

## 2005 SUMMARIES OF CHAPTERED LEGISLATION ADMINISTERED BY THE FRANCHISE TAX BOARD

The Franchise Tax Board's complete legislative analyses for each of the following bills can be found on the "Law and Legislation" page at <http://www.ftb.ca.gov>.

<b>FRANCHISE TAX BOARD SPONSORED LEGISLATION</b>	
<p>AB 780 Chu Ch. 188</p> <p><i>Government Code Section 11125.1</i></p>	<p>This act removes the distribution requirement for documents prepared and submitted by the public during meetings of the Franchise Tax Board (FTB). Removing this requirement allows the three-member FTB to make decisions on agenda items presented at the meetings by the general public without delaying a final action of an item on the agenda due to the distribution requirement.</p> <p>This act makes FTB procedures identical to the Board of Equalization procedures for conducting public meetings.</p>
<p>AB 911 Chu Ch. 398</p> <p><i>Government Code Section 13943.1</i></p> <p><i>Revenue &amp; Taxation Code (RTC) Sections 19255, 19732, 19733, 19737, 19738, &amp; 19777.5</i></p>	<p>This act addresses unintended consequences of the income tax amnesty administered by the department as follows:</p> <ol style="list-style-type: none"> <li>1. Allows underpayments for amnesty-eligible years to be offset by overpayments from other years for purposes of computing the amnesty penalty.</li> <li>2. Establishes a 20-year statute of limitations to collect income or franchise tax balances due from taxpayers, and thereafter extinguish the liability to pay such balances by abating the tax.</li> <li>3. Allows the FTB to extinguish certain inactive taxpayer debts.</li> <li>4. Repeals the provision of law that requires taxpayers that participate in amnesty to pay any tax due for the 2005 and 2006 taxable years to avoid having the benefits of amnesty revoked and the amnesty penalty imposed.</li> <li>5. Makes technical clarifications of certain amnesty provisions.</li> </ol>
<p>AB 1767 AR&amp;T Committee Ch. 349</p> <p><i>RTC Sections 17049, 18670, 19136.7, 19950, &amp; 21018</i></p>	<p>This act:</p> <ol style="list-style-type: none"> <li>1. Clarifies current state law by conforming more closely to federal law with regard to the claim of right deduction.</li> <li>2. Requires financial institutions, upon request, to liquidate a taxpayer's securities to satisfy the taxpayer's tax liability.</li> <li>3. Provides an exception to the underpayment of estimated tax penalty due to an erroneous action by the FTB.</li> <li>4. Incorporates into the Revenue &amp; Taxation Code (RTC) a provision of the Penal Code that provides an exception to FTB's general disclosure law.</li> <li>5. Allows reimbursement to persons for third-party charges and fees caused by an erroneous action by FTB.</li> </ol>

<p>SB 14 Campbell Ch. 242</p> <p><i>RTC Sections 19136, 19136.3, 19136.4, 19136.6, 19136.8, 19136.11, &amp; 19142</i></p>	<p>This act provides an exception to the estimated tax underpayment penalty that results when a law change retroactively increases a taxpayer's estimated tax payment. This exception applies to penalties imposed on and after January 1, 2005.</p>
<p>SB 157 Ackerman Ch. 211</p> <p><i>RTC Section 19008</i></p>	<p>This act allows a business entity to enter into an installment agreement with FTB to satisfy a tax liability. This act conforms to federal law by allowing all taxpayers to enter into installment agreements for less than the full amount of the tax due.</p>
<p>SB 555 Machado Ch. 264</p> <p><i>RTC Sections 18633.5 &amp; 24348.5</i></p>	<p>This act:</p> <ol style="list-style-type: none"> <li>1. Coordinates the tax payment withholding requirements applicable to nonresident members of certain limited liability companies (LLCs) to eliminate duplicate payments of tax on the same taxable income.</li> <li>2. Repeals RTC Section 24348.5, an obsolete provision relating to savings and loans.</li> </ol>
<b>FEDERAL CONFORMITY</b>	
<p>AB 115 Klehs Ch. 691</p> <p><i>RTC Sections 17024.5, 17052.6, 17053.62, 17072, 17077, 17085, 17131, 17131.4, 17131.5, 17131.6, 17131.8, 17132.5, 17136.5, 17137, 17139.6, 17140, 17140.3, 17144, 17144.5, 17152, 17160.5, 17201.4, 17201.5, 17201.6, 17204, 17204.7, 17205, 17215.1, 17215.4, 17220, 17250, 17250.5, 17255, 17255.5, 17256, 17279.4, 17501, 17551, 17731, 17733, 17681.6, 17734.6, 17760, 18035.6, 18036.6, 18181, 18571, 18572, 18628, 18633, 18648, 19008</i></p>	<p>This act changes California's specified date of conformity to federal income tax law from January 1, 2001, to January 1, 2005, and thereby, in general, conforms to the numerous changes made in federal income tax law during that four-year period.</p> <p>This act waives any penalty for underpayment of estimated tax for the 2005 taxable year resulting from the changes made by this bill.</p> <p>This act makes numerous changes to specifically not conform to or Modify certain items in the Internal Revenue Code. For details, see the analysis on FTB's Web site.</p>

