

**ASSEMBLY COMMITTEE  
ON  
REVENUE & TAXATION**

***2008  
LEGISLATIVE SUMMARY***

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## **2008 LEGISLATIVE SUMMARY**

**AB 550 (Ma), Chapter 297. PROPERTY TAXATION: BUSINESS PROPERTY: AUDIT.** Eliminates the requirement for assessors to audit, at least once every four years, all taxpayers with locally-assessable trade fixtures and business tangible personal property of \$400,000 or more. Enacts a new mandatory audit procedure requiring the county assessor to conduct annually a "significant number of audits," as defined. Provides that, each year, at least 50% of the required audits must be performed on those taxpayers that have the largest assessments of locally-assessable trade fixtures and business tangible personal property in the county, as specified.

**AB 1452 (Committee on Budget), Chapter 763. TAXATION.** Reinstates and makes permanent the 12-month presumption period for application of the use tax to vehicles, vessels, and aircraft purchased outside this state and subsequently brought into California. Establishes a rebuttable presumption that any vehicle, vessel, or aircraft purchased outside of this state by a California resident and brought into the state within 12 months was purchased for use in California and is, therefore, subject to use tax (equivalent to sales tax). For vehicles, vessels, and aircraft purchased by nonresidents, the presumption of use tax liability applies if, within 12 months of purchase, a vehicle becomes subject to California registration or a vessel or aircraft is subject to California property tax or if, during the 12-month period following an out-of-state purchase, a vehicle, vessel, or aircraft is used or stored in California more than half of the time.

Additionally, this bill suspends the net operating loss (NOL) deduction for the 2008 and 2009 tax years, except for taxpayers with net business income of less than \$500,000 in either year. It also expands the NOL carry forward period from 10 years to 20 years for losses incurred after January 1, 2008, and authorizes NOL carrybacks for losses incurred in 2011 or later tax years.

This bill also requires payment of the estimated payment of the Limited Liability Corporation fee by June 15 of the current taxable year, instead of April 15 of the following year and temporarily limits the amount of business tax credits that can be used to reduce tax liability in tax years 2008 and 2009. However, beginning in 2010, this measure allows corporations that accumulate business tax credits to assign all or a portion of any unused

credit to an affiliated corporation that is a member of the same combined reporting group.

Finally, this bill requires the Franchise Tax Board to conduct a tax amnesty program for a two-month period beginning February 1, 2009, and ending on March 27, 2009, inclusive, for eligible taxpayers that are delinquent in their payment of the Personal Income Tax or Corporation Tax, but this provision was later repealed by SBx1 28 (Committee on Budget), Chapter 1, Statutes of 2008.

**AB 1812 (Arambula), Chapter 160. TAXPAYER CONTRIBUTIONS: CALIFORNIA FIREFIGHTERS' AND PEACE OFFICER MEMORIAL FOUNDATION FUNDS.** Extends the repeal dates for the California Firefighters' Memorial Fund and the California Peace Officer Memorial Foundation Fund from January 1, 2011 to January 1, 1016.

**AB 1895 (Silva), Chapter 24. SALES AND USE TAXES: ADMINISTRATION.** Provides a specific statute of limitations for issuing a deficiency determination against a corporate officer (or other responsible person) of a terminated, dissolved, or abandoned business who is personally liable for the business' unpaid sales and use taxes.

**AB 1935 (Fuller), Chapter 324. TAXPAYER CONTRIBUTIONS: CALIFORNIA OVARIAN CANCER RESEARCH FUND.** Authorizes the addition of the California Ovarian Cancer Research Fund (Fund) checkoff to the personal income tax form. Provides that Fund moneys, upon appropriation by the Legislature, shall be allocated to the University of California to support ovarian cancer research.

