

**State of California**

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**Legislative Change No.**

**05-26**

Bill Number: AB 115 Author: Klehs and Machado Chapter Number: 05-691

Laws Affecting Franchise Tax Board: 17024.5, 17052.6, 17053.62, 17072, 17077, 17085, 17131, 17131.4, 17131.5, 17131.6, 17131.8(R), 17132.5, 17136.5(R), 17137(R), 17139.6, 17140, 17140.3, 17144, 17144.5(R), 17152, 17160.5(R), 17201.4, 17201.5, 17201.6, 17202.5(R), 17204, 17204.7, 17205(R), 17215.1, 17215.4, 17220, 17250, 17250.5, 17255, 17255.5, 17256, 17279.4, 17501, 17551, 17681.6, 17731, 17733, 17734.6, 17760, 18035.6, 18036.6, 18181, 18571, 18572, 18628, 18633, 18648, 19008, 19041.5, 19116, 19136.12, 19164, 19164.5, 19166, 19173, 19177, 19179, 19182, 19184, 19559, 19772, 19773(R), 19774, 19777, 23051.5, 23662, 23701s, 23701w, 23703.5, 23705, 23711, 23712, 24306, 24349, 24355.3, 24355.4, 24356, 24356.4, 24356.5(R), 24369.4, 24406.6, 24407, 24601, 24654, 24661.5, 24661.6, 24694, 24831.6, 24872, 24949.1, and 24949.3.

Date Filed with the Secretary of the State: October 7, 2005

**SUBJECT:** Conformity Act of 2005

**Assembly Bill 115 (Klehs and Machado), as enacted on October 7, 2005, made the following changes to California law:**

Federal Acts referred to in this notice:

- Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 (PL 107-16)
- Victims of Terrorism Tax Relief Act of 2001 (PL 107-134)
- Job Creation and Worker Assistance Act (JCWAA) of 2002 (P.L. 107-147)
- Clergy Housing Allowance Clarification Act of 2002 (PL 107-181)
- Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) of 2003 (PL 108-27)
- Military Family Tax Relief Act (MFTRA) of 2003 (PL 108-121)
- Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (PL 108-173)
- Working Families Tax Relief Act (WFTRA) of 2004 (PL 108-311)
- American Jobs Creation Act (AJCA) of 2004 (PL 108-357)

**Section 17024.5 of the Revenue and Taxation Code is amended.**

This act changes the "specified date" from January 1, 2001, to January 1, 2005, for taxable years beginning on or after January 1, 2005. In addition, this section specifically provides that federal provisions that are subject to the EGTRRA termination date that are incorporated by reference apply

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| Bureau Director              | Date     |
| Jana Howard for Brian Putler | 11/23/05 |

to taxable years beginning before January 1, 2011. By changing the specified date, this act conforms to numerous federal changes, as shown in the following table for taxable years beginning on or after January 1, 2005.

See the FTB's Annual Report of Federal Changes at <http://www.ftb.ca.gov/law/04fedtax.pdf> for a detailed discussion of the federal changes.

| JCWAA Act Section | Description of Provision  | FTB Annual Report Page No. | Conforms by Date Change |
|-------------------|---|----------------------------|-------------------------|
| 404               | Expansion of the exclusion from income for qualified foster care payments | *See below                 | X                       |

\*The JCWAA made two modifications to the exclusion for qualified foster care payments. First, the JCWAA expanded the definition of qualified foster care payments to include payments by any placement agency that is licensed or certified by a state or local government, or an entity designated by a state or local government to make payments to providers of foster care. Second, the JCWAA expanded the definition of a qualified foster care individual by including foster care individuals placed by a qualified foster care placement agency (regardless of the individual's age at the time of placement). This act conforms to the changes made to the IRC by the JCWAA for tax years 2005 and later.

| WFTRA Act Section | Description of Provisions   | FTB Annual Report Page No. | Conforms by Date Change |
|-------------------|---|----------------------------|-------------------------|
| 201-208           | Uniform definition of child, etc.   | 9                          | X                       |
| 322               | Extension of expiring provisions-Availability of medical savings accounts | 47                         | X                       |

| AJCA Act Section | Description of Provisions   | FTB Annual Report Page No. | Conforms by Date Change |
|------------------|---|----------------------------|-------------------------|
| 231-240          | S corporation reform and simplification   | 85                         | X                       |
| 243              | Improvements related to real estate investment trusts   | 102                        | X                       |
| 247              | Modification of unrelated business income limitation on investment in certain small business investment companies | 116                        | X                       |
| 311              | Special rules for livestock sold on account of weather-related conditions   | 128                        | X                       |

| AJCA Act Section | Description of Provisions  | FTB Annual Report Page No. | Conforms by Date Change |
|------------------|--|----------------------------|-------------------------|
| 315              | Capital gain treatment under Section 631(b) to apply to outright sales by landowners   | 134                        | X                       |
| 318              | Certain expenses of rural letter carriers  | 137                        | X                       |
| 320              | Exclusion for payments to individuals under National Health Service Corps loan repayment program and certain State loan repayment programs | 142                        | X                       |
| 321              | Modification of safe harbor rules for timber REITs.  | 143                        | X                       |
| 322              | Expensing of certain reforestation expenditures  | 147                        | X                       |
| 331              | Net income from publicly traded partnerships treated as qualifying income of regulated investment companies                                | 149                        | X                       |
| 335              | Charitable contribution deduction for certain expenses incurred in support of native Alaskan subsistence whaling                           | 154                        | X                       |
| 702              | Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business taxable income                           | 234                        | X                       |
| 703              | Civil rights tax relief  | 242                        | X                       |
| 704              | Modification of class life for certain track facilities  | 245                        | X                       |
| 706              | Certain Alaska natural gas pipeline property treated as seven-year property  | 248                        | X                       |
| 708              | Method of accounting for naval shipbuilders  | 251                        | X                       |
| 709              | Modification of minimum cost requirement for transfer of excess pension assets   | 252                        | X                       |
| 811-820          | Provisions relating to reportable transactions and tax shelters  | 285                        | X                       |
| 831              | Treatment of stripped interests in bond and preferred stock funds, etc.  | 307                        | X                       |
| 833              | Disallowance of certain partnership loss transfers   | 312                        | X                       |
| 834              | No reduction in basis under Section 734 of stock held by partnership in corporate partner  | 319                        | X                       |

