purchased the goods in California, you owe use tax on your purchase if the out-of-state retailer did not collect the tax. Your tax liability may be calculated by multiplying the sales tax rate in your area times the cost of the goods purchased. You may pay your tax liability by sending payment to the State Board of Equalization, P.O. Box 942879, Sacramento, CA 94279-0001, with a brief letter listing your name, address, a description and cost of the goods purchased, and the name and address of the out-of-state retailer.

If you have a question as to which goods are taxable, you should contact the nearest office of the State Board of Equalization whose address and telephone number may be found in the State Government section of your telephone directory.

1988 CHAPTERED BILLS

Bill Number Order

<u>Bill No.</u>	<u>Chapter No.</u>	<u>LC No.</u>	<u>Bill No.</u>	<u>Chapter No.</u>	<u>LC</u>
AB 131	258	4	SB 85	989	23
AB 352	1349	8	SB 162	671	7
AB 2359	901	24	SB 573	1068	13
AB 2716	747	6	SB 722	1239	19
AB 2755	337	5	SB 1390	1451	17
AB 2764	1464	--	SB 1801	1465	22
AB 2785	1463	21	SB 1802	1361	--
AB 2788	1573	25	SB 1805	970	15
AB 2851	628	16	SB 1904	1437	10
AB 2896	627	26	SB 2035	1017	14
AB 2977	1170	11	SB 2260	1521	28
AB 3083	1029	18	SB 2289	1333	20
AB 3165	1231	12	SB 2293	830	--
AB 3799	1504	27	SB 2637	160	--
AB 3962	1490	--			
AB 4087	555	--			
AB 4132	1234	9			

Chapter Number Order

<u>Chapter No.</u>	<u>Bill No.</u>	<u>LC No.</u>	<u>Chapter No.</u>	<u>Bill No.</u>	<u>LC No.</u>
160	SB 2637	--	1231	AB 3165	12
258	AB 131	4	1234	AB 4132	9
337	AB 2755	5	1239	SB 722	19
555	AB 4087	--	1333	SB 2289	20
627	AB 2896	26	1349	AB 352	8
628	AB 2851	16	1361	SB 1802	--
671	SB 162	7	1437	SB 1904	10
747	AB 2716	6	1451	SB 1390	17
830	SB 2293	--	1463	AB 2785	21
901	AB 2359	24	1464	AB 2764	--
970	SB 1805	15	1465	SB 1801	22
989	SB 85	23	1490	AB 3962	--
1017	SB 2035	14	1504	AB 3799	27
1029	AB 3083	18	1521	SB 2260	28
1068	SB 573	13	1573	AB 2788	25
1170	AB 2977	11			

Note 1: Legislative Change Reports (LCs) not issued for bills which made only minor technical corrections to the PITL, SCPTAL, and the B&CTL, or for bills which made changes to other codes relating to programs administered by the FTB.

Note 2: AB 2130 (Ch. 88-11), SB 1705 (Ch. 88-31), and SB 1706 (Ch. 88-32) are not included in the above listings, as these bills were the subject of a separate report dated March 18, 1988.

MAJOR BILLS VETOED

AB 145 (Speier) DESIGNATION FOR THE EMERGENCY HOUSING AND ASSISTANCE FUND. Would create an income tax designation on the income tax return for contributions to the Emergency Housing and Assistance Fund, established by Section 50800.5 of the Health and Safety Code.

Reason for veto: There is a limit to the number of designations that can be accommodated on the tax form...We have reached the saturation point beyond which the addition of more charitable designations diminishes the effectiveness of the existing designations...We should not add to the current list...unless it replaces one of the existing designations.

AB 2064 (Farr) EDUCATIONAL SAVINGS PROGRAMS. Would establish a program under which the State Treasurer may issue special general obligation bonds in lieu of regular general obligation bonds, on behalf of investors who purchase shares of these bonds in an effort to cover future college expenses. Payments, including the interest, received by an investor from his or her account in the Educational Investment Program would be exempt from state income tax, unless at the time funds are withdrawn from the account, any portion thereof was not used for higher education needs; in which case a tax equal to 10 percent of those improperly used funds would be required to be added to the investor's state income tax liability.

Reason for veto: Proposes a college savings plan that is intended to reassure parents that future tuition costs will be covered through this additional option for savings...Even though there is no guarantee of a return to parents, and the bill protects the state from any costs,...this legislation will create an expectation for parents of a guarantee....(and) the state will experience funding pressure....

AB 4360 (Chacon) VOTER REGISTRATION. These bills would replace the current post-general election purge process of those registered voters who have not voted in four consecutive statewide elections. It would also require the Secretary of State to provide voter registration materials for inclusion in various state and public utility mailings.

Reason for veto: This bill would require numerous state agencies and public utilities to provide voter registration information in their regular mailings of pay warrants, benefit checks, billings, notices and state tax refunds. I am concerned that this bill would result in multiple notices on a regular basis. (This) duplication of notice...does not warrant the expense...(and) would set an inappropriate precedent for mandating inclusion of other worthwhile information pieces in tax and utility information.

SB 188 (Alquist) TAX CREDIT: SOLID WASTE RECYCLING. This bill would establish a personal income tax and bank and corporation tax credit for purchasing recyclable material.

Reason for veto: I am very concerned about the revenue loss to the General Fund which would occur as a result of this legislation. The Franchise Tax Board estimates this loss to be approximately \$11 million annually. While I agree that the state has a role in encouraging the use of recycled products, I do not believe that role should extend to subsidizing the users. ...This legislation would move the state away from the desired goal of (federal) conformity and simplicity.

SB 368 (Dills) HARBOR REVITALIZATION ZONES. This bill would allow the Department of Commerce to designate two ports, one in Southern California and one in Northern California, as harbor revitalization zones. The purpose ...is to stimulate economic growth and job creation through private sector investment in economically depressed commercial fishing and harbor industrial areas.

Reason for veto: Harbors are eligible areas to be included in enterprise zones and incentive areas. Of the existing 16 designations, 2 include ports. A third port, along with 3 other areas, is being considered for designation for the final 3 incentive areas. No information has been presented that justifies an additional economic revitalization program... Harbors are eligible to be included in the existing programs, and local government officials, when deciding on the enterprise zone and incentive boundaries, make the decision as to whether or not harbors should be included within the zone boundaries.

SB 1389 (Morgan) MOTOR VEHICLE LEASES. Would retroactively allow depreciation deductions for lessors of commercial leases entered into prior to 1985. ...would also create a new depreciation deduction for lessors of consumer leases.

Reason for veto: Would allow forgiveness of taxes owed by taxpayers who improperly claimed depreciation deductions. For those taxpayers who did not claim such deductions and paid the proper taxes, the bill expressly denies the right to claim such deductions by filing an amended return to obtain a tax refund. Thus, this measure would excuse taxpayers who violated the law and punish those who obeyed it. ...it will result in a revenue loss in excess of \$8 million annually, it could be construed as a gift of public funds because retroactive tax changes relieve taxpayers of vested tax liabilities, and it moves the state further away from federal conformity by creating a new deduction for lessors of consumer leases.

SB 2403 (Kopp) APPEALS: NOTICES OF ACTION. Would provide that a Franchise Tax Board notice of action related to a taxpayer's protest is final 30 days from the date the Franchise Tax Board can demonstrate, by a preponderance of evidence, that the notice is mailed.

Reason for veto: This legislation is unnecessary. The Franchise Tax Board has voted to administratively change its mailing procedure so that notices of action on protested assessments are mailed via the post office's certificated mailing, which would establish proof that the notice was mailed. This action achieves the result sought by this legislation. The processing of mail is an administrative function... To codify mailing procedures could erode management's flexibility to respond to changing needs.

SB 2405 (Kopp) LOW-INCOME HOUSING CREDIT. Would modify the eligibility requirement for the low-income housing tax credits by eliminating the 10-year "placed in service" requirement.

Reason for veto: This bill would move the state further away from federal conformity. ...changes are being contemplated at the federal level along the lines of this bill. Normally, the state awaits final federal changes before considering conformity matters.

SECTIONS ADDED, AMENDED, REPEALED

<u>Section</u>	<u>Action</u>	<u>Page</u>	<u>Section</u>	<u>Action</u>	<u>Page</u>
BUSINESS AND PROFESSIONS CODE			17561	Amended	8
30	Amended	31	17683	Amended	8
			18001	Amended	9
			18002	Amended	9
CODE OF CIVIL PROCEDURE			18042	Amended	9
708.730	Amended	31	18402	Amended	9
			18403	Amended	9
			18410.6	Amended	9
GOVERNMENT CODE			18411	Repealed	10
7077	Amended	31	18512	Amended	10
7082	Amended	31	18513	Renumbered	10
7095	Amended	31	18513.1	Renumbered	10
7269	Amended	32	18513.2	Renumbered	10
12419.3	Amended	32	18551	Amended	10
12419.8	Amended	32	18681.7	Added	10
			18688	Amended	10
			18802.3	Amended	11
REVENUE AND TAXATION CODE			18802.10	Added	11
17041	Amended	1	18817.3	Repealed	11
17048	Amended	1	19053.1	Amended	11
17052.1	Repealed	1	19062.13	Amended	11
17052.4	Amended	1	19088	Repeal/Add	12
17052.13	Amended	2	19133	Added	12
17052.17	Added	2	19269	Amended	12
17052.18	Added	2	19276	Amended	12
17053.5	Amended	3	19276.5	Repealed	13
17053.8	Amended	3	19405	Amended	13
17053.9	Amended	3	20514	Amended	13
17053.11	Amended	3	20543	Amended	13
17053.13	Amended	4	20544	Amended	13
17053.20	Added	4	21001	Added	14
17054	Amended	4	21002	Added	14
17054.5	Amended	5	21003	Added	14
17058	Amended	5	21004	Added	14
17061.5	Amended	5	21005	Added	14
17062	Amended	5	21006	Added	14
17063	Amended	5	21007	Added	15
17073.5	Amended	6	21008	Added	15
17142	Added	6	21009	Added	15
17145	Amended	6	21010	Added	15
17149	Added	6	21011	Added	15
17156	Added	7	21012	Added	15
17231	Amended	7	21013	Added	16
17252.5	Amended	7	21014	Added	16
17265	Amended	7	21015	Added	16
17276	Amended	7	21016	Added	16
17276.1	Amended	7	21017	Added	17
17276.2	Amended	7	21018	Added	17
17280	Amended	7	21019	Added	17
17507	Amended	8	21020	Added	17
17551	Amended	8	21021	Added	18
17551.5	Amended	8	21022	Added	18

<u>Section</u>	<u>Action</u>	<u>Page</u>	<u>Section</u>	<u>Action</u>	<u>Page</u>
23036	Amended	18	24722.	Repealed	24
23044	Amended	18	24722.1	Repealed	24
23151	Amended	19	24722.2	Repealed	24
23153	Amended	19	24722.3	Repealed	24
23181	Amended	19	24723	Repealed	24
23184	Amended	19	24833	Amended	25
23301	Amended	19	24903	Repealed	25
23453	Amended	19	24905	Added	25
23601.4	Amended	19	24941	Amended	25
23603	Amended	20	24954	Added	25
23609	Amended	20	24990	Amended	25
23609.5	Amended	20	24990.5	Added	26
23610.5	Amended	20	24995	Added	26
23612	Amended	20	25106.5	Amended	26
23615	Added	20	25107	Amended	26
23617	Added	20	25110	Amended	26
23617.5	Added	20	25111	Amended	27
23621	Added	21	25112	Amended	27
23622	Added	21	25113	Amended	27
23623	Added	21	25114	Amended	27
23630	Repealed	21	25115	Amended	28
23800	Amended	21	25125	Amended	28
23802	Amended	21	25401d	Added	28
24306	Added	21	25401e	Added	29
24322	Added	22	25553	Amended	29
24330	Repealed	22	25562	Amended	29
24331	Amend/Repeal	22	25563	Amended	29
24333	Amend/Repeal	22	25782	Added	29
24343.5	Added	22	25931.3	Amended	29
24378	Repealed	23	25962	Amended	29
24379	Repeal/Add	23	26073a	Amended	30
24411	Amended	23	26073b	Amended	30
24416	Amended	23	26073c	Amended	30
24416.2	Amended	23	26073d	Amended	30
24562	Amended	24	26104	Amended	30
24603	Amended	24	26132.05	Repealed	30
24637	Amended	24	26221	Amended	30
24721	Repeal/Add	24	26428.5	Repealed	30



SECTION-BY-SECTION SUMMARY

SC = Substantive Change
TC = Technical Change

PERSONAL INCOME TAX LAW

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Imposition of Tax

17041 (Amend) LC 88-26	1	RATES AND INCOME BRACKETS (SC) Amends subdivisions (b) and (d), relating to nonresidents and part-year residents, by deleting the word "source" in reference to California adjusted gross income, to clarify that a part-year resident must include in California AGI income from California sources for the period of nonresidency plus income from all sources for the period of residency; and adds subdivision (i) defining "California adjusted gross income". Operative for taxable years beginning on or after January 1, 1988. (AB 2896, Ch. 88-627)
17048 (Amend) LC 88-11	3	TAX TABLES (TC) Deletes obsolete reference to Section 18241, relating to income averaging, which was repealed by AB 53 (Ch. 87-1138); and corrects reference to Section 17504(b) [was Section 17085], relating to tax treatment of lump-sum distributions, as amended by AB 53 (Ch. 87-1138) and AB 2130 (Ch. 88-11). Operative for taxable years beginning on or after September 22, 1988. (AB 2977, Ch. 88-1170)

Tax Credits

17052.1 (Repeal) LC 88-26	----	SOLAR PUMPS - AGRICULTURAL IRRIGATION (SC) Section repealed as provisions allowing a tax credit for acquisition and installation of solar pumps used in agricultural irrigation in California became inoperative on January 1, 1984. (AB 2896, Ch. 88-627)
17052.4 (Amend) (23601.4) LC 88-22	----	SOLAR ENERGY - COMMERCIAL (SC) Amends subdivision (a) to delete the "Notwithstanding" phrase and to substitute "net tax (as defined by Section 17039) and the alternative minimum tax (Section 17062)" for "taxes imposed by this part". Makes conforming change in subdivision (h). Amends subdivision (c) to provide that this credit (except for unused carryovers) is automatically repealed as of December 1, 1989 (was January 1, 1989), to include fiscal years beginning in 1988 and ending in 1989; e.g., FY 12/1/88-11/30/89. Operative for taxable years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

January 1, 1992. Section repealed as of December 1, 1992. (SB 722, Ch. 88-1239)

17053.5
(Amend)

RENTER'S CREDIT (SC) Changes definition of a qualified renter to an "individual who was a California resident and who rented and occupied a principle place of residence in this state for at least 50 percent of the taxable year". (Was, "a California resident who rented and occupied a principle place of residence in this state on March 1 of the taxable year, or in the case of an individual in the military service and absent from this state on March 1, rented and resided in premises in this state for 50 percent of the taxable year, including January 1 or December 31.") Other provisions and restrictions are retained. Operative for taxable years beginning on or after January 1, 1988. (AB 2716, Ch. 88-747)

LC 88-6

17053.8
(Amend)
(24331)

WAGES PAID TO DISADVANTAGED EMPLOYEE IN AN ENTERPRISE ZONE (SC) Changes "year one", "year two", "year three", "year four", and "year five" in subdivision (a) to "the first (second, third, fourth, and fifth, respectively) year of employment". Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)

LC 88-21

17053.9
(Amend)

WAGES RECEIVED BY A QUALIFIED DISADVANTAGED EMPLOYEE (SC) Deletes the automatic repeal date of January 1, 1993, added by AB 53 (Ch. 87-1138). Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)

LC 88-21

17053.11
(Amend)
(24333)

HIRING OF UNEMPLOYED RESIDENT OF HIGH DENSITY UNEMPLOYMENT AREA (SC) Increases the allowable credit by increasing the percentages of qualified wages paid to qualified employees to be the same as the percentages prescribed in Section 17053.8, relating to credit for wages paid to disadvantaged employees in an enterprise zone; that is:

LC 88-21

<u>Year of Employment</u>	<u>Unemployed 3 - 5 months</u>	<u>Unemployed 6 plus months</u>
1st	25%	50%
2nd	40%	40%
3rd	30%	30%
4th	20%	20%
5th	10%	10%

Provides that the recapture provisions of this credit apply to terminated seasonal employees, and the credit must be reduced by the targeted jobs credit. Also, no deduction is allowed for that portion of wages upon which the credit is based.

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)

17053.13
(Amend)

MILITARY COMPENSATION CREDIT (SC) Adds pensions and retirement pay received for services as a member of the California National Guard or the State Military Reserve to the 4 percent (maximum \$40) of military compensation credit provisions. Operative for taxable years beginning on or after January 1, 1988 and before January 1, 1992. (AB 4132, Ch. 88-1234)

LC 88-9

17053.20
(New)
(23615)

SMALL EMPLOYER HEALTH COVERAGE (SC) Provides for a carryover tax credit, in lieu of an allowable business deduction, for amounts paid or incurred by eligible small businesses (defined) to provide certified health coverage (defined) for eligible individuals (defined) and their dependents. The allowable credit is the greater of \$25 per month per covered individual or 25-percent of the total amount paid or incurred per month for the health coverage during the taxable year, plus the greater of \$25 per month or 25-percent of the total amount paid or incurred per month for the covered individual's dependent(s). An additional credit of \$5 per month for each covered individual is allowed if the health care coverage includes prenatal and well baby care, or mental health benefits. Minimum employer costs, maximum eligible individual's costs, and other employer requirements to qualify for the credit are specified. Expenses for health coverage under these provisions are excludable from the eligible individual's income for state income tax purposes. Operative for taxable years beginning on or after January 1 of the year (but not before 1990) following the calendar year in which the Legislative Analyst and the Department of Finance certify that (1) the Governor's Budget provides for a 3 percent reserve, and (2) the Department of Finance projects real personal income growth of at least 4 percent. The credit would then be in effect until January 1 of the fifth year following the year it first becomes operative. (SB 2260, Ch. 88-1521)

LC 88-28

17054
(Amend)

151(c)

CREDIT FOR PERSONAL EXEMPTIONS (TC) Substitutes "tax imposed under either Section 17041 or 17048, plus the tax imposed under Section 17504 (relating to tax on lump-sum distributions)" for "net tax", as "net tax" is "tax imposed less the personal exemption credits"; and clarifies the rules which deny a dependent exemption credit for the person who qualifies the taxpayer as Head of household. Operative for taxable years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)

LC 88-22

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

- 17054.5 (Amend)
LC 88-8
-
- JOINT CUSTODY HEAD OF HOUSEHOLD (SC)** Expands the Joint custody head of household tax credit, added by AB 53 (Ch. 87-1138), to permit a married individual who lives apart from his or her spouse for the last six months of the taxable year and furnishes over half of the cost of maintaining a home for his or her dependent parent to qualify for a tax credit equal to 30 percent of "net tax", not to exceed \$200 (\$209 for 1988). Operative for taxable years beginning on or after January 1, 1988. (AB 352, Ch. 88-1349)
- 17058 (Amend)
(23610.5)
LC 88-4
- 42
- LOW-INCOME HOUSING CREDIT (TC)** Makes a technical correction by changing "Mortgage Bond Allocation Committee" to "Mortgage Bond and Tax Credit Allocation Committee", reflecting the change in the committee's name made by SB 113, Ch. 87-658. (AB 131, Ch. 88-258)
- 17061.5 (Amend)
LC 88-22
-
- RESIDENTIAL RENTAL AND FARM SALES CREDIT (TC)** Amends paragraph (3) of subdivision (b) to clarify that all capital gain (loss) transactions (including prior year installment sales, capital loss carryovers, etc.) which are taken into account in computing taxable income for the taxable year, are used in the computation of the credit and the limitations thereon. Operative for taxable years beginning on or after January 1, 1987. Section repealed as of January 1, 1992. (SB 1801, Ch. 88-1465)

Alternative Minimum Tax

- 17062 (Amend)
LC 88-16
- 55-59
- ALTERNATIVE MINIMUM TAX (SC)** Amends subdivision (b)(3)(A) to substitute "alternative credit" (was credits) for taxes paid to other states; modifies subparagraph (B), relating to nonresidents and part-year residents, to provide, for purposes of computing the alternative minimum tax, that the NOL deduction provided in IRC Section 56(d) shall be computed as if the taxpayer was a resident for the entire year; and adds subparagraph (C) defining "California adjusted gross income", as modified for purposes of computing the alternative minimum tax. Operative January 1, 1988. (AB 2851, Ch. 88-628)
- 17063 (Amend)
(23453)
LC 88-22
- 53
- CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY (SC)** Conforms, in concept, to IRC Section 53(c)(1), by allowing regular tax, as defined in Section 17062(b)(3), to be reduced by tax credits, other than refundable credits, prior to allowance of the minimum tax credit. Operative for taxable years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Definitions of Gross Income, Adjusted Gross
Income, Taxable Income, Etc.

17073.5 63(c) **STANDARD DEDUCTION (SC)** Conforms to IRC Section
(Amend) 63(c)(6), which limits the standard deduction to
LC 88-22 zero in certain situations, such as a separate
return of a married individual where the other
spouse itemizes deductions; and provides, for pur-
poses of paragraph (2) of subdivision (c), that the
amount specified in IRC Section 63(c)(5)(A) shall
be adjusted for inflation in accordance with the
provisions of IRC Section 63(c)(4). Operative for
taxable years beginning on or after January 1,
1987. (SB 1801, Ch. 88-1465)

Items Specifically Excluded from Gross Income

17142 111 **RECOVERY OF TAX BENEFIT ITEMS (SC)** Provides that
(New) IRC Section 111(b) and (c), relating to credits and
LC 88-22 treatment of credit carryovers, shall be applicable
with respect to credits allowable under the PITL.
Operative for taxable years beginning on or after
January 1, 1988. (SB 1801, Ch. 88-1465)

17145 852(b)(5) **EXEMPT-INTEREST DIVIDENDS (SC)** Adds obligations of
(Amend) the United States (other than those of the Federal
LC 88-7 National Mortgage Association [FNMA], Government
National Mortgage Association [GNMA], Federal Home
Loan Mortgage Corporation [FHLMC], and obligations
of the District of Columbia issued after 12/27/73),
which pay interest exempt from taxation under the
Constitution or laws of the United States as quali-
fying for pass-through treatment, subject to the 50
percent test for determining if a management com-
pany, or series thereof, is authorized to pay
exempt-interest dividends to its shareholders.
NOTE: This does not provide for a combination
portfolio of federal and California obligations to
qualify under the "50 percent test; however, if the
"50 percent test" is met for either federal obliga-
tions or state/local bonds, then the interest from
both the federal obligations and the California
bonds is entitled to the flow through tax-exempt
treatment. Operative for taxable years beginning on
or after January 1, 1988. (SB 162, Ch. 88-671)

17149 ---- **COMPENSATION, ETC. FOR PARTICIPATING IN EMPLOYER**
(New) **RIDESHARING ARRANGEMENT (SC)** Reenacts provisions,
LC 88-10 repealed by AB 53 (Ch. 87-1138), allowing an exclu-
sion from income for benefits, other than salary or
wages, received by an employee participating in an
employer-sponsored ridesharing arrangement.
Operative for taxable years beginning on or after
January 1, 1988. (SB 1904, Ch. 88-1437)

<u>PIT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
17156 (New) LC 88-9	----	REPARATIONS (SC) Provides a specific exclusion from gross income for reparation payments made to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World War II. Operative for taxable years beginning on or after November 10, 1988, the date that the FTB determined that these payments, under a 1988 federal statute, would, for purposes of the IRC, be treated as damages for human suffering. (AB 4087, Ch. 88-555) (AB 4132, Ch. 88-1234)

Deductions

17231 (Amend) LC 88-21	----	DEDUCTION FOR NET INTEREST AMOUNT (SC) Deletes the automatic repeal date of January 1, 1993, added by AB 53 (Ch. 87-1138). Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17252.5 (Amend) LC 88-21	179	DEPRECIATION - ENTERPRISE ZONE PROPERTY (SC) Corrects reference in subdivision (d)(2)(B)(ii), to IRC Section 1014, relating to basis of property acquired from a decedent. (Was Section 18031, a general conformity section to IRC Sections 1001-1103.) Deletes automatic repeal date of January 1, 1989. Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17265 (Amend) LC 88-21	----	CAPITAL EXPENDITURES - SECTION 17265 PROPERTY (SC) Deletes the automatic repeal date of January 1, 1993, added by AB 53 (Ch. 87-1138). Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17276 (Amend) LC 88-21	172	NET OPERATING LOSSES (TC) Adds cross references to Sections 17276.1 and 17276.2 in subdivisions (a) and (g). Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17276.1 (Amend) LC 88-21	----	QUALIFIED TAXPAYER (TC) Makes minor nonsubstantive technical corrections. Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17276.2 (Amend) (24416.2) LC 88-21	172	NET OPERATING LOSS - DESIGNATED AREAS (SC) Deletes the automatic repeal date of January 1, 1989, added by SB 1706 (CH. 88-32). Operative for taxable years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)
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17280 (Amend) LC 88-15	265(a)(6)	EXPENSES RELATED TO EXEMPT INCOME (TC) Changes reference, in subdivision (b)(3), from "a diversified management company" to "a management company or series thereof", to conform to changes in Sec-
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**PIT
SECTION**

**IRC
SECTION**

SUMMARY OF CHANGE

tion 17145, enacted by AB 4278 (Ch. 86-1155).
Operative for taxable years beginning on or after
January 1, 1988. (SB 1805, Ch. 88-970)

Deferred Compensation

17507 408(d) **PENSIONS - INDIVIDUAL RETIREMENT ACCOUNTS (TC)**
(Amend) Amends subdivision (b)(1) by changing "1983" to
LC 88-22 "1982", to conform to date on which federal changed
its active participation rules applicable to
taxable years beginning on or after January 1,
1982 and before January 1, 1987. Operative for
taxable years beginning on or after January 1,
1988. (SB 1801, Ch. 88-1465)

Accounting Periods and Methods of Accounting

17551 444 **ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED**
(Amend) **TAXABLE YEAR (TC)** Clarifies, in subdivision (b),
(24637) that IRC Section 444(c), relating to "required pay-
LC 88-22 ments" for entities electing a taxable year other
than the "required" taxable year, is not appli-
cable. Operative for taxable years beginning on or
after January 1, 1987. (SB 1801, Ch. 88-1465)

17551.5 652(a) **REQUIRED CHANGE OF ACCOUNTING PERIOD (TC)** Amends
(Amend) 662(a) subdivision (b) to include beneficiaries of trusts
LC 88-22 in the rules allowing a four-year spread of income
resulting from a change in taxable year. Operative
for taxable years beginning on or after January 1,
1987. (SB 1801, Ch. 88-1465)

17561 469 **PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED (SC)**
(Amend) Adds paragraph (2) to subdivision (b) to clarify
LC 88-22 that the phaseout of the \$75,000 loss from rental
activities is computed by using the same income
amount as is used for federal purposes (modified
federal AGI). Operative for taxable years begin-
ning on or after January 1, 1987. (SB 1801,
Ch. 88-1465)

Natural Resources

17683 613(e)(4) **PERCENTAGE DEPLETION (SC)** Adds subdivision (f).
(Amend) 613A conforming to federal law in denying percentage
(24833) (d)(5) depletion for lease bonus and advance royalty pay-
LC 88-22 ments not related to production. Operative for
taxable years beginning on or after January 1,
1987. (SB 1801, Ch. 88-1465)

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Credit for Taxes Paid

- 18001** ----- **CREDIT, RESIDENTS (TC)** Amends subdivision (a)(3)
(Amend) to refer to "net tax (as defined by Section
LC 88-22 17039)" (was "tax", which included all taxes im-
posed under the PITL). Operative for taxable
years beginning on or after January 1, 1988.
(SB 1801, Ch. 88-1465)
- 18002** ----- **CREDIT, NONRESIDENTS (SC)** Conforms to changes made
(Amend) to Section 18001 by AB 2130 (Ch. 88-11) and as
LC 88-22 noted above. Also clarifies that the "other state
tax" is the "regular tax", and adds rules relating
to computation of the credit for taxes paid to an-
other state for purposes of computing the tentative
minimum tax. Operative for taxable years beginning
on or after January 1, 1988. (SB 1801, Ch. 88-1465)