**AB 2009 (Hernandez), Chapter 221. UTILITY USER TAXES: EXEMPTION.** Provides that a county may not impose a utility user tax on the consumption of compressed natural gas dispensed by a gas compressor, within a local jurisdiction, that is dedicated to providing compressed natural gas as a motor vehicle fuel for use by the local agency or public transit operator.

**AB 2047 (Horton), Chapter 222. STATE BOARD OF EQUALIZATION: BUSINESS AND SPECIAL TAXES: COMPROMISES.** Extends, until January 1, 2013, the State Board of Equalization's offers-in-compromise

program to businesses in operation and to successors of discontinued businesses that have inherited the tax liabilities of their predecessors.

**AB 2249 (Niello), Chapter 234. FINANCIAL INSTITUTIONS: ACCOUNTS: MISDIRECTED REFUNDS.** Authorizes the Franchise Tax Board to request and receive, under specified circumstances, information from a bank, credit union, or savings association regarding a customer's account for the purpose of recovering a "misdirected refund" to which the customer was not entitled. Defines the phrase "misdirected refund" as a direct deposit refund that was deposited in the account of a person other than the taxpayer entitled to that refund. Specifies the limited circumstances under which the Franchise Tax Board may request and receive taxpayer bank account information. Applies to any misdirected refund deposited on or after January 1, 2009.

**AB 2291 (Mendoza), Chapter 328. TAXPAYER CONTRIBUTIONS: MUNICIPAL SHELTER SPAY-NEUTER FUND.** Authorizes the addition of the Municipal Shelter Spay-Neuter Fund (Fund) checkoff to the personal income tax form upon the removal of another voluntary contribution fund from the form. Provides that Fund moneys, upon appropriation by the Legislature, shall be allocated to the California Department of Food and Agriculture for distribution of grants to eligible municipal shelters for the purposes of providing low-cost or free spay-neuter services.

**AB 2411 (Caballero), Chapter 329. PROPERTY TAX: REFUNDS.** Reduces the statute of limitations for filing a claim for refund of property taxes from one year to six months in the case of a taxpayer who has applied for a reduction in, or equalization for, an assessment and was notified in writing by the county assessment appeals board of the board's decision and the taxpayer's right to file a claim for refund. Revises the method for determining the amount of interest calculated on property tax refunds resulting from a property tax roll correction. Requires the county auditor to process a refund, or notify a taxpayer in writing, when a roll correction results in the reduction of an assessment that would entitle the taxpayer to a refund.

**AB 2518 (Torrico), Chapter 330. TAXPAYER CONTRIBUTIONS: CALIFORNIA CANCER RESEARCH FUND.** Authorizes the addition of the California Cancer Research Fund (Fund) checkoff to the personal income tax form upon the removal of another voluntary contribution fund

from the form. Provides that Fund moneys, upon appropriation by the Legislature, shall be allocated to the Regents of the University of California for distribution of grants for cancer research.

**AB 3016 (Cook), Chapter 645.** PERSONAL INCOME TAXES: CONTRIBUTIONS: CALIFORNIA MILITARY FAMILY RELIEF FUND. Provides that contributions made to the existing California Military Family Relief Fund shall be used to provide financial aid grants to eligible reserve members of the United States Armed Forces, and that grants shall no longer be restricted to members of the California National Guard.

**AB 3035 (Huffman), Chapter 201.** PROPERTY TAXATION: EXEMPTIONS: SUPPLEMENTAL ASSESSMENT. Extends from 90 days to 180 days the grace period for an eligible non-profit organization to qualify for a welfare property tax exemption on a supplemental assessment.

**AB 3078 (Committee on Revenue and Taxation), Chapter 305.** TAX ADMINISTRATION: GROUP RETURNS: REAL ESTATE WITHHOLDING REQUIREMENTS: PENALTIES. Makes various changes to the administrative provisions of the Personal Income Tax Law and the Corporation Tax Law. Extends the statute of limitations for filing a claim for credit, or refund of an overpayment of income tax attributable to a credit, for taxes paid to other states, grants new discretionary authority to the Taxpayers' Rights Advocate, until January 1, 2012, to abate penalties, fees, additions to tax, and interest improperly assessed on the taxpayer as a result of the Franchise Tax Board's erroneous or unreasonable action or inaction, and specifies additional information that the Franchise Tax Board must include in its annual report to the Legislature regarding taxpayer noncompliance.