| AJCA Act Section | Description of Provisions   | FTB Annual Report Page No. | Conforms by Date Change |
|------------------|---|----------------------------|-------------------------|
| 835              | Repeal of special rules for FASITS  | 321                        | X                       |
| 836              | Limitation on transfer or importation of built-in losses  | 326                        | X                       |
| 838              | Denial of deduction for interest on underpayments attributable to nondisclosed reportable transactions  | 330                        | X                       |
| 839              | Clarification of rules for payment of estimated tax for certain deemed asset sales.   | 331                        | X                       |
| 840              | Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale                              | 333                        | X                       |
| 841              | Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons | 334                        | X                       |
| 845              | Expanded disallowance of deduction for interest on convertible debt   | 348                        | X                       |
| 847-849          | Reform of tax treatment of certain leasing arrangements   | 350                        | X                       |
| 882              | Treatment of charitable contributions of patents and similar property   | 363                        | X                       |
| 883              | Increased reporting for noncash charitable contributions  | 366                        | X                       |
| 884              | Donations of motor vehicles, boats, and airplanes   | 369                        | X                       |
| 885              | Treatment of nonqualified deferred compensation plans   | 373                        | X                       |
| 886              | Extension of amortization of intangibles to sports franchises   | 384                        | X                       |
| 888              | Modification of straddle rules  | 387                        | X                       |
| 896              | Recognition of cancellation of indebtedness income realized on satisfaction of debt with partnership interest                                   | 402                        | X                       |
| 897              | Denial of installment sale treatment for all readily tradable debt.   | 404                        | X                       |

| AJCA Act Section | Description of Provisions  | FTB Annual Report Page No. | Conforms by Date Change |
|------------------|--|----------------------------|-------------------------|
| 898              | Modification of treatment of transfers to creditors in divisive reorganizations  | 405                        | X                       |
| 899              | Clarification of definition of nonqualified preferred stock  | 406                        | X                       |
| 902              | Consistent amortization of periods for intangibles   | 412                        | X                       |
| 905              | Treatment of sale of stock acquired pursuant to exercise of stock options to comply with conflict-of-interest requirements | 418                        | X                       |
| 907              | Limitation of employer deduction for certain entertainment expenses  | 424                        | X                       |

**Section 17052.6 of the Revenue and Taxation Code is amended.**

1. Under the date change provided in this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

2. This act clarifies that the “earned income” requirement will be defined by reference to earned income taxable for California purposes rather than earned income from sources within this state. In addition, this act specifies that the active duty pay of members of the armed forces is considered earned income for purposes of qualifying for the CDC, regardless of whether the member is domiciled in this state or elsewhere. These changes will permit military families in California with members domiciled in California but stationed outside of California to qualify for the CDC if the other requirements are met. In addition, members of the armed forces on active duty in California but domiciled elsewhere will qualify for the CDC, if the other requirements are met.

**Section 17053.62 is added to the Revenue and Taxation Code.**

This act provides an environmental tax credit in the amount of five cents for each gallon of ultra-low sulfur diesel fuel produced. The taxpayer would have to be a “small refiner,” the refinery would have to be located in California, and the fuel would have to be produced in a taxable year beginning on or after July 1, 2005, and before January 1, 2018.

A “small refiner” means a refiner that meets the following conditions:

- Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day,

- Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day, and
- Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

The aggregate amount of the credit with respect to any facility would be limited to 25% of the qualified capital costs paid or incurred during the applicable period with respect to that facility for items certified by the California Air Resources Board (CARB). The applicable period would begin January 1, 2004, and end on May 31, 2007.

This act provides that the CARB must certify that the taxpayer's capital costs are for compliance with specified U.S. Environmental Protection Agency (EPA) or CARB requirements and that the items for which the capital costs were paid or incurred have been placed in service by the small refiner. However, this act provides an exception to state certification when certification has been received under federal law.

The increase in the basis of any property that might otherwise be increased by a qualified capital cost expenditure would be reduced by any credit allowed. In addition, any expenses that would otherwise be deducted would be reduced by any credit allowed.

This act allows any unused credit to be carried over a maximum of 11 years or until exhausted, whichever occurs first.

This act requires that a prorated portion of the credit would be recaptured if the facility is sold, transferred, or otherwise disposed of, either directly or indirectly, within five years of the taxable year the taxpayer first claimed the credit.

This act repeals the credit provisions on January 1, 2018.

**Section 17072 of the Revenue and Taxation Code is amended.**

1. Under the date change provided in this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

2. WFTRA Act Section 307 amended IRC Section 62(a)(2)(D) to extend the above-the-line deduction for certain expenses of schoolteachers. California conforms by reference to IRC Section 62 in Section 17072 with specified exceptions. There is no equivalent corporate section. This act does not conform. Under the date change provided in this act, nonconformity is accomplished by amending Section 17072 to make IRC Section 62(a)(2)(D) not apply.

**Section 17077 of the Revenue and Taxation Code is amended.**

EGTRRA Act Section 103 amended IRC Section 68 to add new subsections (f), relating to increasing the starting point for the phase-out of itemized deductions, and (g), relating to termination of the section. California conforms to IRC Section 68 in Section 17077 with exceptions relating to the amount of the phase-out, the definition of “applicable amount,” and indexing for inflation. There is no equivalent corporate section. This act does not conform. Under the date change provided in this act, nonconformity is accomplished by amending Section 17077 to make IRC Sections 68(f) and (g) not apply.

**Section 17085 of the Revenue and Taxation Code is amended.**

Under the date change provided in this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17131 of the Revenue and Taxation Code is amended.**

Under the date change provided in this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17131.4 is added to the Revenue and Taxation Code.**

Medicare Prescription Drug, Improvement, and Modernization Act Section 1201 amended IRC Section 106 to add subsection (d) to provide an exclusion from an employee’s income for employer contributions to Health Savings Accounts (HSAs). California conforms by reference to IRC Section 106 in Section 17131 with no corporate equivalent. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17131.4 to make IRC Section 106(d) not apply.

**Section 17131.5 is added to the Revenue and Taxation Code.**

Medicare Prescription Drug, Improvement, and Modernization Act Section 1201 amended IRC Section 125(d)(2) to add a new subparagraph (D) to permit HSAs to be offered under cafeteria plans. California conforms by reference to IRC Section 125 in Section 17131 with no corporate equivalent. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17131.5 to make IRC Section 125 (d)(2)(D) not apply.