Gain or Loss on Disposition of Property

- 18042** 1042 **SALE OF STOCK TO EMPLOYEE STOCK OWNERSHIP PLANS OR**
(Amend) **CERTAIN COOPERATIVES (SC)** Provides that the provi-
(24954) sions of IRC Section 1042, relating to sales of
LC 88-27 stock to employee stock ownership plans (ESOP's)
shall apply (formerly, shall not apply) to taxable
years beginning on or after January 1, 1990 and be-
fore January 1, 1995. For taxable years beginning
before January 1, 1990 and on or after January 1,
1995, the provisions of IRC Section 1042 shall not
apply. (AB 3799, Ch. 88-1504)

Filing Requirements

- 18402** 6013 **HUSBAND AND WIFE RETURNS (TC)** Clarifies that if
(Amend) either spouse is an active member of the armed
LC 88-22 forces, either separate returns or a joint return
may be filed (formerly required a resident military
person and a nonresident spouse to file a joint
return). Operative for taxable years beginning on
or after January 1, 1988. (SB 1801, Ch. 88-1465)
- 18403** 6012 **RETURNS BY AGENTS OR GUARDIANS (SC)** Includes a
(Amend) (b)(2) fiduciary as one who is authorized to file a return
LC 88-20 for an individual who is unable to file his or her
own return. Deletes reference to Section 18415 (re-
pealed by AB 66, Ch. 85-1461), relating to the filing
of a declaration of estimated tax. Operative Septem-
ber 26, 1988. (SB 2289, Ch. 88-1333)
- 18410.6** 6013(b) **WHEN JOINT RETURN DEEMED FILED (TC)** Increases, in
(Amend) (3) subdivisions (b) and (c), the filing thresholds to
LC 88-22 conform to changes made to Section 18401 by AB 53
(Ch. 87-1138). Operative for taxable years begin-
ning on or after January 1, 1988.
(SB 1801, Ch. 88-1465)

<u>PIT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
18411 (Repeal) LC 88-16	-----	NET INCOME DEFINED (SC) Section defining "net income as gross income less deductions allowed" repealed as being unnecessary. Operative January 1, 1989. (AB 2851, Ch. 88-628)

Designated Contributions

18512 (Amend) LC - None	-----	ALLOCATION OF SENIOR CITIZEN FUNDS (SC) Makes revisions and adjustments to the disbursement of monies designated for the California Fund for Senior Citizens, and specifically provides for the annual allocation of fund money to the California Senior Legislature for the conduct of elections to the members of that body. Operative September 26, 1988. (SB 1802, Ch. 88-1361)
18513 18513.1 18513.2 (Renumber) LC 88-4	----- ----- -----	VIETNAM VETERANS MEMORIAL FUND (TC) Renumbers, without substantive change, former Sections 18513, 18513.1, and 18513.2 as Sections 18515, 18515.1, and 18515.2, respectively. (AB 131, Ch. 88-258)

Payments and Assessments

18551 (Amend) LC 88-22	6151(a)	TAX, WHEN PAYABLE (TC) Clarifies that the due date for payment of tax by persons who are residing or traveling abroad, is the 15th day of the sixth month following the close of their taxable year, the same as for filing their returns under Section 18433. Formerly provided that tax of all persons, including those residing or traveling abroad, is payable by April 15 following the close of a calendar year or the 15th day of the fourth month following the close of a fiscal year. Operative for taxable years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
18681.7 (New) (23301) LC 88-15	-----	PENALTIES AND INTEREST IMPOSED ON CORPORATIONS (SC) Provides that for purposes of collecting any penalty and the interest thereon, imposed under the provisions of the PITL against any bank or corporation, the penalty and interest shall be collected as provided for in the B&CTL. Operative January 1, 1989. (SB 1805, Ch. 88-970)
18688 (Amend) LC 88-15	6604(e)	DEFICIENCY ASSESSMENTS, INTEREST (SC) Provides that where the FTB issues an assessment for recovery of an erroneous refund or credit pursuant to Section 18601 (pertaining to mathematical errors), the taxpayer's rights to protest and appeal are preserved. Notice and demand for repayment must be made within two years after the refund or credit was allowed or within the period for issuing a

notice of proposed assessment (NPA), whichever period expires last. Operative January 1, 1989. (SB 1805, Ch. 88-970)

Collection of Tax

- 18802.3** ---- **INFORMATION REPORTING REQUIREMENTS - REAL ESTATE TRANSACTIONS (TC)** Substitutes "or other identification number prescribed by the Franchise Tax Board," for "(or the federal employer identification number, if not an individual),". Operative January 1, 1989. (SB 1390, Ch. 88-1451)
- (Amend)
(25401e)
LC 88-17
- 18802.10** 6054 (e) **RETURNS OF REAL ESTATE REPORTING PERSONS (SC)** Provides that if a transaction involves real property in California, any person required to file a return with the Secretary of the Treasury under IRC Section 6054(e) shall, at the same time, send a copy of that return to the FTB. Penalties provided under Section 18681.1 apply for failure to comply. Requires the FTB, no later than January 1, 1994 to submit to the Legislature a report, including a cost benefit analysis, which evaluates the effectiveness of FTB's programs established to implement the above provision. Operative January 1, 1989 to include transactions which closed during 1988 but reported to the Secretary of the Treasury in 1989. (SB 1390, Ch. 88-1451)
- (New)
LC 88-17
- 18817.3** 6334 **EXEMPTIONS FROM LEVY (SC)** Section repealed as provisions exempting certain items from levy are contained in the Code of Civil Procedure (CCP), Sections 704.010 et seq. Operative January 1, 1989. (AB 2851, Ch. 88-628)
- (Repeal)
(26132.05)
LC 88-16

Overpayments and Refunds

- 19053.1** ---- **RETURN TREATED AS REFUND CLAIM (TC)** Changes cross-reference "under Section 18556" (repealed by AB 66, Ch. 85-1461), to "pursuant to Section 18682", relating to failure to pay estimated tax. Operative January 1, 1989. (SB 1805, Ch. 88-970)
- (Amend)
LC 88-15
- 19062.13** ---- **REFUND OF TAX, EFFECT ON CORRECTNESS OF RETURN (TC)** Changes cross reference "under Section 18556" (repealed by AB 66, Ch. 85-1461) to "pursuant to Section 18682", relating to estimated tax. Operative for taxable years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
- (Amend)
LC 88-22

<u>PIT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
19088 (Repeal/ New) (26104) LC 88-5	----	ACTIONS AGAINST FRANCHISE TAX BOARD (SC) Provides that any suit against the FTB involving refunds of taxes may be commenced and tried in any city or city and county in which the Attorney General maintains an office, thus conforming to Section 401(1) of the Code of Civil Procedure. Formerly the FTB could demand that the action be tried in the Superior Court of the County of Sacramento. Operative January 1, 1989. (AB 2755, Ch. 88-337)
19133 (New) (25782) LC 88-24	7122	SETTLEMENTS (SC) Provides that the executive officer, or chief counsel if authorized by the executive officer, of the FTB may recommend to the board's members for their approval a settlement of any civil dispute over a tax liability arising under the PITL. For recommended settlements of more than \$500, a statement is required to be filed in the office of the executive officer which shows the name(s) of the parties and total amount involved, the amount actually paid or refunded, and a summary of the reasons why the settlement is in the best interests of the state. Approval of any recommended settlement in excess of \$5,000 must be made at a public meeting, and requires a disclosure of the reasons why the settlement is in the best interests of the state. Except for disclosures required to be made at these public meetings, the settlement constitutes confidential tax information. Operative for returns required to be filed on or after April 15, 1989. (AB 2359, Ch. 88-901) NOTE: This provision is superseded by Section 21015, added by AB 2788 (The Taxpayer's Bill of Rights), Ch. 88-1573.

Administration of Tax

19269 (Amend) LC 88-18	6621	INTEREST RATE (SC) Provides that changes in the interest rate, as determined under the provisions of IRC Section 6621, shall be made semiannually (was quarterly) in the first and third quarters of the calendar year and applied as follows: The rate determined in the January-March quarter shall be applied to the months of July through December, and the rate determined in the July-September quarter shall be applied to the months of January through June of the following year. The interest rate determined under the provisions of IRC Section 6621(b) for the October-December, 1988 quarter (11%) will remain in effect through June, 1989. Operative January 1, 1989. (AB 3083, Ch. 88-1029)
19276 (Amend) LC 88-20	----	LICENSEE INFORMATION (TC) Makes technical corrections to provisions specifying the items of information that licensing boards must provide to the FTB regarding licensees. This change allows the

PIT IRC
SECTION SECTION

SUMMARY OF CHANGE

FTB to send a notice of failure to comply to licensees (other than partnerships) who do not provide their social security numbers. Operative September 26, 1988. (SB 2289, Ch. 88-1333)

19276.5 -----
(Repeal)
(26428.5)
LC 88-25

WAIVER OF INTEREST, PENALTIES AND ADDITIONS TO TAX (SC) Section repealed. Its provisions now included in Section 21012 of the Katz-Harris Taxpayers' Bill of Rights Act, Part 10.7 (commencing with Section 21001) of Division 2 of the Revenue and Taxation Code. (See TBR Section 21012.) Operative January 1, 1989. (AB 2788, Ch. 88-1573)

Violations

19405 7206(5)
(Amend)
(25962)
LC 88-24

PENALTY FOR FALSE RETURN (SC) Amends subdivision (a)(5) to provide that any person who, in connection with any settlement or offer of settlement made pursuant to Section 19133, willfully conceals, receives, withholds, destroys, mutilates, or falsifies any data relating to the issue is guilty of a misdemeanor and subject to a fine of up to \$20,000 and/or imprisonment up to three years, plus the costs of prosecution. Operative for returns required to be filed on or after April 15, 1989. (AB 2359, Ch. 88-901) NOTE: As the provisions of PIT Section 19133 were superseded by TBR Section 21015 (added by AB 2788, Ch. 88-1573), this amendment is also inoperative.

SENIOR CITIZENS PROPERTY TAX ASSISTANCE AND POSTPONEMENT LAW

SCPTA & PL
SECTION

SUMMARY OF CHANGE

20514
(Amend)
LC 88-12

"GROSS HOUSEHOLD INCOME" (SC) Increases the maximum allowable gross household income of a claimant to \$24,000 (was \$20,000). Operative for claims for property tax and renter's assistance for FY 1988-89, and thereafter. (AB 3165, Ch. 88-1231)

20543
20544
(Amend)
LC 88-12

PERCENTAGE OF ASSISTANCE (SC)
PERCENTAGE OF RENTER ASSISTANCE (SC)
Increases, by 10 percent to \$3,300-\$13,200 (was \$3,000-\$12,000), the qualifying household levels of income for the homeowner's and renter's assistance programs. Operative for claims for property tax and renter's assistance for FY 1988-89, and thereafter. (AB 3165, Ch. 88-1231)

TAXPAYERS' BILL OF RIGHTS ACT

**Adds Part 10.7 to Division 2 of the Revenue and Taxation Code.
Operative January 1, 1989. (AB 2788, Ch. 88-1573) LC 88-25.**

**TBR
SECTION**

SUMMARY OF PROVISIONS

- 21001** **TITLE (SC)** Specifies that this part shall be known
(New) and cited as the "Katz-Harris Taxpayers' Bill of
Rights Act".
- 21002** **LEGISLATIVE INTENT (SC)** Specifies Legislature's
(New) findings relative to the balance between collection
of taxes and the taxpayers' freedom from government
oppression; its intent that the rights, privacy, and
property of taxpayers are protected during the pro-
cess of the assessment and collection of taxes; and
to promote taxpayer self-assessment by improving the
clarity of tax laws and public information thereof.
- 21003** **ADMINISTRATION (SC)** Provides that this part shall
(New) apply to the PITL and the B&CTL, and shall be admini-
stered by the FTB.
- 21004** **TAXPAYERS' RIGHTS ADVOCATE (SC)** Provides for the es-
(New) tablishment of a Taxpayers' Rights Advocate for co-
ordinating resolution of taxpayer complaints and
problems, including treatment by FTB employees. Ap-
plicable statutes of limitation, but not any penal-
ties or interest, will be suspended during any stay-
ing actions granted by the advocate where the tax-
payer has suffered or will suffer irreparable loss as
the result of FTB action.
- 21005** **TAXPAYER EDUCATION AND INFORMATION PROGRAM (SC)** Re-
(New) quires the FTB, in consultation with the Taxpayers'
Rights Advocate, to develop and implement a taxpayer
education and information program directed at certain
taxpayer/industry groups, and FTB's audit and compli-
ance staff, to identify and modify forms, procedures,
regulations, or laws that are confusing, including
the recommending of remedial legislation. This pro-
gram would also include (1) identification and reso-
lution of common taxpayer errors; (2) participation
in small business seminars and similar programs; (3)
simplification of FTB's current educational mate-
rials; and (4) application of new legislation and
the minimizing of areas of recurrent noncompliance or
inconsistency of administration.
- 21006** **IDENTIFYING AREAS OF TAXPAYER NONCOMPLIANCE (SC)** Re-
(New) quires the FTB to perform a systematic identification
of areas of recurrent taxpayer noncompliance and to

report, by October 1 of each year, its findings to the Legislature, together with recommendations for improving taxpayer compliance and uniform administration. As part of the identification process, annual hearings will be held where industry representatives and individual taxpayers can propose changes to the PITL and the B&CTL.

21007
(New)

DISCLOSURE TO TAXPAYERS OF PROCEDURES, REMEDIES, AND RIGHTS (SC) Requires the FTB to prepare and publish brief but comprehensive statements in simple, non-technical language which explain procedures, remedies, and the rights and obligations of the FTB and taxpayers. Appropriate statements are to be included with the related enforcement, audit, and collection notices mailed to taxpayers and in the tax booklets mailed annually.

21008
(New)

EVALUATING EMPLOYEE'S PERFORMANCE (SC) Requires the FTB to annually certify to the Legislature that an employee's performance is not evaluated on the basis of revenue collected or audit assessments.

21009
(New)

EMPLOYEE EVALUATION (SC) Requires the FTB, in coordination with the Taxpayers' Rights Advocate, to develop and implement a program to evaluate the performance of its employees and officers with respect to their contacts with taxpayers.

21010
(New)

PROMPT RESOLUTION OF TAX CASES (SC) Requires the FTB, by July 1, 1989, and in cooperation with the Board of Equalization, California State Bar, California CPA Society, Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, to develop a plan to reduce the time required to resolve amended return claims for refund, protests, and appeals. The plan shall include determination of standard time frames and special review of cases which exceed the standard time frames.

21011
(New)

HEARING PROCEDURES (SC) Provides that protest hearings before the FTB staff are to be held at a reasonable time in a district office which is convenient to the taxpayer, recorded only if the taxpayer is given prior notice and entitled to receive a copy of the recording, and the taxpayer is informed prior to the hearing of his or her right to representation.

21012
(New)

TAX ABATEMENT - ERRONEOUS WRITTEN ADVICE (SC) Provides, upon approval of the FTB, for waiver of tax, interest, penalties, and additions to tax attributable to a particular activity or transaction of a person (and only that person) which was in reasonable reliance based on a written legal ruling of the FTB's chief counsel in response to that person's (or per-

son's representative's) request as to the tax consequences of that activity or transaction, and FTB's legal ruling was not modified or rescinded by written notice to that person after the specific action or transaction occurred; or subsequently changed by a law change, a change in federal interpretation where the legal ruling was based on that interpretation, or a change in the material facts or circumstances relating to that person. FTB's written legal ruling must include a declaration that the tax consequences expressed in the ruling may be subject to change for any of the reasons stated above, and that it is the person's duty to be aware of those possible changes. In the event that the person relied on written advice other than a chief counsel ruling, interest, penalties and additions to tax, but not the tax may be waived by the FTB staff if all of the above conditions are met.

21013
(New)

REIMBURSEMENT FOR FEES AND EXPENSES (SC) Provides that a taxpayer may be reimbursed for reasonable fees and expenses related to a hearing before the Board of Equalization (BOE) if: (1) the taxpayer files a claim for reimbursement with Board of Control (BOC), (2) the BOE finds that the action taken by the FTB staff was unreasonable in whole or in part and recommends to the BOC that the taxpayer be awarded a specific amount, and (3) the BOC concurs in BOE's recommendation and orders FTB to pay that amount to the taxpayer.

21014
(New)

INVESTIGATION OR SURVEILLANCE FOR NONTAX PURPOSES (SC) Prohibits an FTB officer or employee from knowingly authorizing, requiring, or conducting any investigation or surveillance for nontax administration related purposes, except when carrying out duties with respect to nontax laws.

21015
(New)

AUTHORITY TO SETTLE TAX LIABILITY DISPUTES (SC) Provides the FTB, or its executive officer if so delegated, to settle a disputed tax liability of \$5,000 or less, if the settlement is approved by the Board of Control. The terms of the settlement shall be subject to public disclosure. The Auditor General is required to monitor these settlements and report his or her findings to the Legislature. NOTE: This provision supersedes Sections 19133 and 25782, added by AB 2359 (Ch. 88-901).

21016
(New)

RELEASE OF ASSETS FROM LEVY (SC) Requires the FTB to release any levy issued on property (other than property seized as a result of a jeopardy assessment) if: (1) the state's expense of selling the property is more than the tax debt, (2) the Taxpayer's Rights Advocate finds that the levy threatens the health or

welfare of the taxpayer or his/her family, or (3) the proceeds of the sale would not reduce the tax debt by a reasonable amount. In addition, the FTB, before sale of seized property, must notify the taxpayer in writing of the exemptions from levy provided for in the Code of Civil Procedure.

21017
(New)

ADJUSTMENT OF EXEMPTIONS FROM LEVY (SC) Provides that the monetary amounts of exemptions from levy in the Code of Civil Procedure will be adjusted for purposes of enforcing the collection of PITL and B&CTL tax debts. These exemption amounts will be adjusted to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

21018
(New)

REIMBURSEMENT OF BANK CHARGES (SC) Provides that a taxpayer may file a claim with the FTB for reimbursement of bank charges incurred by the taxpayer as the direct result of an erroneous levy by the FTB, if prior to the levy the taxpayer responded to all of FTB's contacts and provided any requested information or documentation sufficient to establish the taxpayer's position. The claim, on a prescribed FTB form, must be filed within 90 days of the date of the levy, and the FTB has 30 days to respond to the claim. A denial of the claim must be in writing and specify the reasons therefor.

21019
(New)

NOTICE TO TAXPAYER - FILING OF LIEN, RELEASE OF LIEN FILED IN ERROR (SC) Requires the FTB to mail a notice to the taxpayer at least 30 days prior to the filing or recording of a lien (other than one applying to a jeopardy assessment), stating the statutory authority for filing or recording, the earliest date on which the lien may be filed or recorded, and the remedies which the taxpayer must take within 30 days after receiving the notice to prevent this action. If the FTB determines that the filing or recording of a lien was in error, it must, within seven working days of that determination or receipt of the lien recording information (whichever is later), mail to the taxpayer and recording entity a release of the lien, and in the notice include a statement that the lien was filed in error. If the erroneously filed lien is obstructing a lawful transaction, it must be released immediately. Upon the taxpayer's request, the FTB must mail a copy of the release to the major credit reporting companies in the county in which the lien was filed.

21020
(New)

NOTICE TO TAXPAYER PRIOR TO SUSPENSION (SC) Requires the FTB to mail a notice to a corporate taxpayer of its intent to suspend the corporation on a specified date at least 60 days before that specified date.

TBR
SECTION

SUMMARY OF PROVISIONS

21021
(New) **RECKLESS ACTIONS OF EMPLOYEES (SC)** Provides that a taxpayer may bring a court action against the state for actual and direct monetary damages and reasonable litigation costs, if the taxpayer is aggrieved by an FTB employee because of his or her reckless disregard of published procedures. In awarding damages, the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages. If the taxpayer's position is frivolous, the court may impose a penalty against the taxpayer not to exceed \$10,000, to be paid upon notice and demand of the FTB and collected as a tax imposed under either the PITL or the B&CTL.

21022
(New) **FEDERAL FILING EXTENSION, AUTOMATIC EXTENSION (SC)** Provides that a taxpayer will be granted a state extension for filing a return under the PITL if the taxpayer's application reflects that a timely federal extension to file was requested and the required federal tax paid. This provision does not extend the time for payment, and unless the full amount of state tax due is timely paid, the taxpayer may be subject to an underpayment penalty. Operative for PIT returns to be filed on or after April 15, 1989.

BANK AND CORPORATION TAX LAW

BCT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

General Provisions and Definitions

23036
(Amend)
LC 88-22
----- **TAX (SC)** Amended to parallel the provisions of PIT Section 17039 (definition of "net tax"), to incorporate the provisions of repealed Section 23630, plus credits for taxes withheld under Section 26131, relating to the limitations and exceptions on the use of tax credits to reduce the "regular tax"; and to clarify and standardize rules relating to credit carryovers and sunset dates. Operative for income years beginning on or after January 1, 1988.
(SB 1801, Ch. 88-1465)

23044
(Amend)
LC 88-20
----- **INTERNATIONAL BANKING FACILITY (SC)** Extends repeal date of this section, as specified in Section 5 of SB 499 (Ch. 81-825), to January 1, 1991. Operative September 26, 1988.
(SB 2289, Ch. 88-1333)

Imposition of Tax

23151	11	TAX ON GENERAL CORPORATIONS (TC)
23153	----	MINIMUM TAX (SC)
23181	11	TAX ON BANKS (TC)
23184	----	FINANCIAL CORPORATION OFFSET (TC)
(Amend)		Amends Sections 23151, 23181, and 23184 to delete the dollar amounts of minimum tax and, instead, reference the minimum tax to Section 23153. Makes other nonsubstantive technical changes in Section 23153. (SB 1801, Ch. 88-1465)
LC 88-22		

Suspension and Revivor

23301	----	SUSPENSION OR FORFEITURE OF CORPORATE POWERS FOR NONPAYMENT OF TAX (SC)
(Amend)		Adds subdivision (c) providing that if any penalty and the interest thereon, imposed against a bank or corporation under the provisions of the PITL, is not paid by 6 p.m. on the last day of the 11th month following the date that liability is due and payable, that bank or corporation's rights and privileges will be suspended (if a domestic taxpayer) or forfeited (if a foreign taxpayer). Operative January 1, 1989. (SB 1805, Ch. 88-970)
(18681.7)		
LC 88-15		

Alternative Minimum Tax

23453	53	CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY (SC)
(Amend)		See summary for PIT Section 17063, substituting "Section 23455(c)" for "Section 17062(b)(2)". Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
(17063)		
LC 88-22		

Tax Credits

23601.4	----	SOLAR ENERGY - COMMERCIAL (SC)
(Amend)		Amends subdivision (a) by deleting the "Notwithstanding" phrase to clarify that S corporations are allowed only one-third of this credit in accordance with Section 23803, and by substituting "tax (as defined by Section 23036) and the alternative minimum tax (Section 23400)" for "taxes imposed by this part (except the minimum franchise tax)". Makes conforming change in subdivision (g). Amends subdivision (n) to provide that this credit (except for unused carryovers) is automatically repealed as of December 1, 1989 (was January 1, 1989), to include fiscal years beginning in 1988 and ending in 1989; e.g., FY 12/1/88-11/30/89. Operative for income years beginning on and after January 1, 1988. (SB 1801, Ch. 88-1465)
(17052.4)		
LC 88-22		

<u>BCT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
23603	----	ALCOHOL FUEL DEVICE CREDIT (TC)
23609	41	RESEARCH AND DEVELOPMENT EXPENSES (TC)
23609.5	28	CLINICAL TESTING - ORPHAN DRUGS (TC)
23610.5 (17058)	42	LOW-INCOME HOUSING CREDIT (SC)
23612 (17052.13) (Amend)	----	SALES AND USE TAX CREDIT (SC)
LC 88-4		Corrects, in Section 23610.5, the name of the "Mortgage Bond Allocation Committee" to the "Mortgage Bond and Tax Credit Allocation Committee", reflecting the change in the committee's name made by SB 113 (Ch. 87-658). (AB 131, Ch. 88-258)
LC 88-21		Deletes, in Section 23612, the automatic repeal date of January 1, 1993, added by SB 572 (Ch. 87-1139). (AB 2785, Ch. 88-1463)
LC 88-22		Makes technical changes to clarify the rules relating to the interaction of these credits with the alternative minimum tax and minimum franchise tax, and the application of carryovers and sunset dates. Section 23603 repealed as of December 1, 1991 (was January 1, 1991), and Section 23609.5 repealed as of December 1, 1993 (was January 1, 1993), to cover returns for fiscal years beginning before January 1 and ending on or before November 30 of the year of repeal. Section 23609 repealed as of January 1, 1994: only amounts paid or incurred before January 1, 1993 qualify for that credit. (SB 1801, Ch. 88-1465)
23615 (New) (17053.20)	----	SMALL EMPLOYER HEALTH COVERAGE (SC) See summary for PIT Section 17053.20, substituting "income year" for "taxable year". Operative for income years beginning on or after January 1 of the year following certification, as explained in the summary for PIT Section 17053.20.
LC 88-28		(SB 2260, Ch. 88-1521)
23617 (New) (17052.17)	----	CHILD CARE ASSISTANCE (SC) See summary for PIT Section 17052.17. Operative for costs paid or incurred in income years beginning on or after January 1, 1988, and before January 1, 1992.
LC 88-19		Section repealed as of December 1, 1992. (SB 722, Ch. 88-1239)
23617.5 (New) (17052.18)	----	QUALIFIED CHILD CARE PLAN (SC) See summary for PIT Section 17052.18. Operative for costs paid or incurred in income years beginning on or after January 1, 1988, and before January 1, 1992.
LC 88-19		(SB 722, Ch. 88-1239)

<u>BCT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
23621	51(c)	TARGETED JOBS TAX CREDIT (SC)
23622 (17053.8)	----	WAGES PAID TO DISADVANTAGED EMPLOYEES IN AN ENTERPRISE ZONE (SC)
23623 (17053.11) (New)	----	HIRING UNEMPLOYED RESIDENT OF HIGH DENSITY UNEMPLOYMENT AREA (SC) Reenacts, in Chapter 3.5 of the B&CTL for the purpose of grouping all tax credits together, repealed Sections 24330, 24331 and 24333, respectively. Substitutes "tax (as defined by Section 23036)" for "taxes imposed by this part (except the minimum franchise tax and the alternative minimum tax)" in subdivision (a) of each section, and makes conforming changes in subdivision (j) of Section 23622, and subdivision (g) of Section 23623. (SB 1801, Ch. 88-1465)
LC 88-22		
23630 (Repeal) (17039)	----	GENERAL LIMITATION ON TAX CREDITS (SC) Section repealed and its provisions transferred to Section 23036. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
LC 88-22		

Tax Treatment of S Corporations and Their Shareholders

23800 (Amend)	1362	TAX TREATMENT OF S CORPORATIONS AND SHAREHOLDERS (SC) Adds subdivision (b) authorizing the FTB to allow appropriate extensions of time with respect to implementation of the provisions relating to the treatment of S corporations and their shareholders for income years beginning in 1987 and 1988. (SB 1801, Ch. 88-1465)
LC 88-22		
23802 (Amend)	1363	TAX RATES (TC) Amends subdivision (c) to delete reference to Section 23151, as the minimum tax amounts are now specified only in Section 23153. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
LC 88-22		

Gross Income

24306 (New)	133	INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES (SC) Provides that IRC Section 133, relating to exclusion from income of 50 percent of interest received by a bank, a corporation actively engaged in the business of lending money, or a regulated investment company, <u>shall</u> apply to income years beginning on or after January 1, 1990 and before January 1, 1995. Section repealed as of December 1, 1995. (AB 3799, Ch. 88-1504)
LC 88-27		

