

State of California

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Legislative Change No. 07-22
Bill Number: SB 105 Author: Migden Chapter Number: 07-426

Laws Affecting Franchise Tax Board: Sections 17021.7, 17024.5, and 19136.13 of the Revenue and Taxation Code

Date Filed with the Secretary of State: October 10, 2007

SUBJECT: Registered Domestic Partnerships (RDP)/Tax Treatment Same As Married Couple Except Where Treatment Would Result In Specified Treatment Under Federal Law

Senate Bill 105 (Migden), as enacted on October 10, 2007, made the following changes to laws impacting the Franchise Tax Board:

Section 17021.7 of the Revenue and Taxation Code is amended.

This act clarifies that an RDP or former RDP is treated as a spouse or former spouse, respectively, for personal income tax and corporation tax purposes. In addition, this act provides the following exceptions to RDPs being treated as spouses for California purposes:

- 1) Where treatment would result in a different classification of a business entity for California purposes from federal purposes,
- 2) Where treatment would result in the disqualification of a federally qualified deferred compensation plan under the rules established by the Internal Revenue Code, and
- 3) Where treatment would result in the creation of a California only tax-favored account that would not be qualified for federal income tax purposes.

Section 17024.5 of the Revenue and Taxation Code is amended.

This act revises current law's rule with respect to how RDPs calculate their joint federal adjusted gross income (AGI). The new rule would calculate federal AGI as the amount that would have been computed on a federal tax return if the RDPs would have been allowed to file a joint or separate federal tax return and used the same filing status on the federal return that was used on the California tax return.

Section 19136.13 of the Revenue and Taxation Code is added.

This act prohibits RDPs from being assessed a penalty for underpayment of estimated tax for the 2007 taxable year to the extent the underpayment was created by the provisions of this act and/or the new California tax filing requirement for RDPs (Stats. 2006, Ch. 802).

This act is effective immediately and operative for taxable years beginning on or after January 1, 2007.

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

Assistant Bureau Director

Patrice Gau-Johnson

Date

10/31/07