Additionally, this bill allows entities to file a group nonresident tax return on behalf of certain nonresidents, subjects non-California partnerships that sell California real property to the same withholding requirements that apply to California partnerships, increases the alternative withholding rates applicable to a sale of California real property by a non-California "S" corporation, and requires a buyer of California real property to withhold on each installment sale payment made by a nonresident seller if the sale is structured as an installment sale. Finally, this measure increases the threshold amounts for the imposition of a penalty for underpayment of an estimated income tax, clarifies the circumstances under which the dividends

paid by one member of a unitary group to another member of that group may be eliminated from the recipient's taxable income, and corrects erroneous statutory cross-references.

**AB 3079 (Committee on Revenue and Taxation), Chapter 306.**

**TAXATION: STATE BOARD OF EQUALIZATION: ADMINISTRATION.** Authorizes the Department of Industrial Relations to share specified information in its records with the State Board of Equalization, reinstates a voluntary disclosure program for qualifying purchasers under the Sales and Use Tax Law, extends the Managed Audit Program indefinitely, and requires train operators that carry motor vehicle fuel, alcohol or aircraft jet fuel, or diesel fuel to obtain a license from the Board of Equalization and to file reports regarding those fuels for purposes of the Motor Vehicle Fuel Tax and Diesel Fuel Tax Laws.

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**SB 585 (Lowenthal), Chapter 382. FARMWORKER HOUSING**

**ASSISTANCE AND LOW-INCOME HOUSING TAX CREDITS.** In the case of a partnership, provides that a partner's distributive share of the low-income housing tax credit shall be determined by the partnership agreement, without regard to the allocation of the federal low-income housing tax credit to the partners, thus allowing the partnership to allocate federal and state low-income housing credits to different partners. Specifies that, to the extent an allocation differs from federal partnership rules, a taxpayer may only claim a capital loss on the partnership in the tax year following the expiration of the federal tax credits, a period of 10 years. Applies to the state low-income housing tax credit that is preliminarily reserved for a project on or after January 1, 2009, and before January 1, 2016.

**SB 1055 (Machado), Chapter 282. TAXATION: CANCELLATION OF**

**INDEBTEDNESS: MORTGAGE DEBT FORGIVENESS.** Allows a solvent taxpayer to exclude from his or her gross income an amount of "qualified principal residence indebtedness" discharged by the lender on or after January 1, 2007, and before January 1, 2009, in modified conformity with the federal Mortgage Forgiveness Debt Relief Act of 2007 (Public Law 110-142). Defines the term "qualified principal residence indebtedness" as acquisition indebtedness, within the meaning of Internal Revenue Code Section 163(h)(3)(B), but modifies the federal definition of "acquisition indebtedness" by providing that, for purposes of this measure, the aggregate

amount of acquisition indebtedness for any period may not exceed \$800,000 (or \$400,000 in the case of a married taxpayer filing separately).

Furthermore, this measure limits the amount of the cancellation of indebtedness income eligible for the exclusion to \$250,000 (\$125,000 in the case of a married taxpayer filing separately). Finally, it provides that no penalties or interest may be assessed eligible for exclusion if that income resulted from the discharge of qualified residence indebtedness during the 2007 taxable year.

**SB 1064 (Hollingsworth), Chapter 386. DISASTER RELIEF.** Adds multiple natural disasters to the list of disasters eligible for full state reimbursement of local property tax losses, beneficial homeowners' property tax exemption treatment, and favorable "carry forward" treatment of excess disaster losses.