Gross Income - Exclusions

24322 (New) 597 FSLIC FINANCIAL ASSISTANCE (SC) Provides that gross income of a domestic savings and loan association [as defined in IRC Section 7701(a)(19)] does not include assistance payments received from the Federal Savings and Loan Insurance Corporation (FSLIC), no reduction in the basis of assets is required on account of these assistance payments, and expenses allocable to these exempt assistance payments shall not be disallowed under the provisions of Section 24425 (expenses relating to tax-exempt income). These provisions do not apply to assistance payments received after December 31, 1988, unless the payments are made by the FSLIC pursuant to an acquisition or merger which occurred on or before that date. Declaratory of existing law, and as such, is operative for all years not closed by the statute of limitations. (SB 573, Ch. 88-1068)

LC 88-13

Credits Against Tax

24330 51(c) TARGETED JOBS TAX CREDIT (SC)
 24331 ----- WAGES PAID TO DISADVANTAGED EMPLOYEE IN AN ENTERPRISE ZONE (SC)
 24333 ----- HIRING OF UNEMPLOYED RESIDENT OF HIGH DENSITY UNEMPLOYMENT AREA (SC)
 (Amend/ Repeal) Amends subdivision (a) of Section 24331 by changing "year one", "year two", "year three", "year four", and "year five" to "the first, second, third, fourth, and fifth, respectively) year of employment; and increases the allowable credit provided by Section 24333, as explained in the summary for PIT Section 17053.11. Operative for income years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)

LC 88-21

LC 88-22 Sections repealed and reenacted as Sections 23621, 23622, and 23623, respectively, to group all tax credits in Chapter 3.5 of the B&CTL. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)

Deductions

24343.5 (New) ----- RIDESHARING TAX DEDUCTION (SC) Reenacts provision, repealed by SB 572 (Ch. 87-1139), allowing deductions for subsidizing employee commuting expenses in specified vehicles, subsidizing employee purchase of monthly transit passes, providing free or preferential parking to carpools and vanpools, offering cash equivalent of parking privileges to employees who do not require parking, and for depreciation over 36 months of facility improvements

LC 88-10

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to encourage ridesharing, bicycling, and walking to and from work. Redefines "employer" to mean a taxpayer for whom services are performed by employees, except government agencies; or a private educational institution which enrolls students at higher than the secondary level. Redefines "employee" to mean either an individual who performs services for an employer for more than eight hours per week for remuneration; or a full-time student at a post-secondary institution who lives off campus and who travels from home to school on a regular, though not necessarily daily, basis. Operative for income years beginning on or after January 1, 1988. (SB 1904, Ch. 88-1437)

24378 1253
(Repeal)

LC 88-22

TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES (SC) Section repealed as superfluous. Its provisions are included in Section 24903, added by SB 572 (Ch. 87-1139). Operative for income years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)

24379 83
(Repeal/
New)

LC 88-22

PROPERTY TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES (SC) Repeals and reenacts section to conform to all of the provisions of IRC Section 83. (Formally did not cover situation where a corporation is the recipient of property transferred in connection with the performance of services.) Operative for income years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)

24411 ----
(Amend)

LC 88-23

DIVIDENDS RECEIVED - WATER'S-EDGE CORPORATIONS (SC) Provides a 100 percent deduction of the fully excluded dividends derived from construction projects, as defined, and makes other supplemental and technical changes. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

24416 172
(Amend)

LC 88-22

NET OPERATING LOSSES (TC) Adds "and before December 31, 1985" in subdivision (e)(2), to close the special provision relating to NOLs for 1985 (limited to a three-year carryover), thus eliminating a conflict with the regular provision which allows a 15-year NOL carryover. Operative for income years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)

24416.2 172
(Amend)
(17276.2)

LC 88-21

LC 88-22

NET OPERATING LOSS - PROGRAM AREAS AND ENTERPRISE ZONES (SC) Deletes the automatic repeal date of January 1, 1989, enacted by SB 1706 (Ch. 88-32). Operative for income years beginning on or after January 1, 1988. (AB 2785, Ch. 88-1463)

Makes minor nonsubstantive technical corrections. (SB 1801, Ch. 88-1465)

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Corporate Organizations and Reorganizations

24562 **368(a)** **DEFINITIONS RELATING TO CORPORATE REORGANIZATIONS**
(Amend) (SC) Revises provisions pertaining to a bankruptcy
LC 88-13 or similar reorganization by providing that, in the
case of a financial institution to which specified
provisions of the IRC relating to reserves for
losses on loans apply, the term "Title 11 or simi-
lar case" means only a case in which the board, as
defined, makes a certification, as described. Also
provides that a bankruptcy or similar reorganiza-
tion meeting certain requirements will not be dis-
qualified as a reorganization if no stock or secur-
ities of the corporation to which the assets are
transferred are received or distributed, if speci-
fied conditions are met. These provisions are de-
claratory of existing law, and as such, apply to
all income years not closed by the statute of
limitations. These provisions apply only to acqui-
sitions before January 1, 1989 in income years be-
ginning before January 1, 1989.
(SB 573, Ch. 88-1068)

Pension Plans

24603 **404(k)** **DIVIDENDS PAID DEDUCTION (SC)** Provides that IRC
(Amend) Section 404(k), relating to dividends paid deduc-
LC 88-27 tion, shall apply to income years beginning on or
after January 1, 1990 and before January 1, 1995.
For income years beginning before January 1, 1990
and on or after January 1, 1995, the provisions of
IRC Section 404(k) shall not apply.
(AB 3799, Ch. 88-1504)

Accounting Periods and Methods of Accounting

24637 **444** **ELECTION OF INCOME YEAR OTHER THAN REQUIRED INCOME**
(Amend) **YEAR (TC)** See summary for PIT Section 17551.
(17551) Operative for income years beginning on or after
LC 88-22 January 1, 1987. (SB 1801, Ch. 88-1465)

24721 **481** **ADJUSTMENTS REQUIRED BY CHANGES IN METHOD OF**
(Repeal/
New) **ACCOUNTING (SC)** Provides that IRC Section 481, re-
24722 relating to adjustments required by changes in method
24722.1 of accounting, shall apply. Sections 24722 and
24722.2 24723 repealed as those provisions are now included
24722.3 in Section 24721. Sections 24722.1, 24722.2 and
24723 24722.3, relating to the special rule for pre-1955
(Repeal) adjustments, repealed as obsolete. Operative for
LC 88-22 income years beginning on or after January 1, 1988.
(SB 1801, Ch. 88-1465)

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Natural Resources

24833 613(e)(4) **PERCENTAGE DEPLETION (SC)** See summary for PIT Sec-
(Amend) 613A tion 17683. Operative for income years beginning
(17683) (d)(5) on or after January 1, 1987.
(SB 1801, Ch. 88-1465)
LC 88-22

Gain or Loss on Disposition of Property

24903 1221 **RULES FOR DETERMINING CAPITAL GAINS AND LOSSES (SC)**
(Repeal) to Section repealed. Its provisions are now included
1257 in amended Section 24990 (see below). Operative
LC 88-22 for income years beginning on or after January 1,
1988. (SB 1801, Ch. 88-1465)

24905 988 **TREATMENT OF CERTAIN FOREIGN CURRENCY TRANSACTIONS**
(New) (SC) Conforms to PIT Section 17078 (added by
LC 88-22 AB 53, Ch. 87-1138), by providing that the treat-
ment of certain foreign currency transactions shall
be in accordance with IRC Section 988. Operative
for income years beginning on or after January 1,
1987. (SB 1801, Ch. 88-1465)

24941 1031 **EXCHANGE OF PROPERTY HELD FOR PRODUCTIVE USE OR**
(Amend) **INVESTMENT (SC)** Reenacts, as new subdivisions
LC 88-22 (d)-(g), provisions conforming to subsections
(b)-(e) of IRC Section 1031, and redesignates for-
mer subdivision (d) as subdivision (h). These
added provisions were formerly a part of, and were
inadvertently omitted from, this section when it
was amended by AB 66 (Ch. 85-1461). Operative for
income years beginning on or after January 1, 1988.
(SB 1801, Ch. 88-1465)

24954 1042 **SALE OF STOCK TO STOCK EMPLOYEE OWNERSHIP PLANS OR**
(New) **CERTAIN COOPERATIVES (SC)** See summary for PIT Sec-
(18042) tion 18042, substituting "income years" for "tax-
LC 88-27 able years". Operative for income years beginning
on or after January 1, 1990 and before January 1,
1995. Section repealed as of December 1, 1995.
(AB 3799, Ch. 88-1504)

24990 1201 **CAPITAL GAINS AND LOSSES (SC)** Provides that the
(Amend) to tax treatment of capital gains and losses (formerly
1288 limited to tax treatment of bonds and other debt
LC 88-22 instruments) shall be determined in accordance with
Subchapter P of Chapter 1 of Subtitle A of the IRC
(IRC Sections 1201-1288), except as otherwise pro-
vided. (See Sections 24990.5 and 24995, below.)
Operative for income years beginning on or after
January 1, 1988. (SB 1801, Ch. 88-1465)

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24990.5
(New)

LC 88-22

1201,
1211,
and
1212

ALTERNATIVE TAX AND CAPITAL LOSS CARRYBACKS AND CARRYOVERS (SC) Provides that IRC Section 1201, relating to alternative tax for corporations, IRC Section 1211, relating to limitation on capital losses, and IRC Section 1212, relating to capital loss carrybacks and carryovers, shall not apply. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)

24995
(New)

LC 88-22

1291
to
1297

PASSIVE FOREIGN INVESTMENT COMPANIES (SC) Provides that Part VI of Subchapter P of Chapter 1 of Subtitle A of the IRC (IRC Sections 1291-1297), relating to treatment of certain passive foreign investment companies, shall not apply. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)

Allocation of Income

25106.5
(Amend)

LC 88-4

REGULATIONS - ACCOUNTING METHODS, COMBINED REPORTS (SC) Changes provisions from "requiring the FTB to adopt regulations to prevent avoidance of tax liability by any member included in a combined report" to "FTB may adopt regulations to ensure that the tax liability or net income of any taxpayer from California sources required to be determined by a combined report, is properly reported". Adds subdivision (b) prohibiting the adoption of regulations which would determine, prescribe, or affect (1) the inclusion or exclusion of certain entities in a combined report, or (2) after the period of inclusion, cause the income or expenses of an excluded entity to be included in a combined report. Operative January 1, 1989. (AB 131, Ch. 88-258)

25107
(Amend)

LC 88-20

APPORTIONMENT OF INCOME, INTERNATIONAL BANKING FACILITY (SC) Changes "located without the state" to "doing business without the state" to reflect the current test for taxing a bank, in reference to an international banking facility maintained by a bank within California. Also extends the repeal date of this section, as specified in Section 5 of SB 499 (Ch. 81-825), to January 1, 1991 (was January 1, 1989). Operative for income years beginning on or after January 1, 1988. (SB 2289, Ch. 88-1333)

25110
(Amend)

LC 88-23

WATER'S-EDGE ELECTION (SC) Makes minor nonsubstantive technical corrections. (Code maintenance, SB 2637, Ch. 88-160) NOTE: This amendment to Section 25110 did not become operative because it was superseded by the amendment to Section 25110, included in SB 85 (Ch. 88-989), which changes the provisions which set forth the specific affiliated entities which are defined to be within the

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water's-edge. Provisions relating to FTB's examination of returns filed by members of a water's-edge group, transferred to new Section 25114. Provisions relating to FTB's disregard of a water's-edge election under specified circumstances, transferred to Section 25111. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

25111 -----
(Amend)
LC 88-23

PERIOD OF ELECTION (SC) Permits the water's-edge election to be made by contract for an initial period of five years (was 10 years), and provides that the election is effective only if every taxpayer which is a member of the water's-edge group and subject to tax under the B&CTL makes the election. Permits the FTB to disregard the election under specified circumstances, and allows a taxpayer to terminate the election prior to the end of the 5-year period under specified circumstances. Makes various technical and clarifying supplemental changes relating to the water's-edge election. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

25112 -----
(Amend)
LC 88-23

PENALTIES (SC) Amends subdivision (e) to provide that the fact that a foreign jurisdiction would impose a penalty on the taxpayer (or any other person) for disclosing any documentation requested by the FTB is not reasonable cause for a court, upon FTB's motion, to prohibit the introduction of documentation requested by the FTB, "unless, after in camera review of the documentation, the court finds otherwise". Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

25113 -----
(Repeal)
LC 88-23

ADMINISTRATIVE OR JUDICIAL PROCEEDINGS (SC) Repeals provision allowing the FTB, in any administrative or judicial proceedings, to introduce into evidence the record of any final court determination in another state involving the same taxpayer or a unitary business of which the taxpayer is alleged to be a member; or tax information, including data obtained from the IRS or a foreign government, pertaining to the examination of multinational operations. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

25114 ----
(Repeal/
New)
LC 88-23

SPREADSHEET (SC)
EXAMINATION OF RETURNS (SC) Provisions relating to requirements for filing a "domestic disclosure spreadsheet" repealed and reenacted (with modifications) in new Section 25401d. Provisions relating to FTB's examination of returns filed by members of a water's-edge group transferred from Section 25110. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

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25115
(Amend)

LC 88-23

ANNUAL FEE (SC) Provides that the property and payroll factors which enter into the computation of of the annual fee must be for an income year of 12 full months ending in 1986, and includes intangibles in the property factor. Provides that the reduction in the fee shall be based on the amount expended since January 1, 1987 (was 1988) for investment in new plants or facilities in California, which includes new tangible personal property, as defined. Adds new rules for determining the property and payroll factors for new entities created as a result of a reorganization, and makes other technical clarifying changes. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

25125
(Amend)

LC 88-11

CAPITAL GAINS AND LOSSES - UDITPA (SC) Provides that gain or loss on the sale of a partnership interest is allocable to California in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the partnership's assets consisted of intangible property, the allocation of the gain or loss to California is determined by using the ratio of the partnership's California sales to total sales during the first full income year preceding the sale of the partnership interest. Operative for income years beginning on or after January 1, 1989. (AB 2977, Ch. 88-1170)

Returns and Payments

25401d
(New)

LC 88-23

SPREADSHEET (SC) Reenacts provisions, formerly included in Section 25114, relating to the filing of a domestic disclosure spreadsheet, with following changes: (1) Only taxpayers making the water's-edge election are required to file (formerly was any bank or corporation required to file a United States return or which could be included in a consolidated federal return). (2) Filing date is 6 months after filing of California return (formerly, 3 months after filing federal income tax return). (3) Increases "payroll, property, or sales in foreign countries" factors to \$10 million (formerly, \$1 million). (4) Requires spreadsheet to be filed once every three years (was annually), unless there is a change in the taxpayer's business activities, in which case it shall be filed for the year that the change occurs. (5) Filing of spreadsheet is not required if taxpayer's payroll, property, and sales within the United States are each less than \$500,000. Operative for income years beginning on or after January 1, 1988. (SB 85, Ch. 88-989)

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25401e (New) (18802.3)	-----	INFORMATION REPORTING REQUIREMENTS - REAL ESTATE TRANSACTIONS (SC) Provides that, for purposes of the B&CTL, the provisions of PIT Section 18802.3 shall apply. Operative January 1, 1989. (SB 1390, Ch. 88-1451)
LC 88-17		
25553 (Amend)	-----	FIRST INSTALLMENT, BANKS AND FINANCIAL CORPORATIONS (TC) Updates provisions relating to minimum tax by substituting section number references for specific dollar amounts, and makes other minor nonsubstantive corrections. Operative for income years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)
LC 88-22		
25562 (Amend)	-----	ESTIMATED TAX, BANKS AND FINANCIAL CORPORATIONS (TC) Makes nonsubstantive changes by correcting references to "Section 23186a" to "Section 23186.1" and "Section 23183" to "Section 23181", respectively; and changing "credit" to "offset". Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
LC 88-22		
25563 (Amend)	6154(b)	PAYMENTS OF ESTIMATED TAX (TC) Updates provisions relating to minimum tax by substituting section number references for specific dollar amounts. Operative for income years beginning on or after January 1, 1987. (SB 1801, Ch. 88-1465)
LC 88-22		

Assessments

25782 (New) (19133)	7122	SETTLEMENTS (SC) See summary for PIT Section 19133, substituting "B&CTL" for "PITL". Operative for returns required to be filed on or after March 15, 1989. (AB 2359, Ch. 88-901)
LC 88-24		NOTE: This provision is superseded by Section 21015, added by AB 2788 (The Taxpayer's Bill of Rights), Ch. 88-1573.

Interest, Additions to Tax and Penal Provisions

25931.3 (Amend)	6651(b)	PENALTY IMPOSED ON NET AMOUNT DUE (TC) Substitutes in subdivision (a), "the date prescribed for payment of the tax and by the amount of any credit against the tax" for "the date prescribed for filing the return"; and updates subdivision (b) by referencing section numbers relating to payment of estimated tax for former sections relating to filing a declaration of estimated tax. Operative for income years beginning on or after January 1, 1988. (SB 1801, Ch. 88-1465)
LC 88-22		
25962 (Amend) (19405)	7206(5)	FALSE OR FRAUDULENT RETURN (SC) See summary for PIT Section 19405, substituting "Section 25782" for "Section 19133". Operative for returns required to be filed on or after March 15, 1989. (AB 2359, Ch. 88-901). NOTE: As the provisions of
LC 88-24		

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B&CT Section 25782 were superseded by TBR Section 21015 (added by AB 2788, Ch. 88-1573), this amendment is also inoperative.

Refunds and Credits

26073a	6511c	EXTENSION OF PERIOD BY WAIVER (TC)
26073b	6511	REFUND CLAIM, FEDERAL CHANGE OR CORRECTION (TC)
26073c	6511d	SEVEN-YEAR STATUTE ON BAD DEBTS (TC)
26073d	6521	OFFSET OF BARRED OVERPAYMENTS (TC)
(Amend)		(Code maintenance) Makes nonsubstantive technical corrections and renumbers Section 26073a to 26073.2, Section 26073b to 26073.4, Section 26073c to 26073.6, and Section 26073d to 26073.8. Operative for income years beginning on or after January 1, 1989. (SB 2637, Ch. 88-160)
LC - None		
26104	----	ACTIONS AGAINST FRANCHISE TAX BOARD (SC) See summary for PIT Section 19088. Operative January 1, 1989. (AB 2755, Ch. 88-337)
(Amend)		
(19088)		
LC 88-5		

Collection of Tax

26132.05	6334	EXEMPTIONS FROM LEVY (SC) See summary for PIT Section 18817.3. Operative January 1, 1989. (AB 2851, Ch. 88-628)
(Repeal)		
(18817.3)		
LC 88-16		
26221	6331	SEIZURE AND SALE AT PUBLIC AUCTION (SC) Adds references to Article 5 (commencing with Section 18681) of Chapter 18 of the PITL (relating to assessments of penalties and interest imposed under the PITL) and Article 2 (commencing with Section 18831) of Chapter 18 of the PITL (relating to "suit for tax"), to provisions for the seizure and sale of the taxpayer's personal property to satisfy delinquent liabilities. Operative January 1, 1989. (SB 1805, Ch. 88-970)
(Amend)		
LC 88-15		

Administrative Provisions

26428.5	----	WAIVER OF INTEREST, PENALTIES AND ADDITIONS TO TAX (SC) Section repealed. Its provisions now included in Section 21012 of the Katz-Harris Taxpayer's Bill of Rights Act, Part 10.7, (commencing with Section 21001) of Division 2 of the Revenue and Taxation Code. (See TBR Section 21012.) Operative January 1, 1989. (AB 2788, Ch. 88-1573)
(Repeal)		
(19276., 5)		
LC 88-25		

BUSINESS AND PROFESSIONS CODE

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30
(Amend)

LC 88-20
•

TAX ENFORCEMENT; FURNISHING OF FEDERAL EMPLOYER IDENTIFICATION NUMBER, SOCIAL SECURITY NUMBER AND OTHER INFORMATION; PENALTY; FILING REPORTED INFORMATION; CONFIDENTIALITY; LEGISLATIVE INTENT (SC) See summary for PIT Section 19276. Operative September 26, 1988.
(SB 2289, Ch. 88-1333)

CODE OF CIVIL PROCEDURE

**CCP
SECTION**

SUMMARY OF CHANGE

708.730
(Amend)

LC 88-14

MONEY OWED BY PUBLIC ENTITY; FILING ABSTRACT OR COPY OF JUDGMENT AND AFFIDAVIT; SERVICE OF NOTICE; SUBMISSION OF CLAIM (SC) Adds subdivision (d) providing that if a judgment is for child support, and money is owed to the judgment debtor as a tax refund from the FTB or as California State lottery winnings, the judgment creditor may file with the court an abstract or certified copy of the judgment or decree ordering payment of child support, and request (as specified) the court to issue a Notice of Child Support Arrearage to which any tax refund or lottery winnings owed the judgment debtor will be subject. Operative July 1, 1989 to January 1, 1994.
(SB 2035, Ch. 88-1017)

GOVERNMENT CODE

**GC
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SUMMARY OF CHANGE

7077
(Amend)

LC - None

DESIGNATION AS ENTERPRISE ZONE LIMITED (TC) Clarifies that an area may only be designated either as an enterprise zone or as a program area. Operative September 28, 1988. (AB 2764, Ch. 88-1464)

7082
(Amend)

LC - None

EMPLOYMENT AND ECONOMIC INCENTIVE ACT - DEFINITIONS (SC) Deletes, in subdivision (h)(2)(C), the provision regarding abandonment, relocation, and approval with respect to the designation of qualifying businesses in a program area. Operative September 28, 1988.
(AB 2764, Ch. 88-1464)

7095
(Amend)

LC - None

PREFERENCES ON STATE CONTRACTS FOR BIDDERS CERTIFYING USE OF WORKSITES AND WORKERS LOCATED IN PROGRAM AREAS (SC) Adds, in subdivision (b), "enterprise zone qualified employees" as a qualifying preference on state contracts for bidders certifying the use of worksites and workers in program areas. Adds subdivision (f) defining

"enterprise zone qualified employees" as employees who meet any of the requirements of Section 17053.8(c)(1)(C) or 24331(c)(1)(C) of the Revenue and Taxation Code, as those sections read on January 1, 1988. Operative September 28, 1988. (AB 2764, Ch. 88-1464)

7269
(Amend)

STATUS OF PAYMENTS; INCOME TAX AND PUBLIC ASSISTANCE

(SC) Specifies that tenant relocation assistance payments required by state statute or local ordinance are not taxable under the PITL or the B&CTL (codification of current practice). Operative January 1, 1989. (AB 3962, Ch. 88-1490)

LC - None

12419.3
(Amend)

PRIORITY OF OFFSET ACCOUNTS; ANNUAL REPORTS (SC) Amends subdivision (a), relating to priorities for offsetting delinquent accounts against PIT refunds, to provide that nonpayment of child support accounts enforced by a district attorney shall receive first priority and the nonpayment of child support accounts enforced by other than a district attorney shall receive second priority.

LC 88-14

Operative July 1, 1989 to December 31, 1990. (SB 2035, Ch. 88-1017)

12419.8
(Amend)

OFFSET AMOUNT DUE A COUNTY (SC) Adds delinquent unsecured property taxes, on which a certificate lien has been filed for record with the county recorder, to provisions permitting the Controller to offset any amount due a county from any refund of PIT or B&CT payable to the delinquent person or entity. Operative July 1, 1989. (SB 2293, Ch. 88-830)

LC - None

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88-23	Water's-Edge Election	SB 85	88-989	60
88-24	Taxation: Compromises	AB 2359	88-901	63
88-25	Taxpayers' Bill of Rights	AB 2788	88-1573	63
88-26	California Source Income	AB 2896	88-627	68
88-27	Rollover of Securities to Employee Stock Ownership Plans (ESOPs)	AB 3799	88-1504	68
88-28	Small Business Health Care Insurance Coverage	SB 2260	88-1521	70

Legislative Change Reports (LCs) 88-1, 88-1, and 88-3 were included in Summary of Legislation report dated March 18, 1988.

No Legislative Change Reports issued for the following bills:

Enterprise Zones and Program Areas: Government Code Changes	AB 2764	88-1464
Exclusion from Income: Tenant Relocation Assistance Payments	AB 3962	88-1490
Reparation Payments (See LC 88-9)	AB 4087	88-555
Allocation of California Senior Citizens Fund	SB 1802	88-1361
Offset of Delinquent Property Taxes	SB 2293	88-830
Maintenance of the Codes	SB 2637	88-160

LEGISLATIVE CHANGE NO. 88-4
ASSEMBLY BILL 131

Author: Jones

Subject: Combined Reporting Regulations and Technical Corrections

Laws Affected: Sections 17058, 18513, 18513.1, 18513.2, 18515,
18515.1, 18515.2, 23610.5, and 25106.5 of the Revenue
and Taxation Code

Date Filed with Secretary of State: July 5, 1988

Chapter Number: 88-258

SUMMARY

Section 25106.5

This act amends the section that specifically authorizes the Franchise Tax Board to adopt regulations with respect to the proper accounting methods to be employed by taxpayers whose income derived from or attributable to California sources is required to be determined by means of a combined report. These amendments specifically provide that the regulations will not:

- c affect, determine or prescribe the inclusion or exclusion of entities whose income and apportionment factors are to be included in either the worldwide or the water's edge combined report; or,
- c after the period of inclusion, cause the income or expenses of an entity which is no longer included in a combined report to be included in a combined report.

Sections 17058 and 23610.5.

This act corrects the name of the tax credit allocation agency from the "Mortgage Bond Allocation Committee" to the "Mortgage Bond and Tax Credit Allocation Committee" and removes duplicate language in the provision relating to the low-income housing credit.

Sections 18513, 18513.1, 18513.2, 18515, 18515.1, and 18515.2.

This act renumbers Sections 18513, 18513.1, and 18513.2 (relating to the designation of voluntary contributions to the Vietnam Veterans Memorial Fund) as Sections 18515, 18515.1, and 18515.2, respectively.

The provisions of this act would be effective January 1, 1989, as this bill is not a tax levy nor does it affect the computation of tax.

LEGISLATIVE CHANGE NO. 88-5
ASSEMBLY BILL 2755

Author: D. Brown

Subject: Location of Trials for actions Against the Franchise Tax Board

Laws Affecting Franchise Tax Board: Sections 19088 and 26104 of the Revenue and Taxation Code

Date Filed with Secretary of State: July 14, 1988

Chapter Number: 88-337

SUMMARY

Section 19088 and 26104

This bill codifies current judicial authority under the Code of Civil Procedures (CCP Section 401(1)) and reflects the current administrative practice of the Franchise Tax Board in that actions against the Board will be commenced and tried in any city or city and county in which the Attorney General maintains an office.

The provisions of the act are effective January 1, 1989.

**LEGISLATIVE CHANGE NO. 88-6
ASSEMBLY BILL 2716**

Author: Klehs
Subject: Renter's Credit Eligibility
Laws Affected: Section 17053.5 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 7, 1988
Chapter Number: 88-747

SUMMARY

Section 17053.5 amended.

This act modifies the conditions which must be met before an individual qualifies to receive a renter's credit.

Previously, one renter's credit eligibility requirement was that an individual occupy and rent a principal residence in California on March 1, of the year. This act requires that, for tax years beginning on or after January 1, 1988, an individual must instead rent and occupy a principal residence in California for at least fifty percent of the year to maintain renter's credit eligibility. Other former renter's credit eligibility requirements remain unchanged.

This act will not result in departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-7
SENATE BILL NO. 162**

Author: Vuich
Subject: Exempt Interest Income
Laws Affecting Franchise Tax Board: Section 17145 of the Revenue and Taxation Code
Date Filed with Secretary of State: August 29, 1988
Chapter Number: 88-671

SUMMARY

Section 17145.