**Section 17131.6 is added to the Revenue and Taxation Code.**

The Clergy Housing Allowance Clarification Act of 2002 in Act Section 2 amended IRC Section 107 to limit the parsonage allowance exclusion. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17131.6 to substitute in paragraph (2) of IRC Section 107 the old exclusion limitation.

**Section 17131.8 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17132.5, of the Revenue and Taxation Code is amended.**

Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17136.5 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17137 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17139.6 is added to the Revenue and Taxation Code.**

Medicare Prescription Drug, Improvement, and Modernization Act Section 1202 amended Part III of Subchapter B of Chapter 1 of Subtitle A of the IRC to add new Section 139A that allows an exclusion from gross income for special subsidy payments under Section 1860D-22 of the Social Security Act. California conforms by reference to Part III of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17131, but does not conform by reference in the CTL. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17139.6 to make the new IRC Section 139A not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 139A.

**Section 17140 of the Revenue and Taxation Code is amended.**

Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive. In addition, clarifying changes are made to Sections 17140 and 24306 regarding the use of IRC Sections 529(c) and (e) in lieu of subdivisions (b) and (c) for taxable years before and after January 1, 2002.

**Section 17140.3 of the Revenue and Taxation Code is amended.**

Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17144 of the Revenue and Taxation Code is amended.**

Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17144.5 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17152 of the Revenue and Taxation Code is amended.**

1. Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive and make clarifying changes.

2. EGTRRA Act Section 542(c) added a new paragraph to IRC Section 121(d) to allow the exclusion of gain on the sale of a principal residence for property acquired from a decedent in certain cases. California conforms by reference to IRC Section 121 in Section 17131, with modifications in Section 17152. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding new subdivision (f) to Section 17152 to make IRC Section 121(d)(10), relating to property acquired from a decedent, not apply.

**Section 17160.5 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17201.4 is added to the Revenue and Taxation Code.**

AJCA Act Section 338 amended Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC to add IRC Section 179B, allowing an expensing deduction for capital costs incurred in complying with EPA sulfur regulations, and AJCA Act Section 339 added a credit for production of low sulfur diesel fuel in IRC Section 45H. California conforms by reference to Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17201, but does not conform by reference in the CTL. This act does not conform to the new IRC Sections 45H and 179B, but instead it adopts the environmental tax credit for producing low sulfur diesel fuel and the expensing deduction from AB 810 (Parra) as introduced as a stand-alone credit and deduction. Under the date change provided by this act, nonconformity to new IRC Sections 45H and 179B is accomplished by adding Section 17201.5, by not adopting IRC Section 45H by reference in the PITL, and by not adopting IRC Sections 45H and 179B by reference in the CTL. Note that this act adopted the environmental tax credit for producing low sulfur diesel fuel and the expensing deduction in AB 810 (Parra) as introduced as a stand-alone credit in Sections 17053.62 and 23662 as well as a stand-alone deduction in Sections 17255.5 and 24356.4.

**Section 17201.5 is added to the Revenue and Taxation Code.**

AJCA Act Section 244 amended Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC to add IRC Section 181, allowing an expensing deduction for certain qualified film and television productions. California conforms by reference to Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17201, but does not conform by reference in the CTL. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by adding Section 17201.5 to make the new IRC Section 181 not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 181 by reference.

**Section 17201.6 is added to the Revenue and Taxation Code.**

AJCA Act Section 102 amended Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC to add IRC Section 199, allowing a deduction relating to income attributable to domestic production activities, and made conforming and technical amendments. California conforms by reference to Part VI of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17201, but does not conform by reference in the CTL. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17201.6 to make the new IRC Section 199 not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 199 by reference.

**Section 17202.5 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17204 of the Revenue and Taxation Code is amended.**

1. Under the date change provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

2. EGTRRA Act Section 412 amended IRC Section 221 to eliminate the 60-month limit and to increase the income limitation on student loan interest. California conforms to IRC Section 221 in Section 17201 and contains a modification to IRC Section 221 in Section 17204. This act delays conformity to the federal changes until 2006. Under the date change provided by this act, nonconformity for 2005 is accomplished by amending Section 17204 to modify IRC Section 221 to contain the limitation formerly contained in IRC 221(d) that was struck out by EGTRRA Act Section 221, modify IRC Section 221(b)(2)(B) to substitute the dollar figures before the change, and to modify IRC Section 221(f)(1) to substitute the dollar figures before the change. Under the date change provided by this act, full conformity to IRC Section 221 starting in 2006 is accomplished by adding subdivision (c) to Section 17204 to provide that these exceptions to IRC Section 221 in Section 17204 apply to taxable years beginning on or after January 1, 2005, and before January 1, 2006.

**Section 17204.7 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 431 amended Part VII of Subchapter B of Chapter 1 of Subtitle A of the IRC by adding a new IRC Section 222 that, in the case of an individual, allows a deduction for the qualified tuition and related expenses paid by the taxpayer during the taxable year up to an applicable dollar limit, as defined. California conforms by reference to Part VII of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17201, but does not conform by reference in the CTL. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17204.7 to make IRC Section 222 not apply.

**Section 17205 of the Revenue and Taxation Code is repealed.**

Under the date change provided by this act, this section is repealed as it is no longer necessary and would be considered restrictive.

**Section 17215.1 is added to the Revenue and Taxation Code.**

Medicare Prescription Drug, Improvement, and Modernization Act Section 1201 amended IRC Section 220(f)(5) to permit tax free rollovers from Archer medical savings accounts (MSA). California conforms by reference to IRC Section 220 in Section 17201, with modifications in Section 17215, with no corporate equivalent. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17215.1 to make IRC Section 220(f)(5) not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 220(f)(5) by reference.

**Section 17215.4 is added to the Revenue and Taxation Code.**

Medicare Prescription Drug, Improvement, and Modernization Act Section 1201 amended Part VII of Subchapter B of Chapter 1 of Subtitle A of the IRC to add new IRC Section 223, relating to deduction of contributions to HSAs and providing rules for the tax treatment of the HSA as well as the tax treatment of distributions from the HSA. California conforms by reference to Part VII of Subchapter B of Chapter 1 of Subtitle A of the IRC in Section 17201(b), but does not conform by reference in the CTL. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by adding Section 17215.4 to make IRC Section 223 not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 223 by reference.