19041.5, 19116,  
 19136.12, 19164,  
 19164.5, 19166,  
 19173, 19177, 19179,  
 19182, 19184, 19559,  
 19772, 19773, 19774,  
 19777, 23051.5,  
 23662, 23701s,  
 23701w, 23703.5,  
 23705, 23711, 23712,  
 24306, 24349,  
 24355.3, 24355.4,  
 24356, 24356.4,  
 24356.5, 24369.4,  
 24406.6, 24407,  
 24601, 24654,  
 24661.5, 24661.6,  
 24694, 24831.6,  
 24872, 24949.1, &  
 24949.3

**BUDGET TRAILER BILL**

AB139  
 A. Budget Comm.  
 Ch. 74

*R&TC Sections  
 18631.7, 19183,  
 19523.5, &19701*

For purposes of laws administered by the FTB, this budget trailer act does the following:

1. Enhances information reporting applicable to third-party check cashing businesses.
2. Conforms to federal law so that tax representatives who are suspended or disbarred by the IRS would be likewise prevented from representing taxpayers in matters before the FTB.
3. Restricts the authority of FTB to pursue misdemeanor prosecution of persons accused of tax-related crimes by revising California law to confine prosecutions to a higher level of debt, an extended period of unresponsiveness, and stipulation that the taxpayer not suffer from a mental impairment.

**DISASTER LOSSES**

AB 18  
 LaMalfa  
 Ch. 624

*RTC Sections 195.95,  
 195.96, 195.97, 218,  
 17207, 24347.5*

This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the Shasta County wildfires.

<p>AB 164 Nava Ch. 623</p> <p><i>Government Code Section 8686</i></p> <p><i>RTC Sections 195.92, 195.93, 195.94, 218, 17207, 24347.5</i></p>	<p>This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the severe rainstorms and related events that occurred in Kern, Los Angeles, Santa Barbara, and Ventura Counties.</p>
<p>SB 457 Kehoe Ch. 622</p> <p><i>Government Code Section 8686</i></p> <p><i>RTC Sections 195.98, 195.99, 195.100, 218, 17207, &amp; 24347.5</i></p>	<p>This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the severe rainstorms and related events in Orange, Riverside, San Bernardino, and San Diego Counties.</p>
<b>CHARITABLE CONTRIBUTIONS</b>	
<p>SB 50 Campbell Ch. 5</p> <p><i>RTC Sections 17206 &amp; 24357</i></p>	<p>This act accelerates the income tax benefits for charitable cash contributions made for the relief of victims of the Indian Ocean tsunami.</p>
<b>VOLUNTARY CONTRIBUTIONS</b>	
<p>AB 190 Negrete McLeod Ch. 160</p> <p><i>RTC Sections 18846, 18846.1, 18846.2, &amp; 18846.3</i></p>	<p>This act establishes the California Sexual Violence Victim Services Fund for taxpayers to designate a contribution on the personal income tax return.</p>
<p>AB 357 S. Horton Ch. 143</p> <p><i>RTC Sections 18825, 18826, 18827, 18828, 18829, &amp; 18830</i></p>	<p>This act establishes the Veterans' Quality of Life Fund for taxpayers to designate a contribution on the personal income tax return.</p>

<p>AB 483 Nunez Ch. 161</p> <p><i>RTC Sections 18804 &amp; 18808</i></p>	<p>This act extends the sunset dates of the California Firefighters' Memorial Fund and the California Peace Officer Memorial Foundation from January 1, 2006, to January 1, 2011.</p>
<p>AB 819 Ridley-Thomas Ch. 697</p> <p><i>RTC Sections 18847, 18847.1, 18847.2, &amp; 18847.3</i></p>	<p>This act establishes the California Colorectal Cancer Prevention Fund for taxpayers to designate a contribution on the personal income tax return.</p>
<b>TAX PREPARERS</b>	
<p>AB 843 Nunez Ch. 396</p> <p><i>Business &amp; Professions Code Sections 22251 &amp; 22253.1</i></p>	<p>This act prescribes guidelines to regulate income tax refund anticipation loans. Specifically, this act prohibits a Tax Preparer who advertises the availability of a refund anticipation loan from misrepresenting the loan as the client's actual refund.</p>
<p>SB 229 Figueroa Ch. 658</p> <p><i>RTC Section 19167</i></p>	<p>This act requires the FTB to impose a penalty on Tax Preparers who fail to register with the California Tax Education Council (CTEC). The penalty is \$2,500 for the first failure to register; for subsequent failures the penalty is \$5,000.</p>
<b>MISCELLANEOUS</b>	
<p>AB 241 Harman Ch. 286</p> <p><i>Corporations Code Sections 1107.5, 6020.5, 8020.5, 12550.5, 15678.10, 16915.5, &amp; 17554.5</i></p>	<p>This act streamlines certain business entity mergers by eliminating the requirement that FTB certify that the franchise and income tax obligations of a disappearing entity have been satisfied.</p>
<p>AB 277 Mountjoy Ch. 288</p> <p><i>Government Code Section 11126</i></p>	<p>This act permanently allows state bodies to hold closed sessions when discussing certain security related issues.</p>