This act codifies the department's interpretation of the decision in Sandra Brown vs. FTB, that California must provide the same flow-through treatment for federal obligations as has been provided

for state obligations. Specifically, this act provides for flow-through tax-exempt treatment of interest from either federal obligations or California state/local bonds if at least 50% of the value of the mutual fund's assets consists of either federal obligations or California state/local bonds. The so-called "at least 50% test" for determining if a management company is qualified to pay tax exempt-interest dividends to its shareholders cannot be satisfied by a combination of federal obligations and California state/local bonds. However, if, at the close of each quarter of its taxable year, at least 50% of the value of the total assets of a management company, or series thereof, consists of either class of obligations then interest from the other class also is entitled to flow-through treatment (e.g., a mutual fund's portfolio consists of 51% federal obligations and 23% California bonds. As the mutual fund passes the so-called "at least 50% test", both the interest from the federal obligations and the California bonds is entitled to flow-through tax-exempt treatment).

It should be noted that this act applies to interest from federal obligations which would be exempt if held directly by an individual. Therefore, this act does not provide for pass-through treatment for interest received from certain agency bonds (e.g., Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation, obligations of the District of Columbia issued after December 27, 1973) as these interest payments are not from exempt federal bond/obligations.

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

The provisions of this act are operative with respect to taxable years beginning on or after January 1, 1988. However, to the extent this act codifies the decision reached in Sandra Brown, it applies to all years not closed by the statute of limitations.

**LEGISLATIVE CHANGE NO. 88-8
ASSEMBLY BILL 352**

Author: Duplissea
Subject: Dependent Parent Credit
Laws Affecting Franchise Tax Board: Section 17054.5 of the Revenue and Taxation Code, as amended.
Date Filed with Secretary of State: September 26, 1988
Chapter Number: 88-1349

SUMMARY

Section 17054.5 as amended.

This act modifies the existing tax credit for joint custody head of household to also apply to individuals who meet all of the following conditions:

- (1) Married filing a separate return;

- (2) During the last six months of the taxable year the taxpayer's spouse was not a member of the taxpayer's household;
- (3) Maintains a household, whether or not the taxpayer's home, which constitutes the principal residence of a dependent mother or father of the taxpayer for the taxable year;
- (4) Furnishes over one-half of the cost of maintaining the household during the taxable year; and,
- (5) Does not qualify as a head of household or as a surviving spouse.

This act will not result in any departmental program change requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

This act applies to tax years beginning on or after January 1, 1988.

**LEGISLATIVE CHANGE NO. 88-9
ASSEMBLY BILL 4132**

Author: Floyd
Subjects: Credit for Military Service Income and Reparation Payments
Exclusion from Gross Income
Laws Affecting Franchise Tax Board: Sections 17053.13 and 17156 of the
Revenue and Taxation Code
Date Filed with Secretary of State: September 23, 1988
Chapter Number: 88-1234

SUMMARY

Section 17053.13

This act provides that pension and retirement pay received by an individual for his or her service as a member of the California National Guard or the State Military Reserve qualifies for the credit for military service income.

This applies to taxable years beginning on or after January 1, 1988.

Section 17156.

This act also provides a specific exclusion from gross income for reparation payments made to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World II.

The federal statute relating to this provision was enacted on August 10, 1988. Therefore, this act (which is operative only if the federal statute was enacted) applies to taxable years beginning on or after January 1, 1988.

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

LEGISLATIVE CHANGE NO. 88-10
SENATE BILL NO. 1904

Author: Morgan
Subject: Gross Income Exclusions/Business Expense Deduction for
Ridesharing Benefits
Laws Affecting Franchise Tax Board: Sections 17149 and 24343.5 are
added to the Revenue and Taxation Code.
Date Filed with Secretary of State: September 27, 1988
Chapter Number: 88-1437

SUMMARY

Section 17149 is added to the Revenue and Taxation Code.

This act specifies that compensation on the fair market value of nonwage benefits, received by an employee for participation in any employer sponsored ridesharing program in California are excluded from the employee's California gross income. This includes the following compensation or benefits:

- c Commuting in a third-party vanpool, subscription taxipool, and private commuter bus.
- c Monthly transit passes for use by employees or their dependents, other than transit passes for use by elementary or secondary school students.

Section 24343.5 is added to the Revenue and Taxation Code.

This act specifies that corporation employers are allowed a business expense deduction for specific benefits paid or incurred relating to employee ridesharing. These benefits are:

- c Subsidizing employee commuting in third-party vanpools, private commuter buses, and subscription taxipools.
- c Subsidizing monthly transit passes to employees and their dependents, excluding transit passes for elementary and secondary school students.
- c Compensating employees who do not require free parking.
- c Providing free or preferential parking to carpools and vanpools.
- c Making facility improvements to encourage employees to participate in ridesharing arrangements, to use bicycles or to walk. These facility improvements are allowed a 36 month depreciation deduction.
- c Providing company commuter van or bus service to employees for commuting to and from their homes. Improvements (capital costs) to the vehicle are not allowed as a business expense deduction.
- c Providing employee transportation services which are required as part of the employer's business activities, if the employee would not have been reimbursed and there was no available ridesharing incentive program. Improvements (capital costs) to the vehicle would not be allowed as a business expense deduction.

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

The provisions of this act are operative for income and taxable years beginning on or after January 1, 1988.

**LEGISLATIVE CHANGE NO. 88-11
ASSEMBLY BILL 2977**

Author: Jones

Subject: (PIT) - Revenue Code Maintenance. (B&CT) - Corporate Sale of Partnership Interest (Appeal of Holiday Inns).

Laws Affecting Franchise Tax Board: Sections 17048 and 25125 of the Revenue and Taxation Code

Date Filed with Secretary of State: September 22, 1988

Chapter Number: 88-1170

SUMMARY

This is an act which amends Sections 17048 and 25125.

The measures incorporated within this act were sponsored and recommended by the department. This act makes technical corrections to the Personal Income Tax Law (PITL) by deleting obsolete references created by enactment of the California Personal Income Tax Fairness, Simplification and Conformity Act of 1987 (AB 53, Statutes of 1987, Chapter 1138). In addition, this bill amends the Bank and Corporation Tax Law (B&CTL) in the area of corporate sales of partnership interests.

Section 17048 - Amended

This act deletes reference to income averaging in the code section which requires certain individuals to use the tax tables to compute tax amounts. Income averaging was repealed by 1987 conformity legislation. This act also corrects an obsolete reference to the tax treatment of lump-sum distributions.

Section 25125 - Amended

This act requires an interstate or international corporation which sells a partnership interest to use an allocation formula to determine the portion of capital gain or loss realized from the sale which must be attributed to California taxable income. The allocation formula is based on the relationship that the original cost of the partnership's tangible property located in California bears to the original cost of all the partnership's tangible property. In the event that more than 50 percent of the partnership's assets consists of intangible property, the allocation to California income of the gain or loss realized must be determined by using the ratio of the partnership's California sales to the partnership's total sales during the first full tax period preceding the sale of the partnership interest. This amendment to the B&CTL was sponsored by the Franchise Tax Board in response to the finding of the Board of Equalization in the Appeal of Holiday Inns, which held that the gain or loss realized from the sale of a partnership interest by a corporation was intangible income and should be assigned to the corporation's commercial domicile.

As a tax levy, this act became law on September 22, 1988. However, as specified in the act, the amendments to Section 25125 are applicable to income years beginning on or after January 1, 1989.

This act does not initiate departmental program changes which require a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-12
ASSEMBLY BILL NO. 3165**

Author: Klehs
Subject: Homeowner's and Renter's Assistance
Laws Affecting Franchise Tax Board: Sections 20514, 20543, and 20544,
of the Revenue and Taxation Code
Date Filed with Secretary of State: September 23, 1988
Chapter Number: 88-1231

SUMMARY

Section 20514, as amended.

This act increases the maximum amount of gross household income from \$20,000 to \$24,000 for allowing assistance payments.

Sections 20543 and 20544, as amended.

This act increases the income amounts for the tables that establish the percentage of assistance allowed under the Homeowner's and Renter's Assistance (HRA) program administered under the Senior Citizen's Property Tax Assistance and Postponement Law. For example, at the 96% assistance level, the income would change from not more than \$3,000 to not more than \$3,300, and at the 4% assistance level, the income would change from not more than \$12,000 to not more than \$13,200. (See the following tables.)

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

This act applies to Homeowner's Assistance and Renter's Assistance claims for the 1988-89 fiscal year (filed on or after May 16, 1989 and on or before August 31, 1989) and fiscal years thereafter.

HOMEOWNER'S ASSISTANCE

If the total household income
(as defined) is not more than:

The percentage of tax on the first
\$34,000 of full value (as deter-
mined for tax purposes) used to
provide assistance is:

-----	-----
\$3,300.....	96%
3,520.....	94
3,740.....	92
3,960.....	90
4,180.....	88
4,400.....	86

HOMEOWNER'S ASSISTANCE (con't)

If the total household income (as defined) is not more than:

The percentage of tax on the first \$34,000 of full value (as determined for tax purposes) used to provide assistance is:

4,620.....	84
4,840.....	82
5,060.....	80
5,280.....	78
5,500.....	76
5,720.....	73
5,940.....	69
6,160.....	65
6,380.....	61
6,600.....	57
6,820.....	53
7,040.....	49
7,260.....	45
7,480.....	41
7,700.....	37
7,920.....	34
8,140.....	31
8,360.....	28
8,580.....	25
8,800.....	22
9,020.....	20
9,240.....	18
9,460.....	16
9,680.....	14
9,900.....	12
10,450.....	10
11,000.....	8
11,550.....	7
12,100.....	6
12,650.....	5
13,200.....	4

RENTER'S ASSISTANCE

If the total household income (as defined in this part) is not more than:

The statutory property tax equivalent is:

The percentage of the statutory property tax equivalent used to provide assistance is:

\$3,300.....	\$250.....	96%
3,520.....	250.....	94
3,740.....	250.....	92
3,960.....	250.....	90
4,180.....	250.....	88
4,400.....	250.....	86
4,620.....	250.....	84
4,840.....	250.....	82

RENTER'S ASSISTANCE (con't)

If the total household income (as defined in this part) is not more than:

The statutory property tax equivalent is:

The percentage of the statutory property tax equivalent used to provide assistance is:

5,060.....	250.....	80
5,280.....	250.....	78
5,500.....	250.....	76
5,720.....	250.....	73
5,940.....	250.....	69
6,160.....	250.....	65
6,380.....	250.....	61
6,600.....	250.....	57
6,820.....	250.....	53
7,040.....	250.....	49
7,260.....	250.....	45
7,480.....	250.....	41
7,700.....	250.....	37
7,920.....	250.....	34
8,140.....	250.....	31
8,360.....	250.....	28
8,580.....	250.....	25
8,800.....	250.....	22
9,020.....	250.....	20
9,240.....	250.....	18
9,460.....	250.....	16
9,680.....	250.....	14
9,900.....	250.....	12
10,450.....	250.....	10
11,000.....	250.....	8
11,550.....	250.....	7
12,100.....	250.....	6
12,600.....	250.....	5
13,200.....	250.....	4

LEGISLATIVE CHANGE NO. 88-13
SENATE BILL NO. 573

Author: Garamendi

Subject: Reorganization of Troubled Thrifts

Laws Affecting Franchise Tax Board: Section 24562 of The Revenue and Taxation Code is amended and Section 24322 is added to the Revenue and Taxation Code.

Date Filed with Secretary of State: September 21, 1988

Chapter Number: 88-1068

SUMMARY

Section 24322

Certain assistance payments made by the Federal Savings and Loan Insurance Corporation (FSLIC) are not treated as income nor will the

basis of the institution's assets be reduced by the amount of the payments.

Section 24562

Financially troubled savings institutions qualify for tax-free reorganization status.

This act requires the department to submit a report on the revenue impact of this act as of December 1, 1989 to the Legislature by January 30, 1990.

The act states that these changes are declaratory of existing law, therefore these provisions are effective for all open income years. The provisions regarding reorganizations do not apply to acquisitions after December 31, 1988 or income years beginning after December 31, 1988, while the exclusion from income does not apply to amounts received after December 31, 1988 (except for certain mergers or acquisitions which occur prior to January 1, 1989).

LEGISLATIVE CHANGE NO. 88-14
SENATE BILL NO. 2035

Author: Agnos

Subject: Offset for Delinquent Child Support

Laws Affecting Franchise Tax Board: Sections 708.730, 708.740, and 708.780 of the Code of Civil Procedure, as amended; and Section 12419.3 of the Government Code, as amended.

Date Filed with Secretary of State: September 20, 1988

Chapter Number: 88-1017

SUMMARY

Sections 708.730, 708.740, and 708.780, as amended.

As it would impact the Franchise Tax Board, this act provides that, in the case of a judgment for child support and related costs, any money which is owing and unpaid to the judgment debtor by a state agency as a result of:

- o a claim for refund from the Franchise Tax Board; or,
 - o the judgment debtor's winnings in the California State Lottery;
- is subject to lien and offset by the State Controller.

Section 12419.3 of the Government Code, as amended.

This provision modifies the priority by which personal income tax refunds may be offset to make the secondary priority nonpayment of child support enforced by someone other than a district attorney.

This act does not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

The provisions of this act affecting the Code of Civil Procedure will become operative July 1, 1989, and will remain operative only until January 1, 1994.

The provision of this act affecting Section 12419.3 of the Government Code will be operative only until December 31, 1990.

**LEGISLATIVE CHANGE NO. 88-15
SENATE BILL 1805**

Author: Morgan

Subject: Revenue and Taxation Code Maintenance and Technical Corrections

Laws Affecting Franchise Tax Board: Sections 17280, 18681.7, 18688, 19053.1, 23301 and 26221 of the Revenue and Taxation Code

Date Filed with Secretary of State: September 19, 1988

Chapter Number: 88-970

SUMMARY

This is an act which amends Sections 17280, 18688, 19053.1, 23301 and 26221, and adds Section 18681.7.

This act makes technical corrections to sections of the Revenue and Taxation Code which are declaratory of existing law and practice and were recommended to the Legislature by the department.

Expenses Related to Tax Exempt Interest Income: Section 17280 amended.

This act updates the Revenue and Taxation Code to state that interest expenses related to a loan, used to purchase nondiversified mutual funds which distribute tax exempt interest dividends, or segregated portfolio series bonds within a mutual fund which holds California state or municipal bonds, may not be deducted from California taxable income. The update was necessary to reflect the fact that tax exempt interest includes amounts received from funds which invest in California state and municipal bonds.

Enforcement of Penalties Levied on Banks and Corporations: Section 18681.7 added, and Sections 23301 and 26221 amended.

This act reinforces the Franchise Tax Board's statutory authority to initiate enforcement actions, including corporate suspensions, in the collection of penalties which are assessed on corporations, but which are based on provisions contained solely in the Personal Income Tax Law (Chapter 10). The language establishing several miscellaneous penalties which are intended to apply to corporations appears only in the Personal Income Tax Law. This act makes references to the PITL sections establishing these penalties in the appropriate bank and corporation enforcement statutes.

Interest on Amounts Refunded in Error: Section 18688 amended.

This act provides clarifying language which reiterates the date on which interest begins accruing on amounts refunded in error, and the period of time a taxpayer retains the right to appeal additional assessments related to erroneous refunds. The prevailing practice, by which interest on erroneous refunds is charged from the thirtieth day

after a notice of repayment is issued, is restated; the current requirement, that demands for repayment be made within two years of the date of the refund or within the statute of limitations period for the tax year from which the refund was derived, is retained; and the existing taxpayer's right, to protest or appeal any additional tax assessment related to the erroneous refund, is preserved.

Obsolete References to Payments of Estimated Tax: Section 19053.1 amended.

This act makes a correction to the section of the Revenue and Taxation Code which establishes the statute of limitations for claiming tax payments, by deleting reference to a section of the code (relating to the payment of estimated tax) which was repealed in 1985.

Since this measure clarifies existing statutory and administrative law and practice, and would result in no substantive change to the method of computing taxes, its provisions will become operative beginning January 1, 1989.

This act does not initiate departmental program changes which require a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-16
ASSEMBLY BILL 2851**

Author: D. Brown
Subject: Revenue and Taxation Code Maintenance and Corrections
Laws Affecting Franchise Tax Board: Sections 17062, 18411, 18817.3 and 26132.05 of the Revenue and Taxation Code.
Date Filed with Secretary of State: August 29, 1988
Chapter Number: 88-628

SUMMARY

The provisions of this act, which institute technical corrections and clarifications to the Revenue and Taxation Code, were recommended and sponsored by the department.

While having no material impact on the method of computing California tax, the specifics of this act's provisions go into effect on January 1, 1989, and include the following:

California Adjusted Gross Income Defined - Section 17062 amended.

This act provides a more precise definition of "California adjusted gross income" for individuals who are nonresidents or part-year residents and who are required to compute the alternative minimum tax for California tax purposes. The language included in this act, however, provides a definition of California AGI which is identical to what previously has been understood to constitute California AGI. This act identifies the following income as California AGI:

- o all income while the taxpayer is a California resident, regardless of the income's geographical source; and
- o income derived from sources within California while the taxpayer is not a resident of California.

Definition of "Net Income" Deleted - Section 18411 repealed.

The definition of "net income" is deleted from the Personal Income Tax Law by this act. The term "net income" is not used as a reference point or as a basis for any computation relevant to the Personal Income Tax Law.

Exemption of Personal Property from Levy Repealed - Sections 18817.3 and 26132.05 repealed.

This act repeals the sections of the Revenue and Taxation Code which exempt certain personal property from the enforcement of or encumbrance by a levy for taxes. These sections were added to the Revenue and Taxation Code in 1987 with enactment of the California Fairness, Simplification and Conformity Acts (AB 53, Statutes of 1987, Chapter 1138, and SB 572, Statutes of 1987, Chapter 1139), and inadvertently conflicted with the California Code of Civil Procedure. The Code of Civil Procedure is more protective of individual property rights and provides a more generous list of personal property items which are exempt from tax levies.

This act does not require that the department make any new or additional reports to the Legislature.

**LEGISLATIVE CHANGE NO. 88-17
SENATE BILL 1390**

Author: Morgan
Subject: Reporting of Real Estate Transactions
Laws Affecting Franchise Tax Board: Sections 18802.3 18802.10 and
25401e of the Revenue and Taxation Code
Date Filed with Secretary of State: September 28, 1988
Chapter Number: 88-1451

SUMMARY

This is an act which amends Section 18802.3, and adds Sections 18802.10 and 25401e.

This measure was recommended and sponsored by the Franchise Tax Board. It is an act which requires the closing agent, responsible for finalizing a real estate transaction involving California property, to forward to the Franchise Tax Board a copy of the related federal real estate transaction return which must be filed with the IRS.

This act requires closing agents (i.e. escrow companies, banks or real estate companies) to supply the Franchise Tax Board with a copy of the federal information return related to any California real estate transaction which occurs on or after January 1, 1989, or occurs during 1988 but is reported to the IRS on or after January 1, 1989.

Under this act closing agents may file an exact duplicate of the required federal real estate return with the Franchise Tax Board, using any format acceptable to the IRS, and must file by the date prescribed in federal law (no later than the last day of February of the year following the transaction).

Closing agents failing to comply with the requirements of this act are subject to the penalty prescribed for neglecting to file a required information return.

This act also makes minor technical amendments to the code language which authorizes the Franchise Tax Board to demand written information, including identification numbers, from the owners or transferors of real estate.

The Franchise Tax Board is required to evaluate the effectiveness of the departmental programs implemented as a result of this act, and report the findings, including a cost benefit analysis of the programs, to the Legislature by no later than January 1, 1994.

**LEGISLATIVE CHANGE NO. 88-18
ASSEMBLY BILL NO. 3083**

Author: Cortese
Subject: Interest Rate Computation
Laws Affecting Franchise Tax Board: Section 19269 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 10, 1988
Chapter Numbers: 88-1029

SUMMARY

Section 19269 (Amended).

This act changes the manner in which the interest rate is established under the Personal Income Tax Law. As such, this change will affect all laws that use the personal income tax interest rate, which includes the Bank and Corporation Tax Law. Under this act which takes effect January 1, 1989, the interest rate determined in the first quarter (January - March) of the year, will be effective the following July through December and the interest rate determined in the third quarter (July - September) will be effective the following January through June.

The interest rate, therefore, will be determined and be in effect as follows:

- o The interest rate determined in July - September 1988, will (under existing law) be effective October 1 through December 31, 1988, and (under this act) will remain effective January 1 through June 30, 1989.
- o The interest rate determined in October - December 1988 (existing law) will not go into effect on January 1, 1989 (this act).
- o The interest rate determined January - March 1989 will be effective July 1 through December 31, 1989.
- o The interest rate determined July - September 1989 will be effective January 1 through June 30, 1990.

This act does not require any reports to the Legislature.

LEGISLATIVE CHANGE NO. 88-19
SENATE BILL 722

Author: Hart
Subject: Credit for Employer-Paid Child Care, and Child Care Plan
Laws Affecting the Franchise Tax Board: Sections 17052.7, 17052.18,
23617, and 23617.5 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 23, 1988
Chapter Number: 88-1239

SUMMARY

Credit For Employer-Paid Child Care Center and Services - Sections
17052.17 and 23617 - Added

This act allows an employer a credit equal to 30 percent, but not to exceed \$30,000, for either or both:

- 1) The cost of the start-up expenses for establishing a child care program or constructing a child care facility in California, to be used primarily by the children of employees; and/or
- 2) The cost of contributing to California child care information and referral services.

Except for a husband and wife, if two or more taxpayers share in the costs, each taxpayer may receive the credit in proportion to his or her costs. A partnership may divide the credit by a written agreement which distributes the credit according to the substantial economic effect of the partner's share. If husband and wife file separate returns, either one spouse may claim the entire credit, or the credit may be divided between both spouses.

This credit may not be applied against the alternative minimum tax, the corporation minimum franchise tax, or taxes relating to built-in gains and excess passive income. Any credit in excess of the tax may be carried over for 5 years.

This credit is in lieu of any deduction or depreciation otherwise allowed as follows:

- a) Deductions may not be taken for that portion of the expenses which is equal to the amount of the credit;
- a) The basis of any child care facility must be reduced by the amount of the credit attributable to the facility. This adjustment must be made in the year the credit is allowed.

Upon the request of the Franchise Tax Board, the taxpayer must submit a statement certifying that the costs for the program or facility were incurred and that the center will be in operation for at least 60 consecutive months.

If the center for which the credit is claimed is disposed of or ceases to operate within 60 consecutive months, that portion of the credit representing the remaining portion of the 60-month period must be added to the taxpayer's tax liability in the year of the disposition or nonuse.

This credit applies to costs paid or incurred on or after September 23, 1988, during taxable and income years beginning on or after January 1, 1988, and before January 1, 1992.

Credit For Employer-Paid Child Care Plan - Sections 17052.18 and 23617.5 - Added

This act allows a credit equal to 50 percent of the costs paid for contributions to a qualified care plan made on behalf of a California employee's dependent(s) under the age of 15. The credit can not exceed:

- 1) \$600 for each contribution to a full-time qualified care plan, and
- 2) \$300 for each contribution to a part-time plan.

In the event care is received for less than 42 weeks, the employer may only claim a prorated portion.

The credit is available only if:

- a) the care is provided by other than the employee's spouse or dependent; or child or stepchild under the age of 19.
- a) the contributions do not discriminate in favor of officers, owners, or highly compensated employees, or their dependents.

Except for a husband and wife, if two or more taxpayers share in the costs, each taxpayer may receive the credit in proportion to his or her costs. A partnership may divide the the credit by a written agreement that distributes the credit according to the substantial economic effect of the partner's share. If a husband and wife file separate returns, either spouse may claim the entire credit or the credit may be equally divided between both spouses.

This credit may not be applied against the alternative minimum tax, the corporation minimum franchise tax, or taxes relating to built-in gains and excess passive income. Any credit in excess of the tax may be carried over for 5 years.

This credit is in lieu of any deduction or depreciation otherwise allowed as follows:

- a) Deductions may not be taken for that portion of the expenses which is equal to the amount of the credit;
- a) The basis of any child care facility must be reduced by the amount of the credit attributable to the facility. This adjustment must be made in the year the credit is allowed.

This credit applies to costs paid or incurred on or after September 23, 1988, during taxable and income years beginning on or after January 1, 1988, and before January 1, 1992.

This act does not require any reports to the Legislature.

LEGISLATIVE CHANGE NO. 88-20
SENATE BILL NO. 2289

Author: Garamendi

Subject: Changes the Reporting of Licensee Information; Adds a Fiduciary as a Person Able to File a Return; Extends the Sunset Date for the Tax Treatment of International Banking Facilities

Laws Affecting Franchise Tax Board: Section 30 of the Business and Professions Code is amended; Sections 18403, 19276 and 25107 of the Revenue and Taxation Code are amended; Section 5 of Chapter 825 of the Statutes of 1981 is amended.

Date Filed with Secretary of State: September 26, 1988

Chapter Number: 88-1333

SUMMARY

Section 30 of the Business and Professions Code and Section 19276 of the Revenue and Taxation Code as amended.

This act makes corresponding technical corrections to both the Revenue and Taxation Code and the Business and Professions Code sections which specify the items of information that licensing boards must provide to the Franchise Tax Board regarding licensees.

Specifically these provision of the act:

- (1) Delete the word "owner" as a reference to a licensee when requiring social security numbers to be furnished. The term "owner" was used in the wrong context as licensees are required to furnish social security numbers, not owners.
- (2) Allow the Franchise Tax Board to send a notice of failure to comply to licensees (other than partnerships) who do not provide their social security numbers. Prior law required that a notice was sent only if the federal employee identification number (FEIN) was not provided. As some licensees do not have FEIN numbers, but only a social security number, notification by the department is necessary to help ensure compliance.
- (3) Deletes a reference to nonexistent paragraphs of laws.

Beginning September 26, 1988 the Franchise Tax Board is allowed to send a notice of failure to comply to licensees who do not furnish social security numbers.

Section 18403 of the Revenue and Taxation Code is amended.

This act makes technical corrections to the filing requirements of returns to:

- (1) Include a fiduciary in the list of those authorized to file a return for individuals who are unable to file their own. Prior law did not include a fiduciary as one of the persons who could file a return for a taxpayer who is unable to file. As fiduciaries usually manage the money or property of the taxpayer and have established a trust relationship it is appropriate to allow the fiduciary to file the return.

- (2) Delete a reference to an obsolete requirement to file a declaration (return) of estimated tax for an individual who is unable to file his/her own.

Beginning September 26, 1988, fiduciaries are allowed to file returns for individuals who are unable to file their own.

Section 25107 of the Revenue and Taxation Code and Section 5 of Chapter 825 of the statutes of 1981 are amended.

This act:

- (1) Extends the sunset date relating to the provisions of law
 - regarding limitations on franchise tax of International Banking Facilities (IBF) from January 1, 1989 to January 1, 1991.
- (2) Changes the application of the imposition of the franchise tax for IBFs from "located in" California to "doing business" in California. This change provides the same application of the franchise tax to IBFs as for other corporations.
- (3) Requires the Legislative Analyst to report by January 1, 1990 to the Legislature on the economic impact and tax implications relating to the sunset date extension of IBFs.

These IBF provisions apply to income years beginning on or after January 1, 1988.

This act will not result in any program changes for the department requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-21
ASSEMBLY BILL NO. 2785**

Author: Nolan
Subject: Enterprise Zones
Laws Affecting Franchise Tax Board: Section 7082 of the Government Code, and Sections 17052.13, 17053.8, 17053.9, 17053.11, 17231, 17252.5, 17265, 17276, 17276.1, 17276.2, 23612, 24331, 24333, and 24416.2, of the Revenue and Taxation Code
Date Filed with Secretary of State: September 28, 1988
Chapter Number: 88-1463

SUMMARY

Section 7082 of the Government Code - Amended

This act makes a minor technical correction to the Government Code definition of a "qualified business".

Section 17052.13 and 23612 - Amended

This act deletes the automatic repeal dates that were enacted by AB 53 and SB 572 (Stats. 1987, Ch. 1138 and 1139, respectively) with regard to the sales or use tax credit.

Sections 17053.8, and 24331 - Amended

This act clarifies the terms "year one", "year two", "year three", "year four", and "year five" to mean the "first, second, third, fourth, and fifth year of employment", relating to the credit eligibility for wages paid to qualified disadvantaged employees in an enterprise zone.