**Section 17220 of the Revenue and Taxation Code is amended.**

AJCA Act 501 amended IRC Section 164(b) to add new subsection (5) to allow the deduction of state and local general sales taxes in-lieu of state and local income taxes. California conforms to IRC Section 164 in Section 17201, with modifications in Section 17220 to not allow the deduction of state or local income taxes. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by amending Section 17220 to make IRC Section 164(b)(5) not apply.

**Section 17250 of the Revenue and Taxation Code is amended.**

1. JCWAA Act Section 101 added subsection (k) to IRC Section 168 to allow 30% bonus depreciation for certain property. JGTRRA Act Section 201 added paragraph (4) to IRC Section 168(k) to allow 50% bonus depreciation for certain property and extend the application of the 30% bonus depreciation rules. California conforms to IRC Section 168 in Section 17201, with exceptions in Section 17250. California does not conform by reference to IRC Section 168 in the CTL, but instead has stand-alone law relating to depreciation. This act does not conform. Under the date change provided by this act, nonconformity is accomplished by amending Section 17250 to make IRC Section 168(k) not apply under the PITL and by not adopting a section in the CTL to conform to IRC Section 168(k) by reference.

2. AJCA Act Section 211 amended IRC Section 168 to provide the recovery period for depreciation of certain leasehold improvements and restaurant property by adding new subparagraphs (G) and (H) to IRC Section 168(b)(3), by adding new clauses (iv) and (v) to IRC Section 168(e)(3)(E), and by adding new paragraphs (6) and (7) to IRC Section 168(e). California conforms to IRC Section 168 in Section 17201, with exceptions in Section 17250. California does not conform by reference to IRC Section 168 in the CTL, but instead has stand-alone law relating to depreciation. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17250 to make IRC Sections 168(b)(3)(G) & (H), 168(e)(3)(E)(iv) & (v), and 168(e)(6) & (7) not apply under the PITL and by not adopting a section in the CTL to conform to IRC Sections 168(b)(3)(G) & (H), 168(e)(3)(E)(iv) & (v), and 168(e)(6) & (7), by reference.

**Section 17250.5 of the Revenue and Taxation Code is amended.**

AJCA Act Section 242, relating to the modification of the income forecast method of depreciation, amends IRC Section 167(g)(5) to add new subparagraph (E) and amends IRC Section 167(g) to add new paragraph (7). California conforms to IRC Section 167(g) in Sections 17201 and 24349(f), with exceptions in Section 17250.5 and 24349(f). This act does not conform. Under the date change as provided in this act, nonconformity is accomplished by amending Section 17250.5 and 24349(f) to make IRC Sections 167(g)(5)(E) and 167(g)(7) not apply.

**Section 17255, of the Revenue and Taxation Code is amended.**

AJCA Act Section 102 extended the increased expensing in IRC Section 179(b), (c), and (d) for an additional two years. Under the PITL, California conforms in Section 17201 to IRC Section 179 as it read on January 1, 2001, with modifications in Section 17255. Under the CTL, this act conforms to IRC 179 by reference in Section 24356, with modifications. This act does not conform to the extension of increased expensing. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17255 and 24356 to make the changes to IRC Sections 179(b), (c), and (d) not apply.

**Section 17255.5 is added to the Revenue and Taxation Code.**

This act allows small refiners, as defined for the environmental tax credit, to elect to deduct, in lieu of depreciation, 75% of the qualified capital costs paid or incurred during the period beginning on January 1, 2004, and ending on May 31, 2007, for items certified by CARB that are placed in service by the taxpayer during the taxable year. The basis of those items would be required to be reduced by the amount deducted during the taxable year. The deduction is repealed on January 1, 2009.

**Section 17256 of the Revenue and Taxation Code is amended.**

JCWAA Act Section 606 extended the deduction for clean fuel vehicles and certain refueling property in IRC Section 179A. California conformed to IRC Section 179A in Sections 17201 and 24356.5, with modifications in 17256 and 24356.5 to not conform to that deduction for property placed in service after December 31, 1994. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17256 to make IRC Section 179A not apply and by repealing conformity to IRC Section 179A in Section 24356.5.

**Section 17279.4 of the Revenue and Taxation Code is amended.**

WFTRA Act Section 308 amended IRC Section 198(h) to extend the expensing of environmental remediation expenses. California conforms by reference to IRC Section 198 in Sections 17201 and 24369.4, with modifications to make the federal election binding for state purposes in Sections 17279.4 and 24369.4. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Sections 17279.4 and 24369.4 to make IRC Section 198(h) not apply and to provide that the deduction under IRC Section 198 shall not apply to expenditures paid or incurred after December 31, 2003, and to make the binding election only apply to expenditures paid or incurred before January 1, 2004.

**Section 17501 of the Revenue and Taxation Code is amended.**

This act makes clarifying changes to the reference to Section 17024.5 and the reference to “federal purposes.”

**Section 17551 of the Revenue and Taxation Code is amended.**

1. This act makes clarifying changes to the reference to Section 17024.5 and the reference to “federal purposes.”
2. AJCA Act Section 909 amended IRC Section 451 to add new IRC Section 451(i), relating to sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy. California is conformed by reference to IRC Section 451 in Sections 17551 and 24661, with modifications. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17551 and adding Section 24661.6 to make IRC Section 451(i) not apply.

**Section 17681.6 is added to the Revenue and Taxation Code.**

WFTRA Act Section 314 extended the temporary suspension of the taxable income limit with respect to percentage depletion of certain oil or gas wells in IRC Section 613A. California conforms to IRC Section 613A in Sections 17681 and 24831. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by adding Sections 17681.6 and 24831.6 to make IRC Section 613A(c)(6)(H) not apply.

**Section 17731 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17733 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to make clarifying changes and strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 17734.6 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 671 added a new IRC Section 646 to Subtitle J of Chapter 1 of Subtitle A of the Internal Revenue Code, relating to the tax treatment of electing Alaska native settlement trusts. California conforms to Subtitle J of Chapter 1 of Subtitle A of the Internal Revenue Code by reference in Section 17731 under the PITL, but does not conform by reference in the CTL. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by adding Section 17734.6 to make IRC Section 646 not apply and by not adopting a provision in the CTL to conform to IRC Section 646.

**Section 17760 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 542(e), relating to carryover basis, amended IRC Section 684 to recognize gain on transfers after 12/31/09 to foreign trusts and estates and non-resident aliens. California does not conform to provisions relating to foreign trusts (Sections 17024.5(b)(6) and 23051.5(b)(6)) or to nonresident aliens (Section 17024.5(b)(11)). This act does not conform. Under the date change as provided by this act, nonconformity to this provision containing a delayed operative date is accomplished by adding Section 17760 to specifically make IRC 684, either before or after 12/31/09, not apply.

