

Charitable Conservation Easements Conformity

Amendment 1

SEC. 1. Section 17275.5 of the Revenue and Taxation Code is amended to read:

17275.5.

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

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

(c) The provisions of Section 170(f)(11)(E) of the Internal Revenue Code, relating to qualified appraisal and appraiser, shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

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

(e) Section 170(f)(18) of the Internal Revenue Code, relating to contributions to donor advised funds, shall not apply.

(f) For contributions made on or after January 1, 2024, the amendments made by Section 605(b) of Public Law 117-328 to add Section 170(f)(19) of the Internal Revenue Code, relating to certain qualified conservation contributions, shall apply.

Amendment 2

SEC. 2. Section 17275.6 of the Revenue and Taxation Code is added to read:

17275.6.

(a) For contributions made on or after January 1, 2024, the amendments made by Section 605(a)(1) of Public Law 117-328 to add Section 170(h)(7) to the Internal Revenue Code, relating to the limitation on deduction for qualified conservation contributions made by pass-through entities, shall apply, except as otherwise provided.

(b) The amendments made by Section 605(a)(1) of Public Law 117-328 to add Section 170(h)(7)(G) to the Internal Revenue Code, relating to regulations, shall not apply.

(c) Section 605(a)(3) of Public Law 117-328, relating to extension of statute of limitations for listed transactions, shall apply and is modified by substituting "Section 19755" in lieu of "sections 6501(c)(10) and 6235(c)(6) of such Code".

(d) Section 605(d)(2) of Public Law 117-328, relating to opportunity to correct, shall apply.

Amendment 3

SEC. 2 Section 19164 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(5) The provisions of Sections 6662(e)(1) and 6662(h)(2) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2010.

(b) The amendments made by Section 605(a)(2), relating to the application of accuracy-related penalties, of Public Law 117-328 to add Sections 6662(b)(10) and 6662(h)(2)(D), and to amend Section 6664(c)(2) of the Internal Revenue Code, shall apply to returns filed on or after January 1, 2024.

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

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

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

(2) Section 6664(c)(3) of the Internal Revenue Code shall apply to returns filed on or after January 1, 2010.

(3) Section 6664(c)(4) of the Internal Revenue Code shall apply to appraisals prepared with respect to returns or submissions filed on or after January 1, 2010.

~~(f)~~ (e) Except for purposes of subdivision (e) of Section 19774, Section 6662(b)(6) of the Internal Revenue Code shall not apply.

~~(f)~~ (g) Except for purposes of subdivision (e) of Section 19774, Section 6662(i) of the Internal Revenue Code, relating to increase in penalty in case of nondisclosed noneconomic substance transactions, shall not apply.

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

~~(h)~~ (i) The amendments made to this section by Chapter 14 of the Statutes of 2011 shall apply to notices mailed on or after January 1, 2012.

Amendment 4

Sec. 4 Section 19187 of the Revenue and Taxation Code is amended to read:

(a) The Franchise Tax Board shall include with each notice imposing a penalty under this part information that contains the name of the penalty, the section of this part under which the penalty is imposed, and a description of the computation of the penalty. Upon the request of

the taxpayer, the Franchise Tax Board shall also provide a computation of the penalty imposed.

(b) (1) No penalty under this part shall be imposed unless the initial determination of the imposition of the penalty is personally approved in writing by the immediate supervisor of the individual making that determination or a higher level official as designated by the executive officer, or his or her delegee.

(2) Paragraph (1) shall not apply to any of the following:

(A) Any addition to tax under Sections 19131, 19132, 19136, or 19142.

(B) *Any addition to tax imposed pursuant to subdivision (b) of Section 19164.*

(BC) Any other penalty automatically calculated through electronic means.

(CD) Any penalty resulting from a change or correction by the Commissioner of Internal Revenue or other officer of the United States or other competent authority required to be reported under subdivision (a) of Section 18622.

(c) For purposes of this section, "penalty" includes any addition to tax or any additional amount.

(d) This section shall apply to notices issued and penalties imposed after December 31, 2001.

(e) *The amendments to this section by the act adding this subdivision are applicable to any addition to tax imposed on or after January 1, 2024.*

Amendment 5

SEC. 3 Section 24357 of the Revenue and Taxation Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

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

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

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

(2) This subdivision shall apply to contributions made on or after January 1, 2010.

(l)(1)(A) The amendments made by Section 605(a)(1) of Public Law 117-328 to add Section 170(h)(7) to the Internal Revenue Code, relating to the limitation on deduction for qualified conservation contributions made by pass-through entities, shall apply, except as otherwise provided.

(B) The amendments made by Section 605(a)(1) of Public Law 117-328 to add Section 170(h)(7)(G) to the Internal Revenue Code, relating to regulations, shall not apply.

(C) Section 605(a)(3) of Public Law 117-328, relating to extension of statute of limitations for listed transactions, shall apply and is modified by substituting "Section 19755" in lieu of "sections 6501(c)(10) and 6235(c)(6) of such Code" and by inserting "or by the Franchise Tax Board under Section 18407." after "section 6011 of such Code".

(2) The amendments made by Section 605(b) of Public Law 117-328 to add Section 170(f)(19) to the Internal Revenue Code, relating to certain qualified conservation contributions, shall apply.

(3) This subdivision shall apply to contributions made on or after January 1, 2024.

(m) Section 605(d)(2) of Public Law 117-328, relating to opportunity to correct, shall apply.