Section 17053.9 - Amended

This act deletes the automatic repeal date that was enacted by AB 53 (Stats. 1987, Ch. 1138) with regard to the enterprise zone employee wage tax credit.

Sections 17053.11 and 24333 - Amended

This act prohibits the program area hiring credit from applying to seasonal workers, provides that the credit shall be reduced by both the federal and state targeted jobs tax credits, and denies a deduction for that portion of the wages upon which the credit is based. Also, in the case of an estate or trust, this act requires that the credit be apportioned between the estate or trust and the beneficiaries on the basis of income allocable to each, and treats the beneficiary as the employer with respect to those wages.

Also, this act increases both of the following:

- o The percentages applied in determining the credit for hiring unemployed residents of high density unemployment areas that have been unemployed for at least six months, to match the currently existing percentages that are applied in determining the credit for wages paid to disadvantaged employees in an enterprise zone; and
- o The credit provided for hiring qualified employees who have been unemployed for at least three months, but not more than six months, to 25% of the qualified wages for the first year of employment, and specifies the credits applicable to succeeding years.

Section 17231 - Amended

This act deletes the automatic repeal date that was enacted by AB 53 (Stats. 1987, Ch. 1138) with regard to the net interest income exclusion.

Section 17252.5 - Amended

This act corrects the reference, relating to the basis of property acquired from a decedent, for the expensing of a portion of the cost of specified property located in enterprise zones.

Section 17265 - Amended

This act deletes the automatic repeal date that was enacted by AB 53 (Stats. 1987, Ch. 1138) with regard to the accelerated expensing of a portion of the cost of specified property located in program areas.

Sections 17276, 17276.1, 17276.2, and 24416.2 - Amended

This act deletes the automatic repeal date of sections 17276.2 and 24416.2 that was enacted by SB 1706 (Stats.1988, Ch. 32) with regard to net operating losses incurred in enterprise zones or program areas.

In addition, Section 17276 of this act adds cross references to Sections 17276.1 and 17276.2, and makes minor nonsubstantive technical corrections in Section 17276.2.

These provisions are operative for taxable income years beginning on or after January 1, 1988.

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-22
SENATE BILL NO. 1801**

Author: Morgan

Subject: Technical Corrections

Laws Affecting Franchise Tax Board: 17052.4, 17054, 17061.5, 17063, 17073.5, 17142, 17252.5, 17507, 17551, 17551.5, 17561, 17683, 18001, 18002, 18402, 18410.6, 18551, 19062.13, 23036, 23151, 23153, 23181, 23184, 23453, 23601.4, 23603, 23609, 23609.5, 23610.5, 23612, 23630, 23800, 23802, 24330, 24331, 24333, 24378, 24379, 24416, 24416.2, 24637, 24721, 24722, 24722.1, 24722.2, 24722.3, 24723, 24833, 24903, 24905, 24941, 24990, 24990.5, 24995, 25553, 25562, 25563, and 25931.3.

Date Filed with Secretary of State: September 28, 1988
Chapter Number: 88-1465

SUMMARY

This act made numerous amendments to the Personal Income Tax Law and the Bank and Corporation Tax Law. The amendments can be classified as follows:

- ◆ Technical amendments, effective for income and taxable years beginning on or after January 1, 1987, which support the tax forms, instructions, and interpretations of law that were applied to returns for 1987.
- ◆ Technical amendments, effective for income and taxable years beginning on or after January 1, 1988.
- ◆ Amendments which simplify or improve administration, also effective for income and taxable years beginning on or after January 1, 1988.

Technical Amendments Effective 1/1/87

This act specifies that any taxpayer which relied upon existing law, prior to the technical amendments made by this bill, when

preparing and filing a tax return for 1987 prior to August 1, 1988, shall not be subject to any additional tax, penalty, or interest with respect to any item that is directly attributable to such reliance (Act Section).

Sec. 17054 (personal exemption credits). The existing reference to "net tax" was incorrect, since under Sec. 17039, the term "net tax" is the amount of tax, less the personal exemption credits. Thus, the personal exemptions credits are deducted in arriving at "net tax" rather than from "net tax".

Current law is also amended to clarify application of the rules which deny a dependent exemption for the person who qualifies the taxpayer as head of household.

Sec. 17061.5 (tax credit for certain capital gains). This act amends AB 2130 (Stats. 1988, Chapter 11) to clarify that this credit, pertaining to sales of residential rental or farm property, applies to all qualified gains, including gains from installment sales made in prior years. In some places, the wording of AB 2130 could have been interpreted to imply that installment gains were not eligible for the credit; however, the intent of AB 2130 was to provide approximately the same level of tax relief as was provided by prior law. Since installment gains were partially excluded from gross income under prior law, the clear intent was that they should be eligible for the new tax credit.

Sec. 17073.5 (standard deduction). This act amends AB 2130 (Stats. 1988, Chapter 11) to conform to federal law which limits the standard deduction to zero in certain situations, such as the separate return of a married individual where the other spouse itemizes deductions, and to insure that limitation amount (after annual indexing) is the same for both state and federal purposes.

Sec. 17551 and 24637 (accounting periods). This act amends AB 2130 (Stats. 1988, Chapter 11) to clarify that the "required payment" provisions of federal law are not applicable for state purposes, per Legislative intent. The amendment specifies that IRC Sec. 444(c), a cross reference to IRC Sections 280H and 7519, does not apply.

Sec. 17551.5 (required changes in accounting period). This act amends AB 2130 (Stats. 1988, Chapter 11) to allow beneficiaries of trusts to spread over a four year period certain income resulting from a change in taxable year. Current law applied these rules to partners and shareholders of S corporations and there was no intent to exclude trusts from the application of these rules.

Sec. 17561 (tax credits from passive activities). This act amends AB 2130 (Stats. 1988, Ch. 11) to clarify that the phaseout of the \$75,000 exclusion for rental activities is computed using the same income figure as is used for federal purposes (modified federal AGI).

Sec. 17683 and 24833 (percentage depletion). This act conforms to federal law in denying percentage depletion for lease bonus and advance royalty payments not related to production.

Last year's conformity bills (AB 53 and SB 572) conformed to Subchapter I of Chapter 1 of the Internal Revenue Code, relating to Natural Resources, but this provision was made not applicable (unintentionally) when California reenacted an exception to federal law relating to percentage depletion of oil and gas wells.

Tax forms and instructions for 1987 assumed conformity to federal law, as was intended by the Legislature.

Sec. 23800. This act authorizes the Franchise Tax Board to grant reasonable extensions of time for income years beginning in 1987 and 1988 with respect to implementation of the new provisions relating to S Corporations.

Sec. 24378 (franchises, trademarks, and trade names). This act repeals language that was made superfluous by SB 572 (Stats. 1987, Chapter 1139) which enacted Sec. 24903 to incorporate the provisions of Sec. 1253 of the Internal Revenue Code.

Sec. 24379 (property transferred in exchange for services). This act amends SB 572 (Stats. 1987, Chapter 1139) which did not anticipate that a corporation might be the recipient of property transferred in connection with the performance of services. This amendment broadens existing law to cover that situation by conforming to all of the provisions of Section 83 of the Internal Revenue Code, rather than just a portion of it.

Sec. 24416 (net operating losses). This act amends AB 2130 (Stats. 1988, Chapter 11) to limit the application of paragraph (2) of subdivision (e) to fiscal years ending in 1985, as intended.

Sec. 24905 (valuation of foreign currencies). This act incorporates the provisions of IRC Sec. 988, relating to valuation of foreign currencies. The Personal Income Tax Law was conformed last year, but SB 572 did not include a provision for corporations.

Sec. 25553 and 25563 (estimated tax payments). This act modifies estimated tax provisions to reflect changes made by SB 572 (Stats. 1987, Chapter 1139) which increased the minimum tax. This problem should be precluded in the future by these amendments which restructure the law and replace the specific dollar amounts (in these and other sections) with a reference to Section 23153 which is amended to contain the specific dollar amounts.

Technical Amendments Effective 1/1/88

Sec. 17063 and 23453 (credit for alternative minimum tax). This act modifies federal language (for state purposes) to refer to tax credits allowable by state law.

Sec. 17142 (tax benefit rules). This act conforms to federal rules which would otherwise not apply because Sec. 17024.5 makes rules relating to federal credits not applicable.

Sec. 17252.5 (expensing of assets). This act corrects a reference which, prior to reenactment by SB 1706, correctly referenced Sections 18031 through 18033, which made exceptions to federal law with respect to basis of property acquired from decedents. The reference was modified by SB 1706 (Stats. 1988, Ch. 32) to refer only to Section 18031, since Section 18032 was repealed by AB 127 (1985) and Section 18033 was repealed by AB 53 (1987). At that point, the reference to Section 18031 was incorrect, since Section 18031 is a conformity section which incorporates all of the provisions of Subchapter O of Chapter 1 of the Internal Revenue Code (Sections 1001-1103). This act corrects the reference to Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent.

Sec. 17507 (pension plans). This act conforms California rules for recovery of basis to include basis acquired during 1982 (versus 1983), the year for which federal changed its active participant rules.

Sec. 18001 (tax credits for residents). This act corrects a reference from "taxes imposed by this part" to "net tax".

Sec. 18002 (tax credits for nonresidents). This act makes changes similar to the amendments made to Section 18001 by AB 2130 (Stats. 1988, Ch. 11) to clarify the rules relating to computation of credits for taxes paid to other states by nonresidents and part-year residents.

Sec. 18402 (filing requirements). This act clarifies that if either spouse is an active member of the military, the two spouses are not required to file a joint return. Without this amendment, a resident military person would be required to file a joint return with a nonresident spouse.

Sec. 18410.6 (filing requirements). This act increases the filing thresholds to be consistent with the changes to Section 18401 by AB 53 (Stats. 1987, Chapter 1138).

Sec. 18551 (payment of tax). This act clarifies that the due date of tax for returns of persons who reside abroad, or are traveling abroad, is the 15th day of the sixth month after the close of the taxable year. This amendment is patterned after federal law which refers to the due date of the return rather than to prescribe a specific date for payment.

Sec. 19062.13 (refunds). This act corrects a reference to another section which has been renumbered.

Sec. 24416.2 (net operating losses). This act corrects a technical error in paragraph (a)(1) made by SB 1706 (Stats. 1988, Ch. 32) which continued to refer to "subparagraph (B)", even though the bill repealed that subparagraph.

This act also corrects a technical error in paragraph (b)(1)(B) made by SB 1706 which copied a paragraph reference from prior law and did not reflect the renumbering of that paragraph by SB 1706.

Sec. 24721 through 24723 (change of accounting method). This act conforms to Section 481 of the Internal Revenue Code by

reference, thus repealing obsolete provisions (Sec. 24722.1, 24722.2, and 24722.3) and deleting separate state language which is virtually identical to federal law (Sec. 24722 and 24723).

Sec. 24941 (nontaxable exchanges of property). This act reenacts subdivisions which were omitted in error in the drafting of AB 66 (Stats. 1985, Ch. 1461). The restored provisions conform to IRC Section 1031.

Sec. 25562 (estimated tax). This act corrects cross references to sections which have been renumbered since the enactment of this provision.

Sec. 25931.3 (penalty for failure to pay tax). This act makes technical changes that should have been made in AB 2130 (Stats. 1988, Ch. 11) which made other changes to this penalty.

Other Amendments Effective 1/1/88)

Sec. 17052.4 (solar energy credit). This act amends subdivision (a) to refer to "net tax" and the "alternative minimum tax" rather than the "taxes imposed by this part" so that this credit may not reduce the penalty taxes on early withdrawals from IRA's and pension plans.

This act amends subdivision (h) to allow this credit to be carried forward against the "net tax" and the "alternative minimum tax" rather than the "taxes imposed by this part."

This act also amends subdivision (c) to delay the automatic repeal until December 1, 1989, which is the first day after the end of a November fiscal period return (12/1/88 thru 11/30/89). This amendment is necessary to be consistent with subdivision (a) which allows a 10 percent credit for taxable years beginning on or after January 1, 1988, and before January 1, 1989.

Sec. 23036 (definition of "tax"). The amendments to this section by this act, in general, parallel the provisions of Sec. 17039 (definition of "net tax") in the Personal Income Tax Law. These changes are needed because of (1) recent legislation which added the alternative minimum tax and limitations upon the use of tax credits to reduce the "regular tax", and (2) to clarify and standardize rules relating to credit carryovers and sunset dates.

Sec. 23151 (tax on general corporations). This act deletes the specific amount of the minimum tax and establishes the amount by cross reference to Section 23153.

Sec. 23153 (minimum tax). This act amends this section to consolidate and simplify all references to the minimum tax by placing the specific amounts only in this section, instead of repeating the amounts in many other sections.

Sec. 23181 (tax on banks). This act deletes the specific amount of the minimum tax and establishes the amount by cross reference to Section 23153.

Sec. 23184 (tax on financial corporations). This act deletes the specific amounts of the minimum tax and establishes the amounts by cross reference to Section 23153.

Sec. 23601.4 (solar energy credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and the application of carryovers and sunset dates.

Sec. 23603 (alcohol fuel device credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and the application of sunset dates.

Sec. 23609 (research credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and the application of carryovers.

Sec. 23609.5 (clinical testing credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and the application of carryovers and sunset dates.

Sec. 23610.5 (low-income housing credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax and clarifies the application of carryovers.

Sec. 23612 (sales tax credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and the application of carryovers and sunset dates.

Sec. 23630 (rules relating to tax credits). This act repeals this section and moves the provisions of this section to Section 23036 as a part of the action to clarify the rules relating to the interaction of tax credits with the alternative minimum tax and minimum franchise tax, and the rules relating to application of credit carryovers and sunset dates.

Sec. 23802 (S corporations). This act corrects a reference from "23151" to "23153", relating to minimum tax.

Sec. 24330 (targeted jobs tax credit). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax. This section is also renumbered for placement into Chapter 3.5, relating to tax credits.

Sec. 24331 (wages paid in enterprise zone). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and application of carryovers. This section is also renumbered for placement into Chapter 3.5, relating to tax credits.

Sec. 24333 (wages paid in program area). This act clarifies the rules relating to interaction with the alternative minimum tax and minimum franchise tax, and application of carryovers. This section is also renumbered for placement into Chapter 3.5, relating to tax credits.

Sec. 24903, 24990, 24990.5, 24995 (capital gains). Last year California conformed to Parts III and IV of Subchapter 1F of the Internal Revenue Code in Section 24903 and to Part V of Subchapter 1F in Section 24990.

This act restructures and consolidates the language for conforming to portions of Subchapter 1F. Rather than adopting specified parts of Subchapter 1F, these amendments adopt all of Subchapter F (Section 24990) and make exceptions for those parts which are not applicable (Sections 24990.5 and 24995).

This act will not result in any program changes for the department requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-23
SENATE BILL NO. 85**

Author: Alquist
Subject: Water's Edge Election
Laws Affecting Franchise Tax Board: Sections 24411, 25110, 25111, 25112, 25113, 25114, 25115, and 25401d of the Revenue and Taxation Code
Date Filed with Secretary of State: September 20, 1988
Chapter Number: 88-989

SUMMARY

Section 24411, as amended.

Current law allows a 75% deduction for qualifying dividends in the amount of similar dividends received in any of three base period years. The amendments clarify that only 12-month income years shall be considered in determining the base period and that a double deduction is not available under both Section 24411 and any other code section. They also specify that the deduction applies to dividends received by all members of the water's edge group whose income and apportionment factors are used to determine the California taxpayer's income, and make other technical changes.

In addition this act allows a deduction equal to 100% of the dividends attributable to construction projects, the location of which is beyond the taxpayer's control.

Section 25110, as amended.

The act amends Section 25110 to state specifically that corporations electing under IRC Section 936 (possessions corporations) are excluded from the water's edge group, (unless they have 20% or more of their activities in the U.S.) and that certain banks and corporations which are treated as "deemed subsidiaries" shall include income only from sources within the United States as defined by federal income tax law. In the case of a controlled foreign corporation whose income and factors are included in the combination only to the extent of the ratio of "Subpart F income" to total earnings and profits, the bill clarifies that the references to Subpart F income and total earnings and profits mean those for the current income year.

A "qualified taxpayer" for purposes of making the election must consent to the taking of depositions from key domestic corporate individuals and to the acceptance of subpoenas duces tecum. This act clarifies that the consent relates only to issues of service and jurisdiction and does not otherwise waive any defenses a taxpayer might have. The act also provides for the taking of depositions at a mutually convenient time and location.

The definition of "affiliated corporation", for purposes of both Article 1.5 and Section 24411, is amended to include corporations which are owned by an individual and to include brother/sister corporations.

Subsection (d) is moved to subdivision (c) of Section 25111.
Subdivision (b) (4) is redennominated Section 25114.

Section 25111, as amended.

Section 25111, which provides for the mechanics of the election, is amended to remove the requirement that all affiliates of electing taxpayers consent to the election and to provide instead that all members of the water's edge group must elect. A single corporation which engages in more than one unitary business would be permitted to elect separately for each business.

The amendments to Section 25111 also provide that an electing taxpayer may change the election prior to the expiration of the election period if it is acquired by a corporation which alone, or together with its affiliates in its combined report, is larger than the taxpayer as measured by equity capital. The amendments would also provide for a change of election if the taxpayer's business activities become solely domestic as a result of reorganization or if the Franchise Tax Board substantially changes the composition of the water's edge group at audit. In the latter case the change of election could first be made for the year in which the audit occurred.

The amendments to Section 25111 include moving subdivision (d) of Section 25110, relating to the Franchise Tax Board's disregard of an election to subdivision (c) of Section 25111, with the following changes: An election may be disregarded upon the taxpayer's willful failure to retain and produce certain documents. The act requires the FTB to provide 90 days notice of its intention to disregard an election and for judicial review of that intention to disregard the election. The amendments also change the requirement that a taxpayer comply with "reasonable requests for discovery" to a requirement that a taxpayer comply with "reasonable requests for information", and specify that upon FTB's request certain information must be prepared and made available rather than requiring the information be prepared, whether or not requested, and made available upon request.

Section 25112, as amended.

Section 25112 provides inter alia, that in the event the taxpayer, without reasonable cause, fails to produce documents in response to an FTB formal document request, the court shall upon motion by FTB in a subsequent court proceeding prohibit the introduction of any documents covered by that request. Amendments to Section 25112 make the prohibition discretionary with the court. Section 25112 also provides that, for purposes of the above described prohibition on introduction

of documents in a court proceeding, the fact that a foreign jurisdiction would impose civil or criminal penalties on a taxpayer for disclosure of the requested documents is not reasonable cause. This act amends Section 25112 to allow for a court finding of reasonable cause in such circumstances after in camera review of the documents.

Section 25113.

Section 25113, which provides for the introduction of various documents in court proceedings and which is duplicative of existing law, is repealed.

Section 25114, as amended.

Former Section 25114 is renumbered as Section 25401d. Subdivision (b) (4) of Section 25110, providing for audit procedures and presumptions arising from federal audits, is denominated as 25114.

Section 25115, as amended.

Section 25115, which prescribes the election period and election fee, is amended to require a five (5), rather than ten (10), year election. It is also amended to provide specifically for refunds and deductibility of the fee, to allow reduction of the fee base for new investment in California after January 1, 1987 rather than January 1, 1988, and to allow reduction of the fee base for investment in new tangible personal property acquired after January 1, 1987.

Amendments provide rules for determination of the fee base in the event of corporate reorganizations and also exclude intangibles from the property factor for purposes of the minimum fee.

Section 25401d.

Section 25114, which requires taxpayers to file a domestic disclosure spreadsheet, is amended and renumbered to Section 25401d to place it with other general administrative provisions in the code. The amendments include a limitation of the filing requirement to electing taxpayers, which would file every three years rather than annually unless there is a substantial change in the taxpayer's business activity. The amendments also provide for review by the Auditor General of the utility of the spreadsheet with a preliminary report to the Legislature in 1991 and a final report in 1994.

The amendments change the due date for filing the spreadsheet from three months after the filing of the federal return to six months after filing the California return; raise the threshold test for determining whether a spreadsheet must be filed from \$1 million to \$10 million in foreign payroll, property and sales; and waive the filing requirement for any years in which the taxpayer has less than \$500,000 each in payroll, property, and sales in the United States.

In addition, there are various technical corrections and several subdivisions are reordered within the Article to provide better placement and continuity.

This act will not result in any departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the

Government Code. This act does provide for a review of the utility of the spreadsheet by the Auditor General with a report to the Legislature.

**LEGISLATIVE CHANGE NO. 88-24
ASSEMBLY BILL NO. 2359**

Author: D. Brown
Subject: Settlement Authority
Laws Affecting Franchise Tax Board: Sections 19133, 19405, 25782 and 25962 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 14, 1988
Chapter Number: 88-901

SUMMARY

This act is inoperative, as discussed below.

Sections 19133 and 25782 - Added.

These sections authorize the Franchise Tax Board to approve or disapprove its executive officer's (or chief counsel's, if authorized) recommendation to settle civil tax matter disputes.

These laws are inoperative because AB 2788 (the Katz-Harris Taxpayers' Bill of Rights) contains settlement authority that is in irreconcilable conflict with this act, and AB 2788 was chaptered after this act. As such, the settlement provisions in AB 2788 supersede the settlement provisions in this act.

Sections 19405 and 25962 - Amended

These sections added a penalty for persons who, in connection with any settlement agreement concealed, withheld, or falsified any information with respect to that settlement.

These penalty provisions are not applicable because the penalty is provided with respect specifically to those settlements authorized by Sections 19133 and 25782, which were made inoperative by the enactment of AB 2788, as previously discussed.

This act does not require any reports to the Legislature.

**LEGISLATIVE CHANGE NO. 88-25
ASSEMBLY BILL NO. 2788**

Author: Harris/Katz
Subject: Katz-Harris Taxpayers' Bill of Rights
Laws Affecting Franchise Tax Board: Part 10.7 of Division 2, Sections 19276.5 and 26428.5 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 30, 1988
Chapter Number: 88-1573

SUMMARY

This act is effective January 1, 1989.

Sections 19276.5 and 26428.5 - Repealed.

This act repeals the law that allowed the department's staff to waive interest and penalties if the taxpayer's failure to comply resulted from the department's erroneous written advice.

Note: This act also incorporates a similar provision in Section 21012, which is added by this act and discussed on page 65 of this report.

Part 10.7 of Division 2 is added as follows:

Sections 21001--21003.

This act finds and declares the legislative intent of the Taxpayers' Bill of Rights. In general, the act applies to the administration of the Personal Income Tax Law and Bank and Corporation Tax Law.

Section 21004.

The act requires the department to establish the position of the Taxpayers' Rights Advocate who will report directly to the executive officer. The advocate or his or her delegates will be responsible for coordinating the resolution of taxpayer complaints and problems, including any taxpayer complaints regarding the unsatisfactory treatment of taxpayers.

Section 21005.

The act requires the department, in consultation with the advocate, to develop and implement a taxpayer education and information program, as specified.

Section 21006.

This act requires the department to perform an annual systematic process, as described, to identify areas of taxpayer noncompliance. The process includes an annual hearing before the Franchise Tax Board where industry representatives and taxpayers may present their proposals.

A report of the results of the systematic identification process (and recommendations for improving compliance and administration) must be made to the Legislature on October 1 of each year.

Section 21007.

The act requires the department to prepare a brief but comprehensive statement describing the relative procedures, remedies, rights and obligations of the department and taxpayers. These statements are to be provided to taxpayers with tax notices issued by the department; for example, an initial notice of audit, a notice of proposed assessment, a notice of tax due and any other substantive notice.

An appropriate due process statement must also be included in the annual tax booklet mailed to taxpayers.

Section 21008.

The act requires the department to annually certify to the Legislature that the amount of revenue collected or assessed is not used to evaluate employees, or to impose or suggest production quotas or goals.

Section 21009.

The act requires the department to develop and implement, in coordination with the Taxpayer's Rights Advocate, a program to evaluate an individual employee's or officer's contact with taxpayers.

A report on the program's implementation must be made to the Legislature in the department's annual report.

Section 21010.

The act requires that, by July 1, 1989, the department, in cooperation with the Board of Equalization, State Bar of California, Society of CPAs, the Taxpayers' Rights' Advocate and other taxpayer groups, develop a plan to reduce the time required to resolve amended returns, claims for refunds, protests, and appeals.

Section 21011.

The act requires that protest hearings before the staff be held at a reasonable time at a board office convenient to the taxpayer, when possible. It requires that the taxpayer receive notice prior to any recording of a hearing, and that the taxpayer is entitled to a copy of the recording. In addition, the taxpayer must be informed prior to the hearing of his or her right to representation.

Section 21012.

The act allows the Franchise Tax Board, itself, to relieve tax, additions to tax, penalty and interest, if it finds that the taxpayer's failure to comply resulted from an erroneous ruling by the department's chief counsel.

In the event written erroneous advice from other than rulings of the chief counsel resulted in the failure to comply, the department's staff may waive additions to tax, penalty and interest, but not the tax.

In order to be relieved, several conditions, as specified, must be satisfied. Only the person seeking the written advice may be relieved.

The department's written advice must include a declaration that the tax consequences expressed may be subject to change, and that it is the duty of the taxpayer to be aware of any possible changes.

Section 21013.

The act entitles taxpayers to be reimbursed for reasonable fees and expenses relating to appeals and denials of claims for refunds before the Board of Equalization, if it finds the Franchise Tax Board's staff was unreasonable in its action. The taxpayer must file a claim for

fees and expenses with the Board of Control. If the Board of Control concurs with the Board of Equalization's recommendation, the Franchise Tax Board must reimburse the taxpayer.

Section 21014.

The act prohibits the department from knowingly authorizing, requiring, or conducting any investigation of, or surveillance over, any person for laws other than tax administration.

Section 21015.

The act allows the Franchise Tax Board to settle any tax matter dispute involving a tax liability of \$5,000 or less. The Franchise Tax Board may delegate its authority to the executive officer.

The settlement must be approved by the Board of Control and the terms of the settlement must be made available to the public. The Auditor General must periodically monitor the settlement agreements and report its findings to the Legislature.

This provision supersedes the provisions of AB 2359 (D. Brown) (Stats. 1988, Chapt. No. 901).

Section 21016.

The act requires the department to release any levy on any property if:

- 1) The expense to the state exceeds the tax debt;
- 2) The Taxpayers' Rights Advocate finds that the levy threatens the health or welfare of the taxpayer, spouse and the dependents or family;
- 3) The proceeds of the sale will not reasonably reduce the tax debt.

The department is prohibited from selling any seized property until it notifies the taxpayer in writing of the exemptions from levy under the Code of Civil Procedure.

Excepted from this provision is any seizure resulting from a jeopardy assessment.

Section 21017.

The act requires that, for the purpose of enforcing the collection of tax debts, the exemption from levy under the Code of Civil Procedures be adjusted to reflect changes in the California Consumer Price Index whenever the change exceeds 5 percent in comparison to any previous adjustment.

Section 21018.

The act requires the department to reimburse reasonable bank charges for overdrafts that are a direct consequence of an erroneous levy. A person must file a claim on a form prescribed by the Franchise Tax Board, and must meet certain specified conditions to be reimbursed.

The claim must be filed within 90 days of the levy, and the department must respond to the claim within 30 days after the receipt of the claim.

Section 21019.

The act requires the department to give 30 days prior notice of its intent to file or record a lien. The notice must provide the statutory authority for the lien, indicate the earliest date the lien can be filed or recorded, and state any remedies available to prevent the filing or recording. In the event liens are filed in more than one county, only one notice must be sent. This notice is excepted with respect to jeopardy assessments.

In the event the filing or recording of a lien is in error, the department must mail the release within 7 working days after receiving the recording information. The release must contain a statement that the lien was filed in error. If a lien is obstructing a lawful transaction, the department must issue an immediate release of the lien.

Upon request by the taxpayer, the department must mail a copy of the release to the major credit reporting company in the county where the lien was filed.

Section 21020.

The act requires the department to send a corporation a notice prior to the suspension of its corporate rights, powers and privileges for failure to pay its tax debt or file a tax return. The notice must be mailed at least 60 days before the proposed suspension.