**Section 18035.6 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 541, relating to termination of step-up in basis at death, amended IRC Section 1014 to add a new subsection (f), relating to termination date. California is conformed to IRC Section 1014 by reference in Section 18031 with no exceptions. There is no corporate equivalent section. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by adding a new Section 18035.6 to make IRC Section 1014(f) not apply.

**Section 18036.6 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 542(a) added IRC Section 1022 to Subchapter O of Chapter 1 of Subtitle A of the Internal Revenue Code. California conforms by reference to Subchapter O of Chapter 1 of Subtitle A of the Internal Revenue Code in Section 18031. This act does not conform. Under the date change as provided by this act, the direction to not conform is accomplished by adding a new Section 18036.6 to make IRC Section 1022 not apply.

**Section 18181 is added to the Revenue and Taxation Code.**

EGTRRA Act Section 542(e)(5) & (6), relating to carryover basis, modified IRC Sections 1246, 1291, and 1296. California does not conform to the sections being modified by operation of Sections 17024.5(b)(5), 23051.5(b)(5), and 24995. However, Section 17024.5(b)(5) does not explicitly pertain to IRC Sections 1291 and 1296. This act does not conform. Under the date change as provided by this act, to make IRC Sections 1291 and 1296 specifically not apply under the PITL, Section 18181 is added to duplicate Section 24995.

**Section 18571 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive and clarifies the reference to IRC Section 7508.

**Section 18572 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 18628 of the Revenue and Taxation Code is amended.**

AJCA Act Section 815 amended IRC Section 6111, relating to tax shelter registration. The federal tax shelter registration provisions in IRC Section 6111 were repealed by Act Section 815 and replaced by the AJCA material advisor's list. California conforms to IRC Section 6111 by reference in Section 18628, with modifications enacted in SB 614 (Ch. 656, Stats 2003). Those modifications provide substantially the same material advisor list requirements as contained in the AJCA, but did not repeal the tax shelter registration requirements. This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to

January 1, 2005, by amending Section 18628 to conform to the federal subtle differences in material advisors while preserving California modifications enacted in SB 614, and by repealing the California-only registration requirements.

**Section 18633 of the Revenue and Taxation Code is amended.**

AJCA Act Section 833 amends IRC Sections 704, 731, 734, 741, and 743, relating to disallowance of certain partnership loss transfers. California conforms by reference to these IRC sections in Sections 17851 and 17858. AJCA Act Section 833 also added subsection (f) to IRC Section 6031. California has stand-alone partnership return requirements in Sections 18633 that parallel IRC Section 6031. Direction is to conform. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, and by amending Section 18633 to add new subdivision (e) to conform to IRC Section 6031(f) by reference.

**Section 18648 of the Revenue and Taxation Code is amended.**

AJCA Act Section 815 amended IRC Section 6112, relating to tax shelter list maintenance. The AJCA changed the requirement that shelter organizers or sellers were required to keep lists of investors to instead require material advisors to keep lists of advisees with respect to reportable transactions. California conforms to IRC Section 6112 by reference in Section 18648, with modifications enacted in SB 614 (Ch. 656, Stats 2003). Those modifications provide substantially the same material advisor list requirements. This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, by amending Section 18648 to conform to the federal subtle differences in material advisor lists while preserving California modifications enacted in SB 614 relating to when the lists must be provided.

**Section 19008 of the Revenue and Taxation Code is amended.**

This section of this act is not operative due to Section 77 of this act. Instead, the amendments made by SB 157 to Section 19008 apply.

**Section 19041.5 of the Revenue and Taxation Code is amended.**

AJCA Act Section 842 adds IRC Section 6603 to Subchapter A of Chapter 67 of the Internal Revenue Code, relating to deposits made to suspend the running of interest on potential underpayments. California does not conform by reference to Subchapter A of Chapter 67 of the Internal Revenue Code, but instead has stand-alone rules for payments in the nature of a “cash bond” to stop the running of interest in Section 19041.5. This act conforms. Under the date change as provided by this act, conformity is accomplished by amending Section 19041.5 to repeal the prior law “cash bond” provisions contained in that section to conform by reference to IRC 6603 and to provide specific modifications to IRC 6603.

**Section 19116 of the Revenue and Taxation Code is amended.**

AJCA Act Section 903 amends IRC Section 6404(g) to make inapplicable the suspension of interest provisions in the case of gross misstatements, reportable transactions, and listed transactions. California is not conformed by reference to IRC Section 6404, but instead has stand-alone provisions in Section 19116. This act conforms. Under this act, conformity is accomplished by amending Section 19116(d) to specifically add gross misstatements, reportable transactions, and listed transactions. In addition, Section 19116(h) is added to provide that the amendments made by this act to the section apply to notices sent after January 1, 2005.

**Section 19136.12 is added to the Revenue and Taxation Code.**

This section is added to waive any penalty for underpayment of estimated tax for the 2005 taxable year resulting from the changes made by this act.

**Section 19164 of the Revenue and Taxation Code is amended.**

AJCA Act Section 819 amended IRC Section 6662, relating to the accuracy related penalty (ARP). California conforms to IRC Section 6112 by reference in Section 19164, with modifications enacted in SB 614 (Ch. 656, Stats 2003). In addition, modifications were made to the ARP by SB 1100 that increased the ARP from 20% to 40% for amnesty eligible years. The AJCA changes to IRC Section 6662 are substantially the same as those enacted in California law in SB 614 (Ch. 656, Stats 2003). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to January 1, 2005, by amending Section 19164 to delete duplicative language due to the specified date change, and by deleting provisions in that section specifying that the enhanced tax shelter ARP could only be applied to taxpayers that had been contacted by FTB regarding the use of a potentially abusive tax shelter. In addition, technical amendments are made to clarify the state ARP interaction with the "reportable transaction understatement penalty" under new Section 19164.5.

