

Appendix B.7.8:

**Illustration of Tax Shelter Penalties before and after California's 2003 Legislation<sup>1</sup>**

| <b>Penalty or Action</b>                                 | <b>Before</b>  | <b>After</b>   |
|--|--|--|
| Failure to Disclose a Reportable Transaction Penalty     | N/A  | <ul style="list-style-type: none"> <li>▪ \$15,000</li> <li>▪ \$30,000 if a listed transaction</li> </ul>   |
| Accuracy Related Penalty                                 | 20%-40% of understatement  | 20%-40% of understatement <ul style="list-style-type: none"> <li>▪ Lower threshold for corporations with substantial understatements</li> </ul>                          |
| Noneconomic Substance Transaction Understatement Penalty | N/A  | <ul style="list-style-type: none"> <li>▪ 20% if disclosed</li> <li>▪ 40% if not disclosed</li> </ul>   |
| Reportable Transaction Understatement Penalty            | N/A  | <ul style="list-style-type: none"> <li>▪ 20% if transaction disclosed</li> <li>▪ 40% if not disclosed</li> </ul>   |
| Failure to Register Penalty                              | \$1,000 per investor   | <ul style="list-style-type: none"> <li>▪ \$15,000 per organizer, plus &gt; of \$100,000 or 50% of gross income</li> <li>▪ 50% or 75% if intentional disregard</li> </ul> |
| Failure to Maintain Investor List Penalty                | N/A  | \$10,000 a day   |
| Preparer Penalty   | <ul style="list-style-type: none"> <li>▪ \$250</li> <li>▪ \$1,000 willful or reckless conduct</li> </ul> | <ul style="list-style-type: none"> <li>▪ \$1,000</li> <li>▪ \$5,000 willful or reckless conduct</li> </ul>   |
| Promoter Penalty   | Lesser of \$1,000 or 100% of gross income  | 50% of gross income  |
| Frivolous Tax Returns                                    | \$500  | \$5,000  |
| Frivolous Submissions                                    | N/A  | \$5,000  |
| Interest Based Penalty                                   | N/A  | 100% of interest   |
| Increased Interest Rate for qualified amended returns    | N/A  | 150% of interest   |
| Statute of Limitations                                   | 4 Years  | 8 Years  |
| Subpoenas  | FTB Three-member Board Approval  | FTB Executive Officer Approval   |

<sup>1</sup> The 2003 Legislation referred to is Senate Bill 614 and Assembly Bill 1016.