Section 21021.

This act allows the taxpayer to bring an action in Superior Court for damages against the state if a taxpayer is aggrieved by a department employee's reckless disregard for the Franchise Tax Board's published procedures.

The taxpayer would be entitled to actual and direct monetary damages and reasonable litigation costs, as defined.

Taxpayers bringing frivolous actions will be subject to a penalty not to exceed \$10,000, to be paid upon notice, and collected as a tax by the Franchise Tax Board.

Section 21022.

This act requires the department to grant an individual, estate or trust an extension of time to file a tax return if the taxpayer files a state application by the return due date, and indicates that a timely federal extension was requested and the federal tax was paid in full.

This extension is for filing the return only. It is not an extension for paying the tax. Any amount of tax unpaid by the original return due date is subject to an underpayment penalty.

This provision applies to returns required to be filed on or after April 15, 1989.

This act requires that no reports, other than those previously indicated, be made to the Legislature.

**LEGISLATIVE CHANGE NO. 88-26
ASSEMBLY BILL NO. 2896**

Author: D. Brown
Subject: Deletion of Agriculture Pump Credit / Clarification of California Source Income For Part-Year Residents
Laws Affecting Franchise Tax Board: Sections 17041 and 17052.1 of the Revenue and Taxation Code
Date Filed with Secretary of State: August 29, 1988
Chapter Number: 88-627

SUMMARY

Section 17041 - Amended.

This provision of the act clarifies that part-year residents, when determining California adjusted gross income, include income from all sources during that part of the year they were California residents and income from California sources only while they are not California residents.

Section 17052.1 - Repealed.

This provision of the act eliminates obsolete language of the Revenue and Taxation Code relating to a tax credit allowed for costs incurred in certain solar pumping systems used in agricultural irrigation.

This act will not result in departmental program changes requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

**LEGISLATIVE CHANGE NO. 88-27
ASSEMBLY BILL NO. 3799**

Author: Vasconcellos
Subject: Rollover of Securities to Employee Stock Ownership Plans (ESOPs) - Federal Conformity
Laws Affecting Franchise Tax Board: Sections 18042, 24306, 24603 and 24954 of the Revenue and Taxation Code
Date Filed with Secretary of State: September 28, 1988
Chapter Number: 88-1504

SUMMARY

This is an act which amends Sections 18042 and 24603, and adds Sections 24306 and 24954.

This act adopts provisions of the Internal Revenue Code by reference in the California Personal Income Tax and Bank and Corporation Tax

Law, achieving California conformity with federal law and thereby allowing:

1. A rollover of gains realized on security sales made to Employee Stock Ownership Plans (ESOPs) - When the proceeds from the sale of qualified securities to an ESOP are used for the purchase of replacement property within a fifteen-month period, the long-term capital gain realized from the sale is not recognized for tax purposes. After the stock sale, the ESOP must own at least 30 percent of each of the issuing corporation's class of stock or 30 percent of all the corporation's outstanding stock for the nonrecognition of long-term capital gains to apply. In addition, the qualified replacement property must be purchased within the period beginning three months prior to the sale of employer owned securities to an ESOP, and ending twelve months after the sale in order for the long-term gain realized on the sale to qualify for nonrecognition.
2. The exclusion from gross income of 50 percent of the interest income earned by banks, insurance companies, money lending corporations and regulated investment companies on security acquisition loans made to ESOPs.
3. A deduction for dividends paid by corporations to ESOPs - Corporate taxable income may be reduced by the amount of dividends paid on stock which is held by an ESOP maintained by the distributing corporation or by a corporation which is a member of a controlled group, if the dividend is in accordance with the plan's provisions. The deduction may be disallowed if it is determined that the dividend is made for the purpose of tax avoidance.

In order to qualify for the nonrecognition and exemption from income provided by this act, qualified securities which are sold to or acquired by an ESOP must be:

- a. employer common stock issued by a domestic corporation with no outstanding stock; and
- a. stock which is readily tradeable on an established market; and
- a. stock which was not received by the seller as a distribution from a qualified pension or stock option plan.

Qualified replacement property, for which the proceeds from the sale of securities to an ESOP may be used to qualify for the nonrecognition treatment, is defined under this act as securities issued by a domestic operating corporation which:

- a. receives less than 25 percent of the corporate gross receipts from passive income sources; and
- a. devotes at least 50 percent of the corporate assets to actively conducting a trade or business.

This act does not require that the department generate any new or additional reports to the Legislature.

The provisions of this act, placing California law in conformity with federal law relating to ESOPs, apply to taxable and income years beginning on or after January 1, 1990 and before January 1, 1995.

LEGISLATIVE CHANGE NO. 88-28
SENATE BILL NO. 2260

Author: Keene
Subject: Tax Credit for Small Business Health Care Insurance
Laws Affecting Franchise Tax Board: Sections 17053.20 and 23615 of
the Revenue and Taxation Code are added.
Date Filed with Secretary of State: August 31, 1988
Chapter Number: 88-1521

SUMMARY

This act adds a provision to both the Personal Income Tax and the Bank and Corporation Tax Laws creating a new tax credit. The credit is based on the employer's cost of providing health care insurance coverage for eligible individuals, including the employees, owner-operators and managing partners of a business, and their dependents who are eligible to receive health care services under the terms of a certified health care plan.

In order to be eligible for this credit, an employer must:

- o employ an average of no more than 25 eligible individuals in California during the taxable income year;
- o pay at least 75 percent of the cost of health care insurance premiums for eligible individuals;
- o offer open enrollment for participation in the health care insurance plan to all qualified individuals annually, and make plan participation available to new employees within 60 days;
- o not have subsidized or provided employee health insurance during the two year period immediately preceding 1988;

Before the cost of an individual's health insurance coverage may be used as the basis for claiming an employer tax credit under this act, an eligible individual must be an employee who performs services for compensation on an average of 35 hours each week, or must be an owner-operator or managing partner who devotes 35 hours per week in personal services to a business. However, if the employer offers health insurance coverage to all employees who work less than 35 hours per week, then the cost of insurance paid by the employer for these employees may also be used as a basis for claiming the credit.

Expenses which qualify as a basis for the employer credit must be paid for health care coverage which provides at least basic health care treatment for illness and injury. Eligible coverage may be provided by an insurance company, a hospital service, a health care service plan or a membership corporation. While the health plan coverage may include provisions for cost sharing and co-payments, the cost sharing required of the eligible individual may not exceed 200 percent of the annual premium and the required co-payment may not be more than 50 percent of the cost of any particular health service.

The health care plan's counsel must certify that the plan meets basic Health and Safety Code requirements in order for participation in the plan to be a basis for credit eligibility. This law further requires that a copy of the plan counsel's legal opinion, certifying the plan's

credit eligibility, be given to the participating employer. The employer claiming the health care coverage tax credit is required by law to retain the certification which is made available by the health care coverage provider and submit it to the Franchise Tax Board upon request.

This act further requires that the Department of Corporations forward a list of licensed health service plans to the Franchise Tax Board on an annual basis.

The Employer Health Care Coverage Credit added by this law may be applied against net tax, but not the alternative minimum tax or the minimum franchise tax. The credit is equal to 25 percent of the cost of health care insurance paid by a qualified employer for covering eligible individuals and their dependents, but in no case less than \$25 per month for each individual covered. If the health care coverage includes prenatal and well baby care or mental health benefits, the eligible employer may add an additional \$5 per covered individual per month to the credit amount for each of these supplemental benefits offered as part of the coverage. If the credit computed under this act by an eligible employer exceeds the net tax, the excess credit may be carried over and applied in future years.

The date on which the provisions of this act may first become operative and will initially apply to the computation of taxes depends on the existence of certain economic conditions. Each year, the Legislative Analyst and the Department of Finance are required to certify to the Franchise Tax Board by August 30 whether:

- c the funding for the Special Fund for Economic Uncertainties, as enacted in the state's budget, is equal to at least three percent of General Fund expenditures, and
- c the Department of Finance projects that the real growth in California personal income will be at least four percent.

The provisions of this act become operative for taxable and income years beginning on or after January 1 of the calendar year following certification of these economic indicators. However, under no circumstances will these provisions apply to taxable or income years beginning prior to January 1, 1990. The provisions of this act will remain in effect only for five years once they become operative.

At the end of the five years that this act is operative, the Legislative Analyst is required to submit a report of the impact of the tax credit as an incentive for small employers to provide health insurance.

This act does not require that the department generate any new or additional reports to the Legislature.

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Offsets				
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Delinquent unsecured property tax	32	GC 12419.8	SB 2293	None
Lottery winnings	31	CCP 708.730	SB 2035	88-14
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Qualified Employee, Enterprise Zone	31	GC 7095	AB 2764	None
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Research and development expenses	20	23609	SB 1801	88-22
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SUMMARY OF LEGISLATION

**A Report of Technical Corrections to and
Clarifications of Major Tax Reform Legislation Enacted in
AB 53 (Ch. 87-1138) and SB 572 (Ch. 87-1139)**

Prepared By: Legislative Services Bureau
Franchise Tax Board
March 18, 1988

DEPOSITORY

MAR 31 1988

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INTRODUCTION

This report is a summary, in section number order, of changes to the Personal Income Tax Law (PITL), the Bank and Corporation Law (B&CTL), and one section of the Unemployment Insurance Code (UI) related to the PITL, as enacted by the Legislature in AB 2130 (Ch. 88-11), SB 1705 (Ch. 88-31), and SB 1706 (Ch. 88-32). AB 2130 was chaptered on February 19, 1988, and SB 1705 and SB 1706 were chaptered on March 15, 1988.

AB 2130 and SB 1705 make technical corrections to, and clarifications of, the major tax reform legislation, AB 53 (Ch. 87-1138) and SB 572 (Ch. 87-1139), enacted by the Legislature in September 1987. AB 2130 also includes five provisions of the Federal Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), which are applicable to taxable and income years beginning on or after January 1, 1987. See Sections 17024.5, 17076, 17551, 17551.5, 17561, 23051.5, 24592, 24594, 24633.5, 24637, and 24692 in the Section-By-Section Summary. SB 1706 reinstates some of the provisions relating to enterprise zones and program areas that were repealed by AB 53 (Ch. 87-1138) and SB 572 (Ch. 87-1139).

Sections 23400 through 23459, 23808, 23811, 24348, 24667, and 24670 are operative for income years beginning on or after January 1, 1988. Sections 17052.12 and 23609 apply to amounts paid on or after January 1, 1988. Sections 18684.2, 18689, 18802, 18817.3, 25901c, 25934.2, 26132.05 and UI Section 13009 are operative on February 19, 1988. Section 23186 is applicable for income years ending in 1987. All of the other sections are operative for taxable and income years beginning on or after January 1, 1987.

A section number in parentheses below the number of the section summarized indicates a corresponding or related change was also made to the respective B&CTL or PITL section shown.

Legislative Change Reports (LCs), giving a brief description of the changes made by each bill, are indicated below each section number in the summary and follow the Section-By-Section Summary. For more detailed information, refer to the specific bill. For copies of legislative bills (one copy of each bill will be furnished free), contact:

Legislative Bill Room
State Capitol, Room B-32
Sacramento, CA 95814
(916) 445-2323

SECTIONS ADDED, AMENDED, REPEALED

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18402	Amended	9	24637	Added	20
18683.5	Repealed	9	24654	Amended	20
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18689	Amended	10	24670	Repealed	20
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24967	Repealed	22	26132.05	Amended	24
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25108	Amended	22	UNEMPLOYMENT INSURANCE CODE		
25561	Amended	22	13009	Amended	24
25562	Amended	22			

SECTION-BY-SECTION SUMMARY

SC = Substantive Change
TC = Technical Change

PERSONAL INCOME TAX LAW

PIT IRC
SECTION SECTION SUMMARY OF CHANGE

General Provisions and Definitions

17024.5 (Amend) (23051.5) LC 88-1	-----	<p>SPECIFIED DATES AND GENERAL PROVISIONS (SC) Adds paragraph (4) to subdivision (d) providing that the taxpayer's taxable year is to be the same as used for federal income tax purposes, unless initiated or approved by the FTB. Adds paragraph (2) to subdivision (h) modifying the rules relating to "adjusted gross income" by specifying that federal AGI is to be used whenever computing limitations based on AGI. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>
17039 (Amend) (23630) LC 88-1 and LC 88-2	-----	<p>DEFINITION OF "NET TAX" (SC) Deletes reference to former Section 17054.5, repealed by AB 53 (Ch. 87-1138). Adds Section 17504 (relating to the separate tax on lump-sum distributions) to the definition of "net tax". Adds the "minimum tax credit" (Section 17063) to the order in which the credits are allowed. Provides, with specified exceptions, that tax credits cannot reduce the regular tax plus the separate tax on lump-sum distributions below the tentative minimum tax. Any credit which is partially or totally denied by this provision may be carried over and applied to the net tax in succeeding years if the provisions relating to that credit allow a carryover of the unused portion. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11) SB 1705, Ch. 88-31)</p>
17043 (Amend) LC 88-1	-----	<p>FILING STATUS (SC) Provides two exceptions to the requirement that married taxpayers must use the same filing status as used on their federal returns. If (1) either spouse was an active member of the armed forces during the taxable year, or (2) either spouse was a nonresident for the entire taxable year and had no income from California sources during that year, either separate returns or a joint return may be filed. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>

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Tax Credits

17052.4 (Amend) (23601.4) LC 88-1	-----	SOLAR ENERGY - COMMERCIAL (SC) Provides that this credit, and the former solar energy credit (former Section 17052.5), shall be allowed against <u>all</u> taxes imposed under the PITL (was "amount of net tax as defined in Section 17039"). Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
17052.12 (Amend) (23609) LC 88-1	41	RESEARCH AND DEVELOPMENT EXPENSES (TC) Deletes language relating to basic research (applicable only to corporations under IRC Section 41), and corrects a technical error relating to the proration of base period expenses by referring to the number of days <u>in</u> 1988 rather than the number of days before 1988. Operative for amounts incurred on or after January 1, 1988, and paid or incurred before January 1, 1993. (AB 2130, Ch. 88-11)
17054 (Amend) LC 88-1	151 and 152	CREDIT FOR PERSONAL EXEMPTIONS (TC) Makes minor nonsubstantive technical changes. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
17055 (Amend) LC 88-1	-----	NONRESIDENT (TC) Clarifies the status of new tax credits added by AB 53 (Ch. 87-1138) as they apply to nonresident and part-year resident taxpayers. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
17061.5 (Amend) LC 88-1	-----	GAIN ON QUALIFIED ASSETS (SC) Corrects technical error in paragraph (3) of subdivision (b) by changing "qualified asset" to "capital asset"; and redefines "farm property" to be less restrictive. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Alternative Minimum Tax

17062 (Amend) (23456) LC 88-1	55-59	ALTERNATIVE MINIMUM TAX (SC) Revised to provide that the tentative minimum tax is to be compared to the regular tax <u>before</u> credits (new federal method) rather than after credits (old federal method), but allows both the tentative minimum tax and the regular tax to be reduced by the credit for taxes paid to other states (equivalent to foreign income tax credit at federal level) when making this comparison. Also, for nonresidents and part-year residents, eliminates the need for sourcing itemized deductions by requiring the proration of tax to
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be based upon "modified AGI" rather than AMTI. Finally, provides that if there was a deferral of preference tax under former Section 17064.8 for any taxable year beginning before 1987 and if the amount of the deferred tax has not been paid for any taxable year before 1987, the amount of the net operating loss carryovers which may be carried to taxable years beginning after 1986, for purposes of computing alternative minimum taxable income, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17063 **53** **ALTERNATIVE MINIMUM TAX CREDIT (TC)** Makes minor
(Amend) technical corrections to clarify AMT provisions
(23453) relating to the minimum tax credit. Operative
LC 88-1 for taxable years beginning on or after January
1, 1987. (AB 2130, Ch. 88-11)

Definitions of Gross Income, Adjusted Gross
Income, Taxable Income, Etc.

17073.5 **63(c)** **STANDARD DEDUCTION (SC)** Modifies the state pro-
(Amend) vision relating to standard deductions to in-
LC 88-1 corporate, by reference, the federal rules which
limit the standard deduction of a minor child.
Operative for taxable years beginning on or
after January 1, 1987. (AB 2130, Ch. 88-11)

17076 **67** **2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUC-**
(Amend) **TIONS (SC)** Provides that the provisions of Sec-
LC 88-1 tion 10104 of P. L. 100-203, relating to the one
year delay in application of the 2-percent floor
to regulated investment companies, shall be ap-
plicable. Operative for taxable years beginning
on or after January 1, 1987. (AB 2130, Ch. 88-11)

Items Specifically Included in Gross Income

17085 **72** **ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND**
(Amend) **LIFE INSURANCE CONTRACTS (SC)** Modifies the
LC 88-1 state provisions relating to recovery of basis
to specifically include reference to self-
employed plans. Operative for taxable years
beginning on or after January 1, 1987. (AB
2130, Ch. 88-11)

17088 **852(b)** **TAXATION OF REGULATED INVESTMENT COMPANIES AND**
(New) **THEIR SHAREHOLDERS (SC)** Provides that the tax-
LC 88-1 ation of shareholders of a regulated investment
company shall be determined in accordance with
IRC Section 852(b), except that Section 17145

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(relating to exempt interest dividends) shall apply in lieu of IRC Section 852(b)(5), and that IRC Section 852(b)(3)(D), relating to treatment by shareholders of undistributed capital gains, shall not be applicable. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Items Specifically Excluded from Gross Income

17145 **852** **EXEMPT-INTEREST DIVIDENDS (TC)** Changes reference
(Amend) to Section 24412 (was Section 23701m) in the
LC 88-1 definition of "management company". Operative
for taxable years beginning on or after January
1, 1987. (AB 2130, Ch. 88-11)

Deductions

17207 **165(c)** **DISASTER RELIEF (SC)** Provides that if there is
(Amend) **165(i)** any "excess loss" remaining after the five-year
(24347.5) carryover period, then 50 percent of that "ex-
LC 88-1 cess loss" may be carried forward to each of
the next 10 taxable years. Removes "taxpayer's
residence" limitation so that these losses apply
to all property in California which sustained
a loss from earthquake or other related casualty
during October 1987. Adds a provision that the
casualty losses described in this section cannot
be taken into account in computing a net operat-
ing loss deduction under Section 17276. Operat-
ive for taxable years beginning on or after
January 1, 1987. (AB 2130, Ch. 88-11)

17220 **164** **TAXES (SC)** Provides that no deduction is allowed
(Amend) for the tax imposed on limited partnerships or
LC 88-1 for taxes imposed on S corporations. Operative
for taxable years beginning on or after January
1, 1987. (AB 2130, Ch. 88-11)

17252.5 **179** **DEPRECIATION - ENTERPRISE ZONE PROPERTY (SC)**
(New) Reenacts the provisions repealed by AB 53 (Ch.
LC 88-3 87-1138), relating to the special deduction
allowed for property used in an enterprise zone,
with the added provision that any taxpayer
claiming this deduction cannot claim, for the
same property, a deduction under IRC Section
179 (relating to an election to expense cer-
tain depreciable business assets). Operative
for taxable years beginning on or after Jan-
uary 1, 1987, and before January 1, 1989.
(SB 1706, Ch. 88-32)

PIT
SECTION

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SECTION

SUMMARY OF CHANGE

17265
(Amend)

LC 88-1
and
LC 88-3

CAPITAL EXPENDITURES - SECTION 17265 PROPERTY (SC) Eliminates references to Section 18032 (repealed by AB 127, Ch. 85-159) and Sections 17252 and 18033 (repealed by AB 53, Ch. 87-1138). Provides that if a deduction is claimed under Section 17265, no deduction can be claimed for the same property under IRC Section 179 (relating the expensing of certain business assets), and requires that the basis of the assets be reduced by the amount of the Section 17265 deduction. SB 1706 adds the provision that depreciation may be claimed by any method permitted by Section 17250, commencing with the taxable year following the taxable year in which Section 17265 property is placed in service; and deletes the requirement (added by AB 2130) that the basis of the assets be reduced by the amount of the Section 17265 deduction. Operative for taxable years beginning on or after January 1, 1987. Section repealed effective January 1, 1993. (AB 2130, Ch. 88-11) (SB 1706, Ch. 88-32)

17270
(Amend)
(24440)

280C

LC 88-1

TRADE OR BUSINESS EXPENSES (SC) Provides that IRC Section 280C, relating to certain expenses for which credits are allowable, shall apply with respect to the "clinical testing - orphan drugs tax credit"; i.e., no deduction is allowed for the amounts used to claim that credit. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17276
(Amend)
(24416)

172

LC 88-1

NET OPERATING LOSSES (SC) Advances the effective date of California's partial conformity to federal rules for net operating losses by providing that the new provisions apply, on a reduced basis, to losses incurred during taxable years ending in 1985. This means that a variable percentage (depending on the number of months of the fiscal year falling in 1985) of losses occurring in fiscal years that began in 1984 and ended 1985 qualify for the three-year carryforward to taxable years beginning in 1987, 1988, and 1989. The order in which net operating losses are to be taken is also specified. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17276.1
17276.2
(New)
(24416.1)
(24416.2)

172

LC 88-3

QUALIFIED TAXPAYER (SC)
NET OPERATING LOSS - PROGRAM AREA, ENTERPRISE ZONE (SC) Reenacts those provisions of former Section 17276.5 (repealed by AB 53, Ch. 87-1138), relating to net operating losses incurred by taxpayers conducting business in a program area or enterprise zone. Operative for taxable years beginning on or after Jan-

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

uary 1, 1987. Section 17276.2 is repealed effective January 1, 1989. (SB 1706, Ch. 88-32)

17277
(Repeal)

217

MOVING EXPENSES (SC) Provisions limiting the deduction for moving expenses for taxpayers moving into or out of California repealed, since moving expenses are no longer a deduction in arriving at AGI and, therefore, have no effect on the ratio of California AGI to total AGI. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

LC 88-1

Deferred Compensation

17504
(Amend)

402

PENSIONS - TAXABILITY OF BENEFICIARY OF EXEMPT TRUST (SC) Provides that the basis of any person in an employees' trust shall include the amount of contributions made prior to 1987, which were not allowable as a deduction under former Sections 17503, 17513, and 17524, relating to special limitations for self-employed individuals. Also adopts the special transitional rules specified in Sections 1122(h) and 1124 of Public Law 99-514, with exceptions relating to the applicable tax rates and the capital gains deduction allowed under prior federal law. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

LC 88-1

17506
(Amend)

403

PENSIONS - TAXATION OF EMPLOYEE ANNUITIES (SC) Modifies the state provision relating to recovery of basis to specifically include reference to self-employed plans. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

LC 88-1

17510
(New)

7701(j)

TAX TREATMENT OF FEDERAL THRIFT SAVINGS FUND (SC) Provides that the provisions of IRC Section 7701(j), relating to federal thrift savings funds, shall apply. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

LC 88-1

Accounting Periods and Methods of Accounting

17551
(Amend)
(24637)

444

ELECTION OF TAXABLE YEARS OTHER THAN REQUIRED TAXABLE YEARS (SC) Provides that IRC Section 444, added by P.L. 100-203, relating to election of taxable years other than "required taxable years", shall apply. The federal "required payments" provisions are not applicable. (Also see PIT Section 17024.5.) Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

LC 88-1

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

17551.5 442
(Amend) and
(24633.5) 443

LC 88-1

REQUIRED CHANGE OF ACCOUNTING PERIOD (SC) Adds partners and shareholders of S corporations to the provisions relating to the inclusion of any income in excess of expenses for the short taxable year resulting from a required change of accounting period. Also provides that the spreading of income over four years shall not apply unless the taxpayer receives similar treatment for federal income tax purposes. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17552 443
(Amend)

LC 88-1

SHORT PERIOD RETURNS (SC) Subdivision (c) deleted, thus conforming to the provisions of IRC Section 443(d), relating to federal rules for AMT. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17560 ----
(Amend)
(24667)

LC 88-1

INSTALLMENT OBLIGATIONS (SC) Adds transition rules providing that if the provisions of IRC Section 453C (relating to certain indebtedness treated as payment on installment obligations) do apply (taxpayers may elect not to have those provisions apply), the provisions of Sections 811(c)(2), 811(c)(4), 811(c)(6), and 811(c)(7) of P.L. shall apply. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

17561 469
(New/
Amend)
(24692)

LC 88-1
and
LC 88-2

PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED (SC) Modifies the state provision to refer to state tax credits which are the counterpart of the federal tax credits subject to the passive credit limitations. Provides that the dollar limitation for the credit allowed under Section 1705B (relating to low-income housing) shall be equal to \$75,000 in lieu of the \$25,000 amount specified in IRC Section 469(i)(2). Provides that the provisions of Section 10212 of P.L. 100-203, relating to treatment of publicly traded partnerships under IRC Section 469, shall apply. SB 1705 adds provision that the transitional rule for low-income housing, Section 502 of P. L. 99-514, shall apply. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11) (SB 1705, Ch. 88-31)

17562 448
(New)
(24654)

LC 88-1

LIMITATION ON USE OF CASH METHOD OF ACCOUNTING (SC) Provides that for purposes of applying IRC Section 448, relating to limitations on use of cash method of accounting, Sections 801(d)(2) and 801(d)(3) of P.L. 99-514, shall apply. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Credit for Taxes Paid

<p>18001 (Amend) LC 88-1</p>	<p>-----</p>	<p>CREDIT, RESIDENTS (SC) Limits the credit for taxes paid to another state to the "net tax" (as defined by Section 17039) and for taxes paid to the other state (exclusive of any tax comparable to the alternative minimum tax [Section 17062]) on income derived from sources within and taxable by that state. Provides that for purposes of computing the tentative minimum tax, the credit for taxes paid to another state shall not exceed the proportion of tentative minimum tax as the income subject to tax in the other state (recomputed in accordance with Section 17062) and also included in the alternative minimum taxable income bears to the total alternative minimum taxable income taxable under the PITL. This amount, however, shall not be less than the credit allowable against the "net tax" (as defined by Section 17039). Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>
<p>18001.5 (Repeal) LC 88-1</p>	<p>-----</p>	<p>CREDIT FOR TAXES PAID - SHAREHOLDERS OF S CORPORATIONS (SC) Repeals provision allowing a tax credit for taxes paid to another state by a resident shareholder of a corporation electing to be treated as an S corporation in both the other state and in California. (But see PIT Section 18006, below.) Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>
<p>18006 (Repeal/ New) LC 88-1</p>	<p>-----</p>	<p>CREDIT FOR TAXES PAID - PARTNERS AND S CORPORATION SHAREHOLDERS (SC) Provides that for purposes of determining the credit for taxes paid to another state, members of a partnership or shareholders of an S corporation shall be allowed to treat their prorata share of the taxes paid to another state by the partnership or S corporation as if they had been paid by the partner or shareholder. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>

Gain or Loss on Disposition of Property

<p>18036 (Amend) LC 88-1</p>	<p>1016</p>	<p>ADJUSTMENT TO BASIS (TC) Makes minor nonsubstantive technical correction. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)</p>
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PIT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Capital Gains and Losses

18155 (New)	1212	DENIAL OF CAPITAL LOSS CARRYBACKS (SC) Reenacts provision, inadvertently repealed by AB 53 (Ch. 87-1138), denying capital loss carrybacks. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		
18162 (New)	----	GAIN ON SALE OF DAIRY CATTLE (SC) Provides that if a taxpayer has a net capital gain from the sale of dairy cattle after January 1, 1987, and before September 1, 1987, under a valid contract with the U.S. Department of Agriculture under the milk production termination program, a deduction is allowed depending on the holding period of the dairy cattle: 35 percent of net capital gain if dairy cattle held more than one year but not more than five years, and 50 percent if held for more than five years. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		

Filing Requirements

18402 (Amend)	6013	HUSBAND AND WIFE RETURNS (TC) Clarifies the exceptions to the provision requiring the filing of a nonresident joint return if one spouse was a resident for the entire taxable year and the other spouse was a nonresident for all or any part of the taxable year. (Also see PIT Section 17043.) Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		

Payments and Assessments

18683.5 (Repeal)	----	PENALTY FOR OVERSTATEMENT OF CONTRIBUTIONS TO AN ANNUITY (SC) Inoperative provision repealed, as the specific reference to subdivision (c) of Section 17085 (relating to the three-year recovery rule) does not exist. Operative for taxable years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		
18684.2 (Amend) (25934.2)	6651	FAILURE TO PAY TAX BY DUE DATE (TC) Clarifies the provision that the maximum penalty under this section is 25 percent of the total unpaid tax; and provides that if this penalty is greater than the sum of any penalties imposed under Section 18681 (failure to file return) and Section 18683 (failure to furnish information requested), it shall be the amount which exceeds the sum of any penalties imposed under
LC 88-1		

PIT
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SUMMARY OF CHANGE

Sections 18681 and 18683 (was "only the subdivision (a) penalty will be assessed"). Operative February 19, 1988. (AB 2130, Ch. 88-11)

18689
(Amend)
(25901c)

6601(e)
(2)

INTEREST ON PENALTIES (TC) Adds reference to Section 18684.2 (relating to underpayment of tax). Operative February 19, 1988. (AB 2130, Ch. 88-11)

LC 88-1

Collection of Tax

18802
(Amend)

6041(a)

INFORMATION RETURNS, GENERAL (SC) Reenacts provision included in AB 129 (Ch. 87-918), but inadvertently chaptered out by AB 53 (Ch. 87-1138), providing that, in lieu of California information returns reporting payments made in the course of a trade or business, the FTB may require that copies of federal information returns be filed. Operative February 19, 1988. (AB 2130, Ch. 88-11)

LC 88-1

18817.3
(Amend)
(21632.05)

6334

PROPERTY EXEMPT FROM LEVY (TC) Makes minor nonsubstantive technical correction. Operative February 19, 1988. (AB 2130, Ch. 88-11)

LC 88-1

BANK AND CORPORATION TAX LAW

BCT
SECTION

IRC
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SUMMARY OF CHANGE

General Provisions and Definitions

23051.5 (Amend) (17024.5) LC 88-1	----	EFFECTIVE DATES AND GENERAL PROVISIONS (SC) Adds references to general provisions of the IRC which are not applicable in the B&CTL. Provides that the term "taxable income" in the IRC means "net income", or "unrelated business taxable income" in the case of exempt organizations. Any reference to "corporation" in the IRC includes "bank". Provides that the income year may not be different than the taxable year used for federal income tax purposes, unless initiated or approved by the FTB. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23051.7 (Amend) LC 88-1	----	TRANSITION RULES (SC) Deletes provision denying carryover of credits against the alternative minimum tax. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23053.5 (Repeal) LC 88-1	1366	CREDIT CARRYOVERS - S CORPORATIONS (SC) Repeals provision allowing an S corporation to pass through to its shareholders any credit carryover from income years beginning prior to 1987. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Tax on Banks and Corporations

23181 (Amend) LC 88-1	----	TAX ON BANKS (SC) Reenacts the increases in the minimum tax applicable to banks, which were enacted by SB 572 (Ch. 87-1139) but inadvertently chaptered out by SB 570 (Ch. 87-1442). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23186 (Amend) LC 88-1	----	BANK AND FINANCIAL CORPORATION TAX RATES (SC) Provides that for income years ending in 1987 and thereafter, the rate of tax on banks and financial corporations shall not exceed 11.7 percent (was 12%). This conforms to the reduction in the tax rate on general corporations from 9.6 percent to 9.3 percent enacted by SB 572 (Ch. 87-1139). (AB 2130, Ch. 88-11)

BCT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Alternative Minimum Tax

23400
(Repeal/
New)

55

ALTERNATIVE MINIMUM TAX (SC) Former provisions repealed and replaced with a new section conforming to IRC Section 55, except as otherwise provided below. Also provides that S corporations are not subject to the alternative minimum tax (or preference tax for income years beginning in 1987). Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

LC 88-1

23401
(Repeal)

53

ALTERNATIVE MINIMUM TAX CREDIT (SC) Provisions repealed and reenacted in new Section 24343. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

LC 88-1

NOTE: The last two digits of the following sections, 23453 through 23459, correspond to the IRC related section numbers.

