

State of California

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Legislative Change No.

05-19

Bill Number: AB 911

Author: Chu

Chapter Number: 05-398

Laws Affecting Franchise Tax Board:

Government Code Section 13943.1

Revenue and Taxation Code Sections 19255, 19732, 19733,
19737, 19738, and 19777.5

Date Filed with the Secretary of the State: September 29, 2005

SUBJECT: Amnesty Clean-Up

Assembly Bill 911 (Chu), as enacted on September 29, 2005, made the following changes to California law:

Section 13943.1 of the Government Code is amended.

The act added a requirement for the Franchise Tax Board (FTB) to extinguish certain inactive, i.e., discharged, taxpayer liabilities if any one of the following applies:

- The liability is less than \$250.
- The taxpayer has been deceased for more than four years and there is no active probate.
- The FTB has determined that the taxpayer has a permanent financial hardship.
- The liability has been unpaid for more than 30 years.

Section 19255 of the Revenue and Taxation Code is added.

The act established a statute of limitations on collections that sets the period during which a liability may be collected to the period that expires 20 years from the last "due and payable" date, as defined, for each tax year. An additional liability resulting from the imposition of the amnesty penalty does not restart the 20-year period. After expiration of the 20-year period, the liability for the tax year is abated. This provision is operative on July 1, 2006, for liabilities that are due and payable before, on, or after that date.

Section 19732 of the Revenue and Taxation Code is amended.

The act removed the reference to section 19737, which was repealed by this act.

Section 19733 of the Revenue and Taxation Code is amended.

The act clarifies which required actions for amnesty participation must occur no later than March 31, 2005, and which actions must occur no later than May 31, 2005. This change applies as if included in the original amnesty legislation (SB 1100, Stats. 2004, Ch. 226).

Bureau Director

Jana Howard for Brian Putler

Date

10/14/05

Section 19737 of the Revenue and Taxation Code is repealed.

The act repealed the requirement that taxpayers that participated in amnesty must pay any tax due for the 2005 and 2006 taxable years to avoid having the benefits of amnesty revoked and the amnesty penalty imposed.

Section 19738 of the Revenue and Taxation Code is amended.

The act clarifies that only those amounts covered by a current installment agreement are exempt from the amnesty penalty, and any other amounts not covered by the installment agreement are subject to the amnesty penalty. This change applies as if included in the original amnesty legislation.

Section 19777.5 of the Revenue and Taxation Code is amended.

The act changed the computation of the amnesty penalty on amounts due after the amnesty period to permit underpayments for amnesty-eligible years to be offset by overpayments from other years. This change results in netting of interest among different years in situations where interest netting is currently permitted, such as in a multi-year audit resulting in both an overpayment for one or more years and underpayment for amnesty-eligible years. This change applies to amnesty penalties imposed on amounts that become due, including final deficiencies and self-assessed amounts, after March 31, 2005.

The act also permits taxpayers to file a claim for refund for amounts paid to satisfy the amnesty penalty on the grounds that the amount of the penalty was improperly computed by department staff.

This act is effective and operative September 29, 2005, unless noted otherwise in the descriptions above.

This act will not require any reports by the department to the Legislature.