**Section 19164.5 is added to the Revenue and Taxation Code.**

AJCA Act Section 812 adds new IRC Section 6662A, relating to a reportable transaction understatement penalty. California enacted a reportable transaction understatement penalty in SB 614 (Ch. 656, Stats 2003) as a stand-alone provision in Section 19773. The new AJCA provision in IRC 6662A is substantially the same as enacted in Section 19773. This act conforms. Under the date change as provided by this act, conformity is accomplished by repealing stand-alone Section 19773, by adding Section 19164.5 that adopts IRC Section 6662A by reference with California modifications, and by changing the "specified date" in Section 17024.5 to January 1, 2005. This act also conforms to minor differences between former Section 19773 and the federal penalty created under the ACJA and removes duplicative language.

**Section 19166 of the Revenue and Taxation Code is amended.**

California enacted an enhanced understatement penalty relating to tax preparers in SB 614 (Ch. 656, Stats 2003) by modifying IRC Section 6694 in Section 19166. This act retains California's enhanced penalty amounts that are greater than those contained in IRC Section 6694. This act also makes the enhanced preparer penalty apply when the taxpayer, whose return was understated by the preparer, was engaged in an undisclosed reportable transaction, any listed transaction, or a gross misstatement instead of when the taxpayer had been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777).

**Section 19173 of the Revenue and Taxation Code is amended.**

AJCA Act Sections 815 and 817 amended IRC Section 6708, relating to a penalty for failure to maintain specified lists. California enacted a penalty for the failure to maintain specified lists in SB 614 (Ch. 656, Stats 2003) as a stand-alone provision in Section 19173. The AJCA provision that modified IRC 6708 addresses a portion of the list maintenance penalty as enacted in Section 19173. This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to January 1, 2005, and by amending Section 19173 to adopt IRC Section 6708 by reference and, thus, conform to the federal subtle differences. However, modifications are made to IRC 6708 to maintain two major California differences. The major differences are: (1) For listed transactions, the FTB does not have to request the list; the material advisor must automatically provide the list to FTB within 20 days after the shelter becomes a listed transaction. (2) The penalty for failure to provide a list differs. For reportable transactions lists the penalty is \$10,000 per day beginning 20 days after the list is requested. For listed transactions, the penalty is the greater of \$100,000 or 50% of the gross income from the shelter. This act also made a technical correction clarifying that the reportable and listed transaction penalty can apply to one transaction.

**Section 19177 of the Revenue and Taxation Code is amended.**

AJCA Act Section 818 amended IRC Section 6700, relating to a penalty for promoting abusive tax shelters. California enacted a penalty for promoting abusive tax shelters in SB 614 (Ch. 656, Stats 2003) as a modification to IRC 6700 in Section 19177. The AJCA amendment to IRC 6700 is substantially the same as the modification to IRC 6700 enacted in Section 19777. This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to January 1, 2005, and by amending Section 19177 to remove duplicative language.

**Section 19179 of the Revenue and Taxation Code is amended.**

California enacted an enhanced frivolous return penalty in SB 614 (Ch. 656, Stats 2003) by modifying IRC Section 6702 in Section 19179. This act retains California's enhanced penalty amounts that are greater than those contained in IRC Section 6702. This act also makes the enhanced frivolous return penalty apply when the taxpayer has an undisclosed reportable transaction, any listed transaction, or

a gross misstatement instead of when the taxpayer had been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777).

**Section 19182 of the Revenue and Taxation Code is amended.**

AJCA Act Section 816 amended IRC Section 6707 to delete the then present-law penalty for failure to register tax shelters and replaced it with a penalty on any material advisor who fails to file an information return, or who files a false or incomplete information return, with respect to a reportable transaction (including a listed transaction). The amount of the penalty is \$50,000. If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) \$200,000, or (2) 50 percent of the gross income of such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. Intentional disregard by a material advisor of the requirement to disclose a listed transaction increases the penalty to 75 percent of the gross income. The penalty cannot be waived with respect to a listed transaction. As to reportable transactions, the penalty can be rescinded (or abated) only in exceptional circumstances. This act conforms. Under the date change as provided by this act, conformity is accomplished by amending the year in Section 19559(b) from "2003" to "2005," by modifying IRC 6707 to additionally provide that the penalty would apply to additional California only information if the FTB issued a notice requiring the information prior to the date the transaction was entered into by a taxpayer, and by providing that the provisions of 19183, relating to the rescission of the penalty under this section, apply to any penalty imposed by this section.

**Section 19184 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, the cross reference to Section 23712 in Section 19184(a)(4) is clarified.

**Section 19559 of the Revenue and Taxation Code is amended.**

1. Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

2. WFTRA Act Section 320 extends the period in which disclosures under IRC Section 6103(i) may be made. California conforms by reference to IRC Section 6103(i) disclosure provisions, but contains a stand-alone sunset date in Section 19559(b). This act conforms. Under the date change as provided by this act, conformity is accomplished by amending the year in Section 19559(b) from "2003" to "2005."

**Section 19772 of the Revenue and Taxation Code is amended.**

AJCA Act Section 811 adds new IRC Section 6707A, relating to a penalty for failure to include reportable transaction information with the return. California enacted a penalty for failure to disclose a reportable transaction on the return penalty in SB 614 (Stats. 2003, Ch. 656) as a stand-alone provision in Section 19772. The new AJCA provision in IRC 6707A is similar to that enacted in

Section 19772. This act conforms with exceptions. Under the date change as provided by this act, conformity is accomplished by amending Section 19772 to adopt IRC Section 6707A by reference

with California modifications, by changing the “specified date” in Section 17024.5 to January 1, 2005, and by deleting duplicative language due to the specified date change. This act modifies IRC Section 6707A to retain the lower California penalty rate enacted in SB 614 (Ch. 656, Stats 2003), replaced the large entity (gross receipts over \$10 million) or high net worth individual (net worth greater than \$2 million) test in IRC Section 6707A with a simple taxable income test of greater than \$200,000, and by retaining the rules for rescission of the penalty by the Chief Counsel of the Franchise Tax Board. Thus, the California penalty applies to all taxpayers with taxable income greater than \$200,000.

**Section 19773 of the Revenue and Taxation Code is repealed.**

This act repealed this provision and re-enacted it as Section 19164.5, with modifications.

**Section 19774 of the Revenue and Taxation Code is amended.**

This act made technical cross-reference changes to the provision.

**Section 19777 of the Revenue and Taxation Code is amended.**

This act amended the interest based penalty on tax shelter transactions that was enacted in SB 614 (Ch. 656, Stats 2003) to apply when the taxpayer has a undisclosed reportable transaction, any listed transaction, or a gross misstatement instead of when the taxpayer had been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777). Thus, the penalty would apply to taxpayers who have been contacted by the FTB regarding certain reportable transactions and gross misstatements.

**Section 23051.5 of the Revenue and Taxation Code is amended.**

This act changes the “specified date” from January 1, 2001, to January 1, 2005, for taxable years beginning on or after January 1, 2005. In addition, this section specifically provides that federal provisions that are subject to the EGTRRA termination date that are incorporated by reference apply to taxable years beginning before January 1, 2011. By changing the specified date, this act conforms to numerous federal changes as shown in the table under Section 17024.5 for taxable years beginning on or after January 1, 2005.

**Section 23662 is added to the Revenue and Taxation Code.**

This act provides an environmental tax credit in the amount of five cents for each gallon of ultra-low sulfur diesel fuel produced. The taxpayer would have to be a “small refiner,” the refinery would have to be located in California, and the fuel would have to be produced in a taxable year beginning on or after July 1, 2005, and before January 1, 2018.

A “small refiner” means a refiner that meets the following conditions:

- Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day,
  
- Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day, and
- Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

The aggregate amount of the credit with respect to any facility would be limited to 25% of the qualified capital costs paid or incurred during the applicable period with respect to that facility for items certified by the California Air Resources Board (CARB). The applicable period would begin January 1, 2004, and end on May 31, 2007.

This act provides that the CARB must certify that the taxpayer's capital costs are for compliance with specified U.S. Environmental Protection Agency (EPA) or CARB requirements and that the items for which the capital costs were paid or incurred have been placed in service by the small refiner. However, this act provides an exception to state certification when certification has been received under federal law.

The increase in the basis of any property that might otherwise be increased by a qualified capital cost expenditure would be reduced by any credit allowed. In addition, any expenses that would otherwise be deducted would be reduced by any credit allowed.

This act allows any unused credit to be carried over a maximum of 11 years or until exhausted, whichever occurs first.

This act requires that a prorated portion of the credit would be recaptured if the facility is sold, transferred, or otherwise disposed of, either directly or indirectly, within five years of the taxable year the taxpayer first claimed the credit.

This act repeals the credit provisions on January 1, 2018.

**Section 23701s of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 23701w of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 23703.5 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 23705 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 23711 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 23712 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to make the change on a piecemeal basis by legislation enacted before 2005 apply to taxable years beginning before January 1, 2005.

**Section 24306 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive. In addition, clarifying changes are made to Sections 17140 and 24306 regarding the use of IRC Sections 529(c) and (e) in lieu of subdivisions (b) and (c) for taxable years before and after January 1, 2002.

**Section 24349 of the Revenue and Taxation Code is amended.**

AJCA Act Section 242, relating to the modification of the income forecast method of depreciation, amends IRC Section 167(g)(5) to add new subparagraph (E) and amends IRC Section 167(g) to add new paragraph (7). California conforms to IRC Section 167(g) in Sections 17201 and 24349(f), with exceptions in Section 17250.5 and 24349(f). This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17250.5 and 24349(f) to

**Section 24355.3 is added to the Revenue and Taxation Code.**

AJCA Act Section 704 amended IRC Section 168 to add IRC Section 168(e)(3)(C)(ii) and IRC Section 168(i)(15), relating to motorsport entertainment complexes. California conforms to IRC Section 168 in the PITL in Section 17201, with exceptions in Section 17250. The CTL is not conformed by reference

but has stand-alone law in Section 24349, relating to depreciation, with certain references to IRC Section 168 such as that contained in Section 24355.4, relating to the class life of rent-to-own property as defined in IRC Section 168(i)(14). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, and by adding Section 24355.3 to specify a seven-year useful life for this type of property under the CTL.

**Section 24355.4 is added to the Revenue and Taxation Code.**

AJCA Act Section 704 amended IRC Section 168 to add IRC Section 168(e)(3)(C)(iii) and IRC Section 168(i)(16), relating to natural gas pipelines located in Alaska. California conforms to IRC Section 168 in the PITL in Section 17201, with exceptions in Section 17250. The CTL is not conformed by reference but has stand-alone law in Section 24349, relating to depreciation, with certain references to IRC Section 168 such as that contained in Section 24355.4, relating to the class life of rent-to-own property as defined in IRC Section 168(i)(14). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, and by adding Section 24355.4 to specify a seven-year useful life for this type of property under the CTL.

**Section 24356 of the Revenue and Taxation Code is amended.**

1. Currently the PITL is conformed to the IRC Section 179 expensing deduction in Section 17201, with modifications in 17255. Currently the CTL is not conformed to the IRC 179 expensing deduction. This act conforms the CTL starting in 2005 to IRC Section 179, with the same modifications as under PITL. Under the date change as provided by this act, conformity is accomplished in the CTL by amending Section 24356 to allow the election for IRC Section 179 expensing, with the same modifications as under the PITL.

2. AJCA Act Section 102 extended the increased expensing in IRC Section 179(b), (c), and (d) for an additional two years. Under the PITL, California conforms in Section 17201 to IRC Section 179 as it read on January 1, 2001, with modification in Section 17255. Under the CTL, this act conforms to IRC 179 by reference in Section 24356, with modifications. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17255 and 24356 to make the changes to IRC Sections 179(b), (c), and (d) not apply.

**Section 24356.4 is added to the Revenue and Taxation Code.**

This act allows small refiners, as defined for the environmental tax credit, to elect to deduct, in lieu of depreciation, 75% of the qualified capital costs paid or incurred during the period beginning on

January 1, 2004, and ending on May 31, 2007, for items certified by CARB that are placed in service by the taxpayer during the taxable year. The basis of those items would be required to be reduced by the amount deducted during the taxable year. The deduction is repealed on January 1, 2009.

**Section 24356.5 of the Revenue and Taxation Code is repealed.**

JCWAA Act Section 606 extended the deduction for clean fuel vehicles and certain refueling property in IRC Section 179A. California conformed to IRC Section 179A in Sections 17201 and 24356.5, with modifications in 17256 and 24356.5 to not conform to that deduction for property placed in service after December 31, 1994. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17256 to make IRC Section 179A not apply and by repealing conformity to IRC Section 179A in Section 24356.5.