23453
(New)

53

CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY (SC) Allows a tax credit for the excess of the adjusted minimum tax imposed for all prior income years beginning after 1987, less the amount allowed as a credit for those prior years over the regular tax for the current income year. This provision is the same as former Section 23401, except for the reference to subdivision (c) of Section 23455 (was subdivision (b) of former Section 23400). Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

LC 88-1

23455
(New)

55

ALTERNATIVE MINIMUM TAX IMPOSED (SC) Establishes the alternative minimum tax rate for general corporations and exempt organizations at 7 percent; and for banks and financial corporations at 7 percent plus the bank rate, less the regular tax rate on general corporations (9.3%). For corporations which do business both within and without California, alternative minimum taxable income shall be allocated and apportioned in the same manner as for purposes of the regular tax. For taxable years in which a taxpayer commences doing business, dissolves, or ceases doing business, the "regular tax" provisions applicable to these corporations apply with due regard for the rate and alternative minimum taxable income prescribed in the B&CTL, except that no prepayment of an alternative minimum tax is required. "Regular tax" is the tax imposed under the B&CTL prior to any reduction

LC 88-1

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by any tax credits. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

23456
(New)
(17062)
LC 88-1

56

ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME (SC) Provides specific exceptions to the computation of alternative minimum taxable income as prescribed in IRC Section 56. Provides that if there was a deferral of preference tax under former Section 23405 for any income year beginning before 1988, and if the amount of the deferred tax has not been paid for any income year before 1988, the amount of the net operating loss carryovers which may be carried to income years beginning after 1987, for purposes of computing the alternative minimum taxable income, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

23457
(New)
LC 88-1

57

ITEMS OF TAX PREFERENCE (SC) Modifies IRC Section 57 provisions relating to items of tax preference in the areas of tax exempt interest and contributions to conform to the provisions for computing regular tax under the B&CTL; and specifies that for certain property placed in service before 1987, determined without regard to Section 24354.2 (relating to rehabilitation of low-income rental housing) or Section 24381 (relating to amortization of rehabilitating expenditures for certified historic structures), the amount by which accelerated depreciation and amortization exceeds the amount allowable under the straight-line method is an item of tax preference. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

23459
(New)
LC 88-1

59

OTHER DEFINITIONS AND SPECIAL RULES (SC) Modifies IRC Section 59 by providing that the provisions relating to the foreign tax credit and the United States possession tax credit are not applicable in determining the alternative minimum tax under the B&CTL. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

BCT
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SECTION

SUMMARY OF CHANGE

Tax Credits

23601.4 (Amend) (17052.4)	----	SOLAR ENERGY - COMMERCIAL (SC) Deletes reference to the "alternative minimum tax", thus providing that this credit and the former solar energy credit (former Section 23601) are allowable against all taxes imposed by the B&CTL (except the minimum franchise tax). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		
23609 (Amend) (17052.12)	41	RESEARCH AND DEVELOPMENT EXPENSES (TC) Corrects a technical error relating to the proration of base period expenses by referring to the number of days <u>in</u> 1988 rather than to the number of days before 1988. Operative for amounts incurred on or after January 1, 1988, and paid or incurred before January 1, 1993. (AB 2130, Ch. 88-11)
LC 88-1		
23630 (New/ Amend) (17039)	----	GENERAL LIMITATION ON TAX CREDITS (SC) Provides that, with the exception of the solar energy credit (Section 23601.4), the former solar energy credit (former Section 23601) and, as added by SB 1705, the low-income housing credit (Section 23610.5), tax credits cannot reduce the tax below the tentative minimum tax. Any credit which is partially or totally denied by this provision may be carried over and applied to the tax (except the minimum franchise tax and the alternative minimum tax) in succeeding years if the provisions relating to that credit allow a carryover of the unused portion. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11) (SB 1705, Ch. 88-31)
LC 88-1 and LC 88-2		

Exempt Organizations

23701 (Amend)	501(a)	EXEMPTION OF SPECIFIED ORGANIZATIONS (TC) Replaces the reference to Section 23701m (relating to management companies) with references to Section 23701h and Section 23701u (both relating to title holding companies). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch.88-11)
LC 88-1		
23701m (Repeal)	851 to 855	REGULATED INVESTMENT COMPANIES (SC) Section repealed; provisions transferred to new Section 24412. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1		

<u>BCT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
23701w (New) LC 88-1	501(c) (19)	VETERAN'S ORGANIZATION (SC) Provides an exemption from tax for a veteran's organization, as defined by IRC Section 501(c)(19). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23710 (New) LC 88-1	513(f)	BINGO GAMES CONDUCTED BY EXEMPT ORGANIZATIONS (SC) Reenacts provisions, inadvertently repealed by SB 572 (Ch. 87-1139), relating to the nondisqualification of tax-exempt status of organizations conducting bingo games. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23732 (Amend) LC 88-1	512	UNRELATED BUSINESS TAXABLE INCOME (SC) Modifies provisions of IRC Section 512 by providing that the special rules for foreign organizations are not applicable, the deduction for charitable contributions is limited to 5 percent (10% federal) of the unrelated business taxable income, and by substituting B&CTL section references for IRC section references. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
23734 (Amend) LC 88-1	513	UNRELATED TRADE OR BUSINESS (SC) Provides that IRC Section 513(g), relating to certain pole rentals, shall not apply. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Tax Treatment of S Corporations and Their Shareholders

23801 (Amend) LC 88-1	1362	ELECTION; REVOCATION; TERMINATION (SC) Adds several provisions to clarify the manner of making state elections and terminations of the election to be treated as an S corporation. Clarifies the interaction of the rules for making elections with the provisions that impose separate taxes on built-in gains and passive investment income. Continuing S corporations, and corporations making an election to be an S corporation in income years beginning in 1988, are allowed to use their federal election date for purposes of applying the rules of these separate taxes. Removes the requirement that an S corporation must make payments of tax on behalf of its nonresident shareholders. Now provides that an S corporation <u>cannot</u> be included in a combined report of the unitary group of which it is a member (formally provided that a corporation could not be an S corporation if it was a member of a unitary group). Provides
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that, in the event of distortion of income or tax evasion, the FTB is first required to use the comparable uncontrolled price method (prescribed by federal regulations) and then, only if that method can not be practically applied, permits the FTB to use the method of unitary combination to properly reflect the income or loss of the members of the unitary group. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

23802
(Amend)

1363

LC 88-1

TAX RATES (SC) Provides that in the case of an S corporation which is also a financial corporation, the rate of tax is 2.5 percent plus the in-lieu rate applicable to banks and financial corporations, less the financial corporation offset. Specifies that an S corporation is not subject to the alternative minimum (or preference) tax, but is subject to the minimum franchise tax. Allows an S corporation its own net operating losses for purposes of the 2.5 percent tax. Allows an S corporation to use MACRS for purposes of the 2.5 percent tax in accordance with the provisions of PITL Section 17250. Adds provisions applying the at-risk rules and the limitations on losses and credits from passive activities in the same manner as in the case of an individual. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

23803
(Amend)

1366

LC 88-1

CREDITS AND CREDIT CARRYOVERS (SC) Provides that one-third of tax credits allowed corporations (including credit carryovers from income years prior to the first income year in which the corporation is treated as S corporation under the B&CTL) may be claimed against the 2.5 percent tax, after applying the limitations relating to the amount at-risk and passive activity losses and credits, with no pass-through to the shareholders. No credit is allowed against the minimum franchise tax. The full amount of credits computed under the PITL must be passed through to the shareholders. The special rules set forth in IRC Section 1366(f) are modified to provide that the amounts of tax used to compute the reductions allowed by IRC Section 1366(f) (2) (relating to the tax on built-in capital gains) and IRC Section 1366(f) (3) (relating to the tax on excess net passive income) shall be the tax imposed on those items under the B&CTL. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

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23808 1375 **WAIVER OF TAX ON C CORPORATION EARNINGS (SC)**
(Amend) Deletes the reference to the nonapplicability
LC 88-1 of IRC Section 1375, relating to the waiver
of the tax imposed on excess net passive in-
come. Operative for income years beginning
on or after January 1, 1988. (AB 2130,
Ch. 88-11)

23809 1374 **TAX IMPOSED ON CERTAIN BUILT-IN CAPITAL GAINS**
(Amend) (SC) Provides for a separate tax on built-in
LC 88-1 capital gains using the full tax rates appli-
cable to general and financial corporations,
and that this tax shall not be reduced by any
tax credit. Operative for income years be-
ginning on or after January 1, 1987.
(AB 2130, Ch. 88-11)

23810 ----- **NONRESIDENT SHAREHOLDERS - GROUP RETURN (SC)**
(Amend) Allows nonresident shareholders of an S cor-
LC 88-1 poration to file a group return with the S
corporation acting as the nonresident share-
holders' agent. Operative for income years
beginning on or after January 1, 1987. (AB
2130, Ch. 88-11)

23811 1375 **TAX IMPOSED ON PASSIVE INVESTMENT INCOME (SC)**
(New) Provides for a separate tax on net passive in-
LC 88-1 vestment income attributable to California
sources in accordance with the provisions of
IRC Section 1375, using the full tax rates
that apply to general and financial corpora-
tions, with the following modifications:
(1) No tax is imposed if the S corporation
has no excess net passive income for federal
purposes; (2) No credits against this tax
are allowable; and (3) "Subchapter C earnings
and profits" means those earnings and profits
of the corporation attributable to California
sources as determined under the B&CTL, with
specified modifications relating to consent
dividends. Operative for income years begin-
ning on or after January 1, 1988. (AB 2130,
Ch. 88-11)

Deductions

24347.5 165(c) **DISASTER RELIEF (SC)** Adds provisions relating
(Amend) 165(i) to 1987 casualty losses as provided in PITL
(17207) Section 17207, including the carryover of 50
LC 88-1 percent of "excess losses" remaining after
the five-year carryover period. These casualty
losses cannot be taken into account in com-
puting a net operating loss deduction under
Section 24416. Operative for income years
beginning on or after January 1, 1987.
(AB 2130, Ch. 88-11)

BCT
SECTION

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SECTION

SUMMARY OF CHANGE

24348 166 **BAD DEBTS (SC)** Conforms to federal law by
(Amend) providing that taxpayers no longer permitted
to use the bad debt reserve method must in-
LC 88-1 clude in income their bad debt reserve ratably
over the first four income years (was
five income years) beginning on or after Jan-
uary 1, 1988. Operative for income years be-
ginning on or after January 1, 1988.
(AB 2130, Ch. 88-11)

Special Deductions

24412 851 **REGULATED INVESTMENT COMPANIES (SC)** Provides
(New) to that the provisions of IRC Sections 851 to
855 (relating to regulated investment compan-
LC 88-1 ies) shall apply, except that IRC Section
and 852(b)(1) (relating to imposition of tax on
LC 88-2 regulated investment companies), IRC Section
852(b)(3)(A) (relating to capital gains) and
IRC Section 852(b)(5)(B) (relating to treat-
ment of exempt interest dividends by share-
holders) shall not apply. IRC Section 852(b)
(2)(D) (relating to investment company taxable
income) is modified (by SB 1705) to allow a de-
duction, determined in accordance with IRC Sec-
tion 852(b)(5) (relating to exempt interest
dividends), to the extent that such interest
is included in gross income under the B&CTL.
Corrects a drafting error in SB 572 (Ch. 87-
1139) that granted these companies an exemption
from taxation. Operative for income years be-
ginning on or after January 1, 1987. (AB 2130,
Ch. 88-11) (SB 1705, Ch. 88-31)

24416 172 **NET OPERATING LOSSES (SC)** See summary for
(Amend) PITL Section 17276, substituting "income year
(17276) for "taxable year". Operative for income
years beginning on or after January 1, 1987.
LC 88-1 (AB 2130, Ch. 88-11)

24416.1 172 **QUALIFIED TAXPAYER (SC)**
24416.2 **NET OPERATING LOSS - PROGRAM AREA AND ENTER-**
(New) **PRISE ZONE (SC)** Reenacts those provisions
(17276.1) of former Section 24417 (repealed by SB 572,
(17276.2) Ch. 87-1139), relating to net operating losses
incurred by taxpayers conducting business in
a program area or enterprise zone. Provision
LC 88-3 relating to the 3-year carryover of a net
operating loss of a financial institution in
a program area [former Section 24417(b)(2)]
deleted as banks and financial corporations
do not qualify under the program area provi-
sions. Operative for income years beginning
on or after January 1, 1987. Section 24416.2
is repealed effective January 1, 1989.
(SB 1706, Ch. 88-32)

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SUMMARY OF CHANGE

Items Not Deductible

24440 (New) (17270) LC 88-1	280C	EXPENSES FOR CLINICAL TESTING OF ORPHAN DRUGS (SC) See summary for PITL Section 17270. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24443 (Amend) LC 88-1	274(n)	DISALLOWANCE OF CERTAIN ENTERTAINMENT, ETC. EXPENSES (SC) Provides an exception to the 80 percent limitation on meals by allowing a full deduction for meals provided to crew members of a vessel at sea, or to crew members on an oil or gas platform located off-shore in Alaska. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Corporate Liquidations

24513 (Amend) LC 88-1	-----	APPLICATION OF SECTION 633, P.L. 99-514 (SC) Provides that the provisions of Section 633 [except 633(e)] of P.L. 99-514, relating to transition rules, shall apply to all corporations (formerly did not apply to S corporations). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
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Carryovers

24592 (Amend) LC 88-1	382	LIMITATION ON NET OPERATING LOSS CARRYOVERS AND CERTAIN BUILT-IN LOSSES FOLLOWING OWNERSHIP CHANGE (SC) Conforms to IRC Section 382 (as amended by P.L. 100-203, Section 10225) which restricts loss corporations from offsetting their losses against built-in gains resulting from the disposition of property acquired in an ownership change occurring after December 15, 1987. Also provides, for stock becoming worthless in income years beginning after December 31, 1987, that under certain circumstances where a worthless stock deduction is claimed, it will be deemed to be a change of ownership and the shareholder will be treated as having acquired the stock on the first day of the income year following the worthless stock deduction, thus denying the shareholder the benefit of net operating loss carryovers from prior years. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
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<u>BCT SECTION</u>	<u>IRC SECTION</u>	<u>SUMMARY OF CHANGE</u>
24594 (New) LC 88-1	384	LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS (SC) Conforms to new IRC Section 384 (added by P.L. 100-203, Section 10226) which restricts loss corporations from offsetting their losses against built-in gains resulting from the disposition of property of an acquired corporation within five years of acquisition, effective for acquisitions after December 15, 1987. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

Accounting Periods and Methods of Accounting

24633.5 (Amend) (17551.5) LC 88-1	442 and 443	REQUIRED CHANGE OF ACCOUNTING PERIOD (SC) See summary for PITLE Section 17551.5. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24637 (New) (17551) LC 88-1	444	ELECTION OF INCOME YEARS OTHER THAN REQUIRED INCOME YEAR (SC) Provides that IRC Section 444, added by P.L. 100-203, relating to election of income years other than "required income years", shall apply. The federal "required payments" provisions are not applicable. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24654 (Amend) (17562) LC 88-1	448	LIMITATION ON USE OF CASH METHOD OF ACCOUNTING (SC) See summary for PITLE Section 17562. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24667 (Amend) (17560) LC 88-1	453C	INSTALLMENT METHOD (SC) Provides that for purposes of applying the provisions of IRC Section 453C, relating to certain indebtedness treated as a payment on installment obligations, the provisions of Sections 811(c)(2), 811(c)(4), 811(c)(6), and 811(c)(7) of P.L. 99-514 shall apply. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)
24670 (Repeal) LC 88-1	453C	CERTAIN INDEBTEDNESS TREATED AS PAYMENTS ON INSTALLMENT OBLIGATIONS (SC) Provisions repealed since Section 24667, as added by SB 572 (87-1139) adopted the provisions of IRC Section 453C by reference. Operative for income years beginning on or after January 1, 1988. (AB 2130, Ch. 88-11)

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SUMMARY OF CHANGE

24673.2 (Amend) LC 88-1	460	SPECIAL RULES FOR LONG-TERM CONTRACTS (SC) Modifies provisions "to correct any under reporting or over reporting of income, for purposes of this part, resulting from differences between state and federal law for the income year in which the contract began" (was "to insure that all profits from the contract have been included in gross income"). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24691 (New) LC 88-1	465	DEDUCTIONS LIMITED TO AMOUNT AT RISK (SC) Provides that IRC Section 465, relating to limitations of deductions to the amount at risk, shall apply. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24692 (Amend) (17561) LC 88-1 and LC 88-2	469	PASSIVE ACTIVITY LOSSES AND CREDITS LIMITED (SC) See summary for PITL Section 17561, substituting Section 23610.5 for Section 17058. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11) (SB1705, Ch. 88-31)
24725 (Amend) LC 88-1	482	ALLOCATION OF INCOME AND DEDUCTIONS AMONG TAXPAYERS (TC) Substitutes "except as provided in Chapter 17 (commencing with Section 25101)" for "except as otherwise provided". Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11).

Gain or Loss on Disposition of Property

24902.1 (Repeal) LC 88-1	1256	CONTRACTS MARKED TO MARKET (SC) Section repealed as superfluous. Provisions relating thereto are covered in Section 24903, added by SB 572 (Ch. 87-1139). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24902.2 (Repeal) LC 88-1	1257	DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS (SC) Section repealed as superfluous. Provisions relating thereto are covered in Section 24903, added by SB 572 (Ch. 87-1139). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
24904 (Amend) LC 88-1	----	GAINS ON DISPOSITION OF SMALL BUSINESS STOCK (SC) Deletes the phrase "for any income year" as the provisions of this section apply only to income years beginning in 1987. Corrects "September 16, 1981" to "September 30, 1982"

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SECTION

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SUMMARY OF CHANGE

as the acquisition date originally specified in former Section 24342. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)

24967 1059A **VALUE OF PROPERTY IMPORTED FROM ANOTHER COUNTRY**
(Repeal) (SC) Section repealed as superfluous. Provisions relating thereto are covered in Section 24966.1, added by SB 572 (Ch. 87-1139). Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
LC 88-1

24998 1091 **WASH SALES; STRADDLES** (SC) Provides that the provisions of IRC Sections 1091 and 1092, relating to loss from wash sales of stock or securities, and straddles, respectively, shall apply. Operative for income years beginning on or after January 1, 1987. (AB 2130, Ch. 88-11)
(Repeal/
New)
LC 88-1

Allocation of Income

25108 ---- **NET INCOME (LOSS) FOR STATE PURPOSES, DEFINED FOR APPORTIONING CORPORATIONS** (TC) Adds cross-references to Sections 24416.1 and 24416.2. Operative for income years beginning on or after January 1, 1987. (SB 1706, Ch. 88-32)
(Amend)
LC 88-3

Estimated Tax

25561 ---- **ESTIMATED TAX, GENERAL CORPORATIONS** (SC) Adds new subdivision (b) relating to change in tax rate for computing estimated tax by banks and financial corporations. (AB 2130, Ch. 88-11)
(Amend) This new subdivision (b) was added to the wrong section, and subsequently deleted and added to Section 25562 (see below) by SB 1705, Ch. 88-31)
LC 88-1

25562 ---- **ESTIMATED TAX, BANKS AND FINANCIAL CORPORATIONS** (SC) Adds new subdivision (b) providing that in the case of an increase or decrease in the rate of tax imposed on general corporations (Section 23151), a bank or financial corporation is required to increase or decrease the rate determined by the FTE for the preceding year, for the purposes of its estimated tax for the current income year, by the same amount as the change in rate imposed under Section 23151 determined in accordance with Section 24251 (relating to computation of tax when law changed). Operative for income years beginning on or after January 1, 1987. (SB 1705, Ch. 88-31)
(Amend)
LC 88-2

BCT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Interest, Additions to Tax and Penal Provisions

25901c **6601(e)** **INTEREST ON PENALTIES (TC)** Adds reference to
(Amend) (2) Section 25934.2, relating to underpayment of
(18689) tax. Operative February 19, 1988. (AB 2130,
LC 88-1 Ch. 88-11)

25934.2 **6651** **FAILURE TO PAY TAX BY DUE DATE (TC)** Clarifies
(Amend) the provision that the maximum penalty under
(18684.2) this section is 25 percent of the total unpaid
LC 88-1 tax; and provides that if this penalty is
 greater than the sum of any penalties imposed
 under Sections 25931 to 25934.4, inclusive, the
 penalty imposed under this section shall be the
 amount which exceeds the sum of any penalties
 imposed under Sections 25931 to 25934.2, inclu-
 sive (was "the penalty imposed under subdivision
 (a) of this section or the aggregate penalties
 imposed under Sections 25932 to 25934.2, inclu-
 sive, shall be assessed, whichever is greater").
 Operative February 19, 1988. (AB 2130, Ch. 88-11)

NOTE: Section 94 of AB 2130 (Ch. 88-11) pro-
vides that the penalty for failure to
pay the tax by the due date, as added
to Section 25934.2 by SB 572 (Ch. 87-
1139), shall be applied with respect
to penalties for income years ending
on or after December 31, 1987.

Refunds and Credits

26083 ----- **S CORPORATIONS - TRANSFER EXCESS ESTIMATED**
(New) **TAX PAYMENTS TO SHAREHOLDERS' ACCOUNTS (SC)**
LC 88-1 Provides that an S corporation may request
 that its overpayment of estimated tax for
 the income year beginning in 1987 (if \$500
 or more) be transferred to and treated as
 estimated tax payments paid by its share-
 holders on the date originally paid by the
 corporation. The FTB has 45 days to honor
 the request or disallow it, without further
 action, if it discovers material omissions
 or errors therein which cannot be corrected
 within the 45-day period. The S corporation
 shall furnish each person who is a shareholder
 at any time during the income year a statement
 showing amounts and dates of the overpayments
 being transferred to their personal income tax
 account. Operative for income years begin-
 ning in 1987. (AB 2130, Ch. 88-11)

BCT
SECTION

IRC
SECTION

SUMMARY OF CHANGE

Collection of Tax

26132.05 6334
(Amend)
(18817.3)

PROPERTY EXEMPT FROM LEVY (TC) Makes minor nonsubstantive technical correction. Operative February 19, 1988. (AB 2130, Ch. 88-11)

LC 88-1

UNEMPLOYMENT INSURANCE CODE

UIC
SECTION

SUMMARY OF CHANGE

13009
(Amend)

WITHHOLDING OF TAX ON WAGES (SC) Adds, as subdivision (r) to the definition of "excluded wages", services to which Section 633 of the Unemployment Insurance Code (relating to services performed as an intermittent or adjunct instructor at a postsecondary educational institution) applies, if that instructor and the employing unit enter into a written contract which, among other things, provides that any federal or state income tax liability shall be the responsibility of the party providing the services. Operative February 19, 1988. (AB 2130, Ch. 88-11)

LC 88-1

LEGISLATIVE CHANGE NO. 88-1
ASSEMBLY BILL 2130

Author: Klehs
Subject: Trailer Bill to AB 53 and SB 572 (Tax Reform)
Laws Affecting Franchise Tax Board: Many Sections
Date Filed with Secretary of State: February 19, 1988
Chapter Number: 88-11

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SUMMARY

This act is a trailer bill to AB 53 (Klehs; Statutes 1987, Chapter 1138) and SB 572 (Garamendi; Statutes 1987, Chapter 1139). In general, it affects the computation of taxes for income and taxable years beginning on or after January 1, 1987.

The most significant provisions of this act are those relating to the alternative minimum tax for corporations and individuals, and the treatment of S Corporations (electing small business corporations). In each case, the decision to conform to federal law was a major tax policy issue with a significant impact upon state revenues. Because these decisions were made during conference committee hearings near the end of the legislative session, the language enacted tended to be conceptual in nature, rather than a fully developed statute with technical rules needed for application to a wide variety of factual situations. This act further develops those concepts to clarify existing law and facilitate implementation.

Another significant provision of this act clarifies the allowance of net operating losses by allowing a prorated deduction of net operating losses incurred in fiscal years ending in 1985. These losses are allowed to be carried forward only to the first income or taxable year beginning in 1987, and the two succeeding years.

This act responds to five provisions in the federal Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), for income and taxable years beginning on or after January 1, 1987. The remaining provisions will be addressed in a separate act, effective for income and taxable years beginning on or after January 1, 1988.

This act also makes numerous technical corrections which are summarized in Exhibit A, beginning on Page 39.

DESCRIPTION

Alternative Minimum Tax (AMT) - Individuals

The provisions of AB 53 copied the federal structure used for 1986 and prior years. Those provisions compared the tentative minimum tax with the regular tax after credits. However, under the Tax Reform Act of 1986, the tentative minimum tax is compared to the regular tax before credits and new provisions are added to the credit sections to limit their reduction of tax. In either case, the bottom line is the same; i.e., tax credits are not permitted to reduce the total tax (regular tax plus the separate tax on lump-sum distributions) below the tentative minimum tax.

This act changes the California structure to conform to the new federal structure and treats the California credit for taxes paid to other states in the same manner as the federal credit for foreign taxes. (Sec. 17062(b) and 18001(b))

This act conforms to federal law, in general, in that it would not allow tax credits to reduce the regular tax below the tentative minimum tax, as computed under the alternative minimum tax system. However, it deviates from federal law in that it makes an exception for personal exemption credits, the joint custody head of household credit, solar energy credits, credit for taxes paid to another state, and refundable credits. (Sec. 17039(c))

An additional exception is that this act allows solar energy credits to reduce all taxes, including the alternative minimum tax. (Sec. 17052.4 (a))

This act conforms to the principle of federal transition rules which specify that, if there was a deferral of preference tax from years prior to the adoption of the alternative minimum tax system, the amount of the net operating loss carryover is reduced by the amount of the tax preferences attributable to the unpaid deferred tax. (Sec. 17062(b)(4))

For nonresidents and part-year residents, this act requires the proration of tax to be based upon their adjusted gross income as modified for AMT purposes rather than upon their alternative minimum taxable income. (Sec. 17062(b)(3)(B))

Alternative Minimum Tax (AMT) - Corporations

The provisions of this act relating to AMT for banks and corporations, as under SB 572, are effective for income years beginning on or after January 1, 1988. (Act Sec. 93)

There were a number of issues that arose from unique features of state law, such as having different tax rates for banks and financial corporations as compared to general corporations, using the unitary method of determining income of corporations doing business in more than one state, and continuing to use mid-range ADR for depreciation of assets.

Bank and Financial Tax Rate. Under SB 572, the same alternative tax rate (seven percent) was applied to all general corporations, banks, and financial corporations.

This act establishes a higher alternative minimum tax rate for banks and financial corporations by applying the alternative minimum tax rate for general corporations (7.0) against the alternative minimum taxable income and adding thereto an amount computed by applying the in-lieu tax rate against net income. Thus, the in-lieu tax would not be increased by the difference between the net income for regular tax purposes and the alternative minimum taxable income. This provides parity with the treatment of general corporations under the alternative minimum tax system. (Sec. 23455(a))

Corporations Doing Business in More Than One State. SB 572 contained a general statement regarding the treatment of corporations doing business in more than one state. This act makes technical amendments to clarify the interaction between the alternative minimum tax and the separate rules for corporations doing business in more than one state. (Sec. 23455(b)(1), 23456(d), and 23456 (f))

Depreciation. SB 572 conformed to the federal rules for depreciation adjustments for purposes of the alternative minimum tax. Because California has not conformed to ACRS for regular tax purposes, strict conformity would, for some assets, allow a greater deduction for the alternative minimum tax than for regular tax.

This act retains the treatment prescribed by SB 572 with minor technical amendments. (Sec. 23456(a), 23456(e), and 23457(c))

Tax Credits. This act conforms to federal law, in general, in that it would not allow tax credits to reduce the regular tax below the tentative minimum tax, as computed under the alternative minimum tax system. However, it deviates from federal law in that it makes an exception for solar energy credits. (Sec. 23630)

An additional exception is that this act allows solar energy credits to reduce all taxes, including the alternative minimum tax. (Sec. 23601.4)

Deferred Preference Tax. This act conforms to the principle of federal transition rules which specify that, if there was a deferral of preference tax from years prior to the adoption of the alternative minimum tax system, the amount of the net operating loss carryover is reduced by the amount of the tax preferences attributable to the unpaid deferred tax. (Sec. 23456(c)(2))

Commencing/Dissolving Corporations. This act incorporates certain rules from prior law. (Sec. 23455(b)(3))

Electing Small Business Corporations (S Corporations)

SB 572 provided for full conformity to federal law, except that it provided that S corporations would continue to be subject to a 2.5 percent corporate level tax. The intent of this exception was to limit present and future revenue losses to the state. The imposition of a corporate level tax on S corporations is unique to California, however, and raised issues relating to its interaction with depreciation, net operating losses, losses and credits from passive activities, at-risk rules, tax credits, the alternative minimum tax, combined reporting of members of a unitary business, and the bank and financial tax rate.

Depreciation. Under SB 572, an S corporation is required to compute its depreciation twice; first, using MACRS for the pass-thru to shareholders, and second, using mid-range ADR for the 2.5 percent tax.

This act allows an S corporation to use MACRS for purposes of the 2.5 percent tax. (Sec. 23802(f)(1))

Net Operating Losses. Under federal law, an S corporation cannot use net operating loss carryovers from years before its election, except for purposes of the separate tax on built-in gains. SB 572 conformed to federal law.

This act allows an S corporation to generate and deduct net operating losses during the years in which it elects to be treated as an S Corporation. The allowance of these losses relates only to the 2.5 percent tax and has no effect upon the amount of income or losses passed through to shareholders. (Sec. 23802(d))

Losses and Credits From Passive Activities. Under federal rules, the limitations on losses and credits from passive activities apply to the shareholders of an S corporation, but not to the corporate entity. SB 572 conformed to federal law.

Since California imposes a tax on S corporations, this act adds provisions to apply the limitations on losses and credits from passive activities in the same manner as if the corporation were an individual. (Sec. 23802(f)(3))

At-Risk Rules. Under federal rules, the at-risk rules apply only to the shareholders of an S corporation. SB 572 conformed to federal law.

Since California imposes a tax on S corporations, this act adds provisions to apply the at-risk rules to the S corporation. (Sec. 23802(f)(2))

Tax Credits. Under federal law, an S corporation is not subject to tax and all of its tax credits, computed as if it were an individual, are passed through to its shareholders. Credit carryovers from years prior to making an S election are allowed, but only against the separate tax on built-in gains.

SB 572 did not address the allowance of tax credits against the 2.5 percent tax, thus raising questions about the extent to which credits could be claimed against the 2.5 percent tax and/or passed through to shareholders.

This act provides that corporate credits may be claimed only against the 2.5 percent tax, with no pass-thru to shareholders. It also requires that the credits (other than solar energy credits) be reduced to one-third of their total value, since the

tax rate (2.5) is much lower than the regular tax rate (9.3). Unused portions of the credit, but not the two-thirds which is denied, are carried forward to future years. (Sec. 23053.5 and 23803(a)(1))

This act does not allow any tax credits (other than solar energy credits) to be claimed against the separate tax on built-in gains. (Sec. 23809(c))

This act provides that the full amount of credits computed under the Personal Income Tax Law are passed through to shareholders. (Sec. 23803(a)(1)(G))

Alternative Minimum Tax.

SB 572 provided that an S corporation would be subject to the alternative minimum tax, but at a reduced rate of 2.0 percent (0.5 percent preference tax for 1987).

This act specifies that an S corporation is not subject to the alternative minimum tax (preference tax in 1987). (Sec. 23400(b) and 23802(b)(3))

Combined Reporting of Members of a Unitary Business.

SB 572 provided, in general, that a corporation could not elect to be treated as an S corporation if it was a member of a unitary group required to file a combined report.

This act reverses that interaction. It provides that a corporation which elects to be treated as an S corporation is, by virtue of its election, required to be excluded from the combined report of the unitary group. (Sec. 23801(c))

The act also adds language that, in the event of distortion of income or tax evasion, requires the Franchise Tax Board to first use the comparable uncontrolled price method (prescribed by federal regulations) and then, only if that method cannot be practically applied, permits the department to use the method of unitary combination to properly reflect the income or loss of the members of the group. (Sec. 23801(d))

Separate Tax on Built-in Gains. This act allows a deduction from income, for purposes of computing the 2.5 percent tax, for the amount of income subject to the separate tax on built-in gains. (Sec. 23802(e))

Bank and Financial Tax Rate.

SB 572 did not provide any rules relating to S corporations that might also be financial corporations. The immediate impact of this oversight is to require financial corporations to continue

paying tax at the full tax rate normally applied to banks and financial corporations.

An issue that developed was whether financial corporations should be subject only to the 2.5 percent tax or if they should also be required to pay the in-lieu tax (the difference between the tax rate for financial corporations and the tax rate for general corporations).

This act provides that the tax on financial corporations will be 2.5 percent, plus the in-lieu tax, and that the full tax rate normally applied to banks and financial corporations will be used for computing the separate taxes on built-in gains and passive investment income. (Sec. 23802(b)(2), 23809(a)(2), and 23811(b)(2))

This act also provides that the financial corporation offset may be claimed against the 2.5 percent tax (plus in-lieu), but not against the separate taxes on built-in gains and passive investment income. This is primarily a theoretical distinction, since the only allowable offsets are carryovers from prior years. (Sec. 23802(b)(2), 23809(b), and 23811(b)(3))

Additional Provisions Relating to S Corporations

This act also clarifies rules with respect to making and terminating elections, modifies rules relating to S corporations having one or more nonresident shareholders, and imposes a separate tax on the passive investment income of an S corporation.

Elections and Terminations

SB 572 provided that a federal S corporation is deemed to be an S corporation for California purposes, unless the corporation elects on its first return to continue to be treated as a regular corporation for state purposes. This election was provided to partially mitigate the effect of the 2.5 percent tax imposed by California.

This act continues that election, but adds several provisions to clarify the manner of making state elections and terminations of the election to be treated as an S corporation. (Sec. 23801(a) and 23801(f))

This act also clarifies the interaction of the rules for making elections with the provisions that impose separate taxes on built-in gains and passive investment income. Continuing S corporations, and corporations making an election to be treated as an S corporation in income years beginning in 1988, would be allowed to use their federal election date for purposes of applying the rules of these separate taxes. (Sec. 23801(a)(3)(D))

Special Requirements Relating to Nonresident Shareholders

SB 572 required that an S corporation with one or more nonresident shareholders must make a payment of tax at the maximum rate (9.3 percent) for income attributable to nonresident shareholders.

This act allows nonresident shareholders of an S corporation to elect to file a single group return under the provisions of Section 18408.5. (Sec. 23810)

This act relieves the corporation from making payments on behalf of its nonresident shareholders. (Sec. 23801 (b))

This act also allows S corporations, for years beginning in 1987 only, to request a transfer of estimated tax payments (of \$500 or more) from the S corporation to its shareholders. (Sec. 26083)

Separate Tax on Excess Net Passive Investment Income

Under federal law, an S corporation is subject to a separate tax (at the highest marginal tax rate) on income earned on its undistributed earnings retained from years in which it was not an S corporation (passive investment income). SB 572 did not impose a separate tax on excess net passive investment income.

This act imposes a separate tax on excess net passive investment income, using the full tax rates that apply to general and financial corporations, but only when a tax on excess net passive investment income has been imposed under federal law. This tax cannot be reduced by any tax credits; however, the amount of the income subject to this tax is deductible from net income for purposes of computing the 2.5 percent tax. These changes apply to income years beginning on or after January 1, 1988. (Sec. 23802(e) and 23811)

Credit For Taxes Paid to Other States. This act allows the shareholders of an S corporation a tax credit for taxes paid to other states by the S corporation. (Sec. 18006)

Separate Tax on Built-in Gains. The amount of the income subject to this tax is deductible from net income for purposes of computing the 2.5 percent tax. (Sec. 23802(e))

Net Operating Losses

Under federal law, individuals and corporations are allowed to carry net operating losses back three years and forward 15 years.

SB 572 partially conformed to the federal rules by allowing 50 percent of a net operating loss to be carried forward for 15 years. It did not conform to the carryback rules. The general rule under SB 572

applies to losses attributable to years beginning on or after January 1, 1987.

A special rule under SB 572 applies to losses for years beginning in 1985 and 1986 and allows 50 percent of those losses to be carried forward to the first income or taxable year beginning in 1987 and the two subsequent years.

This act expands the allowance of net operating losses by allowing a prorated deduction of net operating losses incurred in fiscal years ending in 1985 as follows:

For years ending in January, 1985, 4 percent of the loss.

For years ending in February, 1985, 8 percent of the loss.

For years ending in March, 1985, 12 percent of the loss.

For years ending in April, 1985, 17 percent of the loss.

For years ending in May, 1985, 21 percent of the loss.

For years ending in June, 1985, 25 percent of the loss.

For years ending in July, 1985, 29 percent of the loss.

For years ending in August, 1985, 33 percent of the loss.

For years ending in September, 1985, 37 percent of the loss.

For years ending in October, 1985, 42 percent of the loss.

For years ending in November, 1985, 46 percent of the loss.

For years ending in December, 1985, 50 percent of the loss
(already allowed under current law).

These losses are allowed to be carried forward only to the first income or taxable year beginning in 1987, and the two succeeding years. (Sec. 17276(b) and 24416(e))

This act also adds rules relating to the order in which net operating losses must be absorbed. (Sec. 17276(f) and 24416(f))

Miscellaneous Changes

Penalty for Underpayment of Corporate Tax. This act delays the effective date of changes in the penalty for underpayment of corporate tax. The new rules, enacted in SB 572, will not become effective until income years ending on or after December 31, 1987. Thus, the old rules will continue to apply to all fiscal years ending in 1987. The new rules will first be applied to

calendar year returns ending in 1987. (Sec. 25934.2 and Act Sec. 94 of AB 2130)

Credit for Taxes Paid to Other States. This act clarifies that the taxes paid to other states do not include any preference, alternative, or minimum tax comparable to the alternative minimum tax imposed by California. It also clarifies that the California tax used in the computation is the "net tax" determined under Section 17039 which does not include any tax imposed under the alternative minimum tax system. (Sec. 18001(a))

This act clarifies that, for purposes of computing the tentative minimum tax, the amount of income subject to tax by the other state shall be recomputed under the rules of the alternative minimum tax system. (Sec. 18001(b))

Limitation on Meals. This act provides an exception to the 80 percent limitation on meals by allowing a full deduction for meals provided to crew members of a vessel at sea or to crew members on an oil or gas platform located offshore in Alaska. This provision deviates from federal law and, for state tax form purposes, creates an additional state adjustment to federal adjusted gross income. (Sec. 24443)

Response to Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203)

Two Percent Floor on Miscellaneous Deductions. The new federal law provides that indirect deductions through a publicly traded regulated investment company (mutual fund) will not be subject to the new two percent floor until taxable years beginning on or after January 1, 1988.

This act conforms to the new federal law. (Sec. 17076(b))

Change of Taxable Years. The new federal law provides that a partnership, S corporation, or personal service corporation may elect to retain its taxable year rather than to change to a calendar year as required by the 1986 Tax Reform Act. Alternatively, the same entities can elect to change to a taxable year with a three month deferral period, or its previous tax year deferral period, whichever is shorter.

An entity making the election for federal purposes must make certain "required payments" due on April 15th of each calendar year following the calendar year in which the election begins.

This act partially conforms to the new federal law by allowing the retention of or change in taxable year, but does not adopt the "required payments" concept. This act also specifies that a taxpayer must use the same income or taxable year as is used under federal law. (Sec. 17024.5(d)(4), 17551(b), 17551.5(a), 23051.5(g)(4), 24633.5(a), and 24637)

Publicly Traded Partnerships. The new federal law provides that net income from publicly traded partnerships is treated as portfolio income under the passive loss rule. However, net losses attributable to publicly traded partnerships are suspended and carried forward to be applied against income only from the same partnership in future years. Any remaining loss is taken into account upon disposition of the partnership interest.

This act conforms to the new federal law, effective for income or taxable years beginning on or after January 1, 1987. (Sec. 17561(d) and 24692(e))

Limitations on Net Operation Losses.

The new federal law restricts loss corporations from offsetting their losses against built-in gains resulting from the disposition of property acquired in an ownership change.

This act conforms to the new federal law, which is effective for ownership changes occurring after December 15, 1987. (Sec. 24592)

The new federal law also provides that under certain circumstances where a worthless stock deduction is claimed, it will be deemed to be a change of ownership and the shareholder will be treated as having acquired the stock of the first day of the taxable year following the worthless stock deduction. Accordingly, the shareholder is denied the benefit of net operating loss carryovers from prior years.

This act conforms to the new federal law, which is effective for stock becoming worthless in taxable years beginning after December 31, 1987. (Sec. 24592)

Limitations on Tax Loss Mergers and Acquisitions

The new federal law restricts loss corporations from offsetting their losses against built-in gains resulting from the disposition of property of an acquired corporation within five years of acquisition.

This act conforms to the new federal law, effective for acquisitions after December 15, 1987. (Sec. 24594)

Technical Corrections

This act makes numerous technical corrections. The most significant items are discussed below.

Transition Rules. This act adopts or modifies federal transition rules relating to:

Lump-Sum Distributions (Sec. 17504(b))

Limitations on Cash Method of Accounting (Sec. 17562 and 24654)

Spreading of Income Resulting From Change in Tax Year (Sec. 17551.5 and 24633.5)

Installment Sales (Sec. 17560). For banks and corporations, applies only to income years beginning on or after January 1, 1988. (Sec. 24667)

General Utilities Rule (Sec. 24513)

Limitations on Losses and Credits From Passive Activities (Sec. 17561(c) and 24692(d))

Repeal of Bad Debt Reserves, applies only to income years beginning on or after January 1, 1988. (Sec. 24348)

Gain From Sale of Dairy Cattle (Sec. 18162)

Federal Thrift Savings Funds. This act conforms to federal law, IRC Sec. 7701(j), which treats these trusts as a pension fund which is exempt from tax. Thus, employees making contributions to these funds are allowed to exclude such amounts from their gross income. (Sec. 17510)

Minimum Tax. This act reenacts the increase in minimum tax for banks. The provision in SB 572 was repealed by a later chaptered act. (Sec. 23181)

Standard Deduction. This act limits the standard deduction of persons who can be claimed on the tax return of an another individual by conforming to the federal limitation of \$500 or the amount of earned income not exceeding the normal standard deduction, whichever is the greatest. (Sec. 17073.5(c)(2))

Capital Loss Carrybacks. This act reenacts the former state provision which denied carryback of capital losses. (Sec. 18155)

Regulated Investment Companies. This act clarifies treatment of regulated investment companies and their shareholders. It also corrects a drafting error in SB 572 that granted these companies an exemption from taxation. (Sec. 17088, 17145(b)(2), 23701m, and 24412)

Recovery of Basis. This act clarifies the rules with respect to recovery of basis for Individual Retirement Accounts (IRA), Simplified Employee Pensions (SEP), and Keogh Plans. (Sec. 17085(b)(2), 17504(a)(3), and 17506(d))

Filing Status. This act clarifies the rules relating to the filing status of military personnel. (Sec. 17043 and 18402(b))

Tax Credits. This act clarifies the rules relating to the tax credits of nonresidents and part-year residents. (Sec. 17055)

Capital Gains Tax Credit. This act modifies the definition of "farm property" for purposes of the capital gains tax credit and clarifies that the credit is allowed only against net capital gains from the sale or exchange of all capital assets. (Sec. 17061.5)

Bingo Games. This act reenacts a provision that allows exempt organizations to conduct bingo games without jeopardizing their tax exemption. (Sec. 23710)

At-Risk Rules. This act makes closely held corporations and S corporations subject to the at-risk rules. (Sec. 23802(f)(2) and 24691)

Passive Loss Limitations. This act makes closely held corporations and S corporations subject to the limitations on losses and credits from passive activities. (Sec. 23802 (f)(3) and 24692)

This act also makes other, less significant technical corrections which are listed in Exhibit A, beginning on Page 39.

This act will not result in any program changes for the department requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

EXHIBIT A
OTHER TECHNICAL CORRECTIONS

<u>Section Number</u>	<u>Subject Matter</u>
17024.5	References to "Adjusted Gross Income"
17039	Definition of "Net Tax"
17052.12	Research and Development Tax Credit
17054	Personal Exemption Credits
17063	Credit for Alternative Minimum Tax
17207	Disaster Losses
17220	Deduction of Taxes
17265	Expensing of Property in a Program Area
17270	Denial of Deduction for Amounts Claimed as Tax Credit
17277	Deduction of Moving Expenses
17552	Short Period Returns
18001.5	Credits for Taxes Paid to Other States by Shareholders of S Corporations
18036	Adjustments to Basis
18683.5	Penalty Relating to Lump-Sum Distributions
18684.2	Penalty Relating to Underpayment of Tax
18689	Interest on Penalties
18802	Information Returns
18817.3	Exemptions From Tax Levy
23051.5	General Rules for Application of Provisions of the Internal Revenue Code for State Purposes
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23186	Tax Rate of Banks and Financial Corporations
23401	Alternative Minimum Tax
23453	Credit for Alternative Minimum Tax
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EXHIBIT A
OTHER TECHNICAL CORRECTIONS

<u>Section Number</u>	<u>Subject Matter</u>
23609	Research and Development Tax Credit
23701	Tax Exempt Organizations
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23732	Tax on Unrelated Business Income of Exempt Organizations
23734	Tax Exempt Organizations
23808	S Corporations
24347.5	Disaster Losses
24440	Denial of Deduction for Amounts Claimed as Tax Credit
24667	Installment Sales
24670	Installment Sales
24673.2	Long-Term Contracts
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24902.1	Marked to Market Contracts
24902.2	Wetlands and Erodible Croplands
24904	Small Business Stock
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25561	Estimated Tax
25901c	Interest on Penalties
26132.05	Exemptions From Tax Levy
13009 UIC	Definition of Wages

LEGISLATIVE CHANGE NO. 88-2
SENATE BILL NO. 1705

Author: Boatwright
Subjects: Low Income Housing Credit and Regulated Investment Companies
Laws Affecting Franchise Tax Board: 17039, 17561, 23630, 24412, 24692,
25561, and 25562.
Date Filed with Secretary of State: March 15, 1988
Chapter Number: 88-31

SUMMARY

This act provides that the tax credit for low-income housing may reduce the regular tax below the tentative minimum tax and partially exempts the low-income housing credit from the limitation on credits related to passive activities.

This act corrects a technical error which would otherwise have imposed a tax upon the entire income of regulated investment companies.

DESCRIPTION

Low-Income Housing Credit

California has conformed to federal law which specifies that tax credits can be used to reduce the tax, but not below the tentative minimum tax. Credits that are denied in the current year by that limitation may be carried forward to offset the tax in future years.

California has also conformed to federal law with respect to limitations on tax credits related to passive activities. Credits from passive activities are denied to the extent that they exceed the tax attributable to passive activities. However, under federal law, a partial exemption is provided for the low-income housing credit up to a deduction equivalent of \$25,000. For individuals in the highest marginal federal tax bracket, the credit is limited to \$7,000 ($\$25,000 \times .28$). For corporations in the highest marginal federal tax bracket, the credit is limited to \$8,500 ($\$25,000 \times .34$).

Under prior California law, the credit for individuals in the highest tax bracket and for general corporations was limited to \$2,325 ($\$25,000 \times .093$).

This act amends the Personal Income Tax and the Bank and Corporation Tax Laws to provide that the credit for low-income housing is not subject to the general limitation on tax credits which specifies that tax credits may not reduce the regular tax below the tentative minimum tax. (Sec. 17039 and 23630)

This act amends the Personal Income Tax and the Bank and Corporation Tax Laws to partially exempt the low-income housing credit from the limitation on credits related to passive activities. This act modifies the federal exemption by increasing the deduction equivalent from \$25,000 to \$75,000. This increases the maximum state credit from \$2,325 to \$6,975 ($\$75,000 \times .093$) and corresponds closely to the dollar amount of the federal exemption of \$7,000 ($\$25,000 \times .28$). (Sec 17561 and 24692)

Regulated Investment Companies

Prior to 1987, most regulated investment companies were exempted from the Bank and Corporation Tax under Sec. 23701m, even though not exempted under federal law. SB 572 (Stats. 1987, Chapter 1139) attempted to conform more closely to federal law by amending Sec. 23701m to incorporate certain provisions of federal law by reference.

In response to concerns that the amendment of Sec. 23701m was unintentionally broadening the previous exemption, AB 2130 (Stats. 1988, Chapter 11) repealed Sec. 23701m and reenacted the provisions as Sec. 24412. The intent was to remove the exemption (federal conformity), and to tax only undistributed earnings (but not less than the minimum tax). However, because federal law denies a deduction for exempt-interest dividends, conformity to federal law had the effect of taxing virtually the entire income (except capital gains) of the regulated investment companies.

This act amends the Bank and Corporation Tax Law by modifying the federal definition of taxable income for regulated investment companies to allow regulated investment companies to take a deduction for exempt interest dividends distributed to shareholders to the extent that the interest was included in gross income.

Under federal law, a deduction is denied, because interest from state and local bonds is excluded from gross income. However, under the California Franchise Tax, such interest is included in gross income and, therefore, the deduction should not be denied.

A regulated investment company is required to distribute to shareholders at least 98 percent of its current income. Under the provisions of this act, a regulated investment company is taxable only on its undistributed income, but not less than the minimum tax. (Sec. 24412)

Other Provisions

This act also corrects a technical error relating to required payments of estimated tax by banks and financial corporations. (Sec. 25561 and 25562)

This act will not result in any program changes for the department requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

LEGISLATIVE CHANGE NO. 88-3
SENATE BILL NO. 1706

Author: Boatwright
Subject: Tax Incentives for Enterprise Zones and Program Areas
Laws Affecting Franchise Tax Board: 17252.5, 17265, 17276.1, 17276.2, 24416.1, 24416.2, and 25108.
Date Filed with Secretary of State: March 15, 1988
Chapter Number: 88-32

SUMMARY

This act, for income and taxable years beginning on or after January 1, 1987, reenacts various provisions which were repealed by the federal conformity bills, AB 53 (Klehs; Statutes 1987, Chapter 1138) and SB 572 (Garamendi; Statutes 1987, Chapter 1139), relating to Enterprise Zones and Program Areas.

These provisions are repealed as of January 1, 1989, unless extended by another statute.

DESCRIPTION

Expensing of Property in an Enterprise Zone

Prior to 1987, California law provided for the immediate expensing of certain property in an Enterprise Zone (Section 17252.5). The provision was repealed by AB 53 because it provided a smaller benefit than was allowed under Section 179 of the Internal Revenue Code, to which California law was conformed for taxable years beginning on or after January 1, 1987.

This act, for taxable years beginning on or after January 1, 1987, reenacts a deduction under the Personal Income Tax Law for the immediate expensing of certain property in an Enterprise Zone. (Sec. 17252.5)

Net Operating Losses

Prior to 1987, California law provided for the deduction of net operating losses incurred in an Enterprise Zone or Program Area (Sections 17276, 17276.5, 24416, and 24417). These provisions were repealed by AB 53 and SB 572 as part of the adoption of deductions for net operating losses of all taxpayers (limited to 50 percent of the total loss).

This act, for income and taxable years beginning on or after January 1, 1987, reenacts the deductions under the Personal Income Tax and the Bank and Corporation Tax Laws for net operating losses incurred in an Enterprise Zone or Program Area. Under this act, 100 percent of the qualified losses may be carried forward to future years, rather than only one-half of the loss (general rule). (Sec. 17276.1, 17276.2, 24416.1 and 24416.2)

Other Provisions

This act makes technical amendments to Section 17265, relating to the expensing of business assets in a Program Area.

This act also makes technical amendments to Section 25108, relating to net operating losses of corporations doing business in more than one state.

This act will not result in any program changes for the department requiring a report to the Legislature pursuant to Section 11017.5 of the Government Code.

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