**SB 1101 (Cedillo), Chapter 203. PERSONAL INCOME TAXES: CONTRIBUTIONS: EMERGENCY FOOD FOR FAMILIES FUND.** Extends the sunset date for the Emergency Food Assistance Program Fund from January 1, 2009 to January 1, 2014, and changes the designation's name on the personal income tax return to the Emergency Food for Families Fund.

**SB 1146 (Cedillo), Chapter 345. TAX ADMINISTRATION: DISCLOSURE OF INFORMATION: FRANCHISE TAX BOARD AND CITIES.** Requires cities that assess a city business tax or that require a city business license, upon request by the Franchise Tax Board, to submit annually to the Franchise Tax Board specified information collected in the course of administering the city's business tax program.

**SB 1233 (Harman), Chapter 349. PROPERTY TAX: CHANGE IN OWNERSHIP: ADMINISTRATION.** Allows a county assessor, upon authorization by the county board of supervisors, to impose a one-time processing fee, not to exceed \$175, on a property owner who fails to file a certified claim for the parent-child or the grandparent-grandchild "change in ownership" exclusion within the time period specified in two written notices of potential eligibility mailed to the owner by the county assessor. Specifies that the failure to file a certified claim for exclusion within the filing periods prescribed by two notices mailed by a county assessor does not preclude an eligible person from applying and qualifying for the exclusion if the person files a claim within three years after the date of the transfer of real property

or prior to the transfer of the real property to a third party, whichever is earlier.

**SB 1247 (Lowenthal), Chapter 521. FARMWORKER HOUSING ASSISTANCE.** Repeals the current farmworker housing assistance program, eliminates the current \$500,000 farmworker housing tax credit and, instead, consolidates the farmworker housing tax credit program into the state low-income housing tax credit program by adding \$500,000 to the statutory cap on the low-income housing tax, credit, and requiring that that amount be set aside for projects housing farmworker households, as provided.

**SB 1284 (Lowenthal), Chapter 524. PROPERTY TAX: WELFARE EXEMPTIONS: LOW-INCOME HOUSING AND RELATED FACILITIES.** Modifies the partial property tax "welfare exemption" to apply to eligible low-income housing property that was previously purchased and owned by the Department of Transportation pursuant to a consent decree requiring housing mitigation measures relating to freeway construction. Requires that any outstanding tax interest or penalty levied or imposed between January 1, 2002, and January 1, 2009, on that property be canceled, provided that certain specified requirements are satisfied.

**SB 1495 (Kehoe), Chapter 594. PROPERTY TAXATION: DISABLED VETERANS' PROPERTY TAX EXEMPTION: DISASTER.** Allows an eligible taxpayer to retain the disabled veterans' property tax exemption in the case of a partial loss of the taxpayer's home due to a misfortune or calamity, and a full or partial loss due to a major disaster for which the Governor has issued a proclamation of a state emergency.

**SB 1502 (Steinberg), Chapter 354. PERSONAL INCOME TAXES: CONTRIBUTIONS: AMYOTROPHIC LATERAL SCLEROSIS FUND.** Adds the Amyotrophic Lateral Sclerosis/Lou Gehrig's Disease Research Fund (Fund) checkoff to the Personal Income Tax form. Provides that all money transferred to the Fund, upon appropriation by the Legislature, shall be allocated to the Franchise Tax Board and the State Controller for reimbursement of costs incurred in administering the checkoff, and to the State Department of Public Health, for allocation to the Amyotrophic Lateral Sclerosis Association, for research grants to develop and advance the understanding, techniques, and modalities effective in the prevention, treatment, and cure of amyotrophic lateral sclerosis. Provides for the Fund's

automatic repeal on January 1, 2013, or on an earlier date if the Fund fails to meet a minimum contribution amount.

**SB 1562 (Hollingsworth), Chapter 356. PROPERTY TAXATION: EXEMPTION: FRