

State of California

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Legislative Change No.

05-17

Bill Number: AB 1767

Author: Assembly Revenue &
Taxation Committee

Chapter Number: 05-349

Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 17049, 18670, 19136.7, 19550, and 21018.

Date Filed with the Secretary of the State: September 22, 2005

SUBJECT: Claim of Right Deduction/Liquidation Of Securities/Estimate Tax Underpayment Penalty Exception/FTB Provide Taxpayer Address Information To DOJ For Locating Unregistered Sex Offenders/Reimbursement Due To Erroneous Actions

Assembly Bill 1767 (Assembly Revenue & Taxation Committee), enacted September 22, 2005, made the following changes to California law:

Section 17049 of the Revenue and Taxation Code is amended.

This act clarifies current state law by conforming more closely to federal law with regard to the claim of right deduction.

Section 18670 of the Revenue and Taxation Code is amended.

This act requires financial institutions, upon request from the Franchise Tax Board (FTB), to liquidate a taxpayer's securities to satisfy the taxpayer's tax liability.

This act provides that if the value of the assets to be liquidated exceeds the tax liability, the taxpayer may choose which assets are to be sold to satisfy the liability. The taxpayer would be allowed a 60-day period from the issuance of the order to withhold to provide instructions for liquidation. If that period expires without the taxpayer providing instructions, assets will be liquidated at the fair market rate beginning with the assets purchased most recently.

Section 19136.7 is added to the Revenue and Taxation Code.

This act provides an exception to the estimated tax underpayment penalty for penalties incurred as a result of an erroneous levy, erroneous processing action, or erroneous collection action taken by FTB.

Bureau Director

Jana Howard for Brian Putler

Date

11/28/05

Section 19550 of the Revenue and Taxation Code is amended.

This act incorporates a requirement found in a provision of the Penal Code enacted in 2004 into the Revenue and Taxation Code (R&TC) as a matter of code maintenance. The provision in the Penal Code operates as an exception to the general income tax disclosure laws that taxpayer information is confidential. This act would assure that all exceptions to the general income tax disclosure laws are contained within the R&TC.

Section 21018 of the Revenue and Taxation Code is amended.

This act allows persons to file a claim with FTB for reimbursement of charges imposed by third-party businesses as a result of an erroneous levy, erroneous processing action, or erroneous collection action by FTB.

This act is effective and operative January 1, 2006, with the exception of the disclosure provision that has a specified operative date for requests made on or after January 1, 2005.

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