<p>AB 346 Chu Ch. 184</p> <p><i>Government Code Sections 905.2, 910.8, &amp; 911.2</i></p>	<p>This act appropriates funds for payment of claims against state entities, provides for waivers of required fees in certain circumstances, and charges the public entity for fees waived on approved claims.</p>
<p>AB 671 Klehs Ch. 308</p> <p><i>RTC Section 18511</i></p>	<p>This act requires FTB to revise the instructions of certain income and franchise tax booklets to inform taxpayers of their obligation to report and pay use tax to the Board of Equalization.</p>
<p>AB 961 A. Higher Education Comm. Ch. 318</p> <p><i>Education Code Section 69990</i></p>	<p>This act requires the Golden State Scholarshare Investment Board (the board) to provide an annual listing of distributions to individuals with an interest in a participation agreement to the FTB in a manner agreed upon by FTB and the board.</p>
<p>AB 1027 J. Horton Ch. 428</p> <p><i>RTC Section 19529</i></p>	<p>This act requires FTB to notify various state agencies upon the arraignment of or filing of criminal charges for violations of the franchise and income tax laws against an individual in the business of or acting as a contractor in this state. The state agencies that would be notified include the Contractor's State License Board, the Employment Development Department, the Economic and Employment Enforcement Coalition, and the Joint Enforcement Strike Force on the Underground Economy.</p>
<p>SB 13 Bowen Ch. 241</p> <p><i>Civil Code Section 1798.24 Welfare &amp; Institutions Code 10850</i></p>	<p>This act amends the Civil Code and the Welfare Institutions Code to provide limitations on the personal information a state agency may disclose for statistical research and reporting purposes.</p>
<p>SB 158 Machado Ch. 251</p> <p><i>Probate Code Section 4401</i></p>	<p>This act eliminates the line for an individual's social security number for the person executing the Uniform Statutory Power of Attorney Form.</p>
<p>SB 796 Figueroa Ch. 686</p> <p><i>Government Code Section 7528, 7528.1, 11364, 11365</i></p>	<p>This act requires links on state agency Web sites to assist taxpayers to participate in government activities and obtain better customer service.</p>

**VETOED LEGISLATION**

AB 853 Jones	This FTB sponsored bill would have extended the timeframe under which a state tax lien is effective for purposes of the use of Earnings Withholding Orders for Taxes only.
AB 1628 Klehs	This FTB sponsored bill would have changed the application of the failure to withhold penalty. Specifically, this bill would have permitted the failure to withhold penalty to be assessed immediately after a failure to withhold occurs and to base the imposition of the penalty solely on the agent's failure to withhold.
AB 1630 Klehs	This FTB sponsored bill would have clarified existing law that requires taxpayers to report federal income tax adjustments to the FTB. ( <i>Ordlock</i> decision)
AB 168 Ridley-Thomas	This bill would have required FTB and the Board of Equalization to provide reports on tax expenditures to the Legislative Analyst's Office, Department of Finance, and the Legislature. This bill would have repealed an existing provision of law that requires Department of Finance to provide an annual report to the Legislature on tax expenditures.
AB 249 DeVore	This bill would have required the Legislative Analyst's Office to conduct a study regarding taxpayers' usage of Form 540 2EZ.
AB 849 Leno, et al.	This bill would have changed the definition of marriage to a civil contract between two persons.
AB 875 Koretz	This bill would have required the FTB to assist in the development criteria to prompt recommendations by the Labor Commissioner to state tax agencies to trigger audits or investigations on employers violating tax or labor laws.
AB 1625 Klehs	This bill would have required certain heads of public agencies to sign a statement to verify that the information in a legislatively mandated report is true, accurate, and complete to the best of his or her knowledge. If the agency head were to sign this statement knowing that the report was false, he or she would have been guilty of a misdemeanor and could have been subject to a fine or imprisonment or both.
SB 577 Figueroa	This bill would have placed certain duties and responsibilities on state agencies to promote fiscal responsibility.