**Section 24369.4 of the Revenue and Taxation Code is amended.**

WFTRA Act Section 308 amended IRC Section 198(h) to extend the expensing of environmental remediation expenses. California conforms by reference to IRC Section 198 in Sections 17201 and 24369.4, with modifications to make the federal election binding for state purposes in Sections 17279.4 and 24369.4. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Sections 17279.4 and 24369.4 to make IRC Section 198(h) not apply and to provide that the deduction under IRC Section 198 shall not apply to expenditures paid or incurred after December 31, 2003, and to make the binding election only apply to expenditures paid or incurred before January 1, 2004.

**Section 24406.6 is added to the Revenue and Taxation Code.**

AJCA Act Section 312 amended IRC Section 1388(a), relating to payment of dividends on stock of cooperatives without reducing patronage dividends. California does not conform by reference to IRC Section 1388, but has its own stand-alone provisions in Sections 24273.5 and 24404 – 24406.5, relating to the special deductions allowed under the CTL for corporations formed and operating on a cooperative basis. This act conforms. Under this act, conformity is accomplished by adding Section 24406.6.

**Section 24407 of the Revenue and Taxation Code is amended.**

AJCA Act Section 902 amends IRC Sections 195, 248(a), and 709, relating to consistent amortization periods for intangibles. California is conformed by reference to IRC Sections 195 and 709 in Sections 17201, 17851, and 24414. California does not conform to IRC Section 248 by reference, but instead has rules for amortizing corporate organizational expenditures over 60 months that parallel IRC Section 248 in Sections 24407, 24408, and 24409. This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, and by amending Sections 24407 to provide stand-alone law that parallels the changes made to IRC Section 248(a).

**Section 24601 of the Revenue and Taxation Code is amended.**

This act makes clarifying changes to the reference to Section 23051.5 and the reference to “federal purposes.”

**Section 24654 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 24661.5 of the Revenue and Taxation Code is amended.**

AJCA Act Section 311 amended IRC Sections 451(e), 1033(e) and 1033(f), relating to special rules for livestock sold on account of weather-related conditions. Under the PITL and the CTL, California conforms to IRC Section 451(e) by reference in Sections 17551(a) and 24661, with modifications in Section 24661.5. Under the PITL, California conforms to IRC Sections 1033(e) and 1033(f) by reference in Section 18031. However, California does not conform by reference to IRC Sections 1033(e) and 1033(f) in the CTL, but instead has stand-alone provisions in Sections 24949.1 and 24949.3 that parallel IRC Sections 1033(e) and 1033(f). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the “specified date” in Section 17024.5 to January 1, 2005, and by amending Sections 24661.5, 24949.1, and 24949.3.

**Section 24661.6 is added to the Revenue and Taxation Code.**

AJCA Act Section 909 amended IRC Section 451 to add new IRC Section 451(i), relating to sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy. California is conformed by reference to IRC Section 451 in Sections 17551 and 24661, with modifications. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by amending Section 17551 and adding Section 24661.6 to make IRC Section 451(i) not apply.

**Section 24694 is added to the Revenue and Taxation Code.**

AJCA Act Section 849 amended Subchapter E of Chapter 1 of Subtitle A of the IRC, relating to accounting periods and methods of accounting, by adding new IRC Section 470, relating to limitation on deductions allocable to property used by governments or other tax-exempt entities. California conforms to Subchapter E of Chapter 1 of Subtitle A of the IRC under the PITL in Section 17551, except as otherwise provided. The CTL does not conform by reference to Subchapter E of Chapter 1 of Subtitle A of the IRC, but instead adopts certain specific IRC sections by reference, with exceptions. This act conforms. Under the date change as provided by this act, conformity is accomplished under the PITL by changing the “specified date” in Section 17024.5 to January 1, 2005, and under the CTL by adding Section 24694 to conform by reference to IRC Section 470.

**Section 24831.6 is added to the Revenue and Taxation Code.**

WFTRA Act Section 314 extended the temporary suspension of the taxable income limit with respect to percentage depletion of certain oil or gas wells in IRC Section 613A. California conforms to IRC Section 613A in Sections 17681 and 24831. This act does not conform. Under the date change as provided by this act, nonconformity is accomplished by adding Sections 17681.6 and 24831.6 to make IRC Section 613A(c)(6)(H) not apply.

**Section 24872 of the Revenue and Taxation Code is amended.**

Under the date change as provided by this act, this section is amended to strike out changes made to this section on a piecemeal basis by legislation enacted before 2005 as they are no longer necessary and would be considered restrictive.

**Section 24949.1 of the Revenue and Taxation Code is amended.**

AJCA Act Section 311 amended IRC Sections 451(e), 1033(e) and 1033(f), relating to special rules for livestock sold on account of weather-related conditions. Under the PITL and the CTL, California conforms to IRC Section 451(e) by reference in Sections 17551(a) and 24661, with modifications in Section 24661.5. Under the PITL, California conforms to IRC Sections 1033(e) and 1033(f) by reference in Section 18031. However, California does not conform by reference to IRC Sections 1033(e) and 1033(f) in the CTL, but instead has stand-alone provisions in Sections 24949.1 and 24949.3 that parallel IRC Sections 1033(e) and 1033(f). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to January 1, 2005, and by amending Sections 24661.5, 24949.1, and 24949.3.

**Section 24949.3 of the Revenue and Taxation Code is amended.**

AJCA Act Section 311 amended IRC Sections 451(e), 1033(e) and 1033(f), relating to special rules for livestock sold on account of weather-related conditions. Under the PITL and the CTL, California conforms to IRC Section 451(e) by reference in Sections 17551(a) and 24661, with modifications in Section 24661.5. Under the PITL, California conforms to IRC Sections 1033(e) and 1033(f) by reference in Section 18031. However, California does not conform by reference to IRC Sections 1033(e) and 1033(f) in the CTL, but instead has stand-alone provisions in Sections 24949.1 and 24949.3 that parallel IRC Sections 1033(e) and 1033(f). This act conforms. Under the date change as provided by this act, conformity is accomplished by changing the "specified date" in Section 17024.5 to January 1, 2005, and by amending Sections 24661.5, 24949.1, and 24949.3.

**Effective Date**

As a tax levy this act is effective October 7, 2005, and unless otherwise specified, it applies to taxable years beginning on or after January 1, 2005. The provisions of this act that conform to federal provisions that are subject to the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) termination date apply to taxable years beginning before January 1, 2011. The act specifically makes the low sulfur diesel fuel credit and expensing provisions apply to taxable years beginning on or after July 1, 2005. Also, the act makes full conformity to the student loan interest rules apply to taxable years beginning on or after January 1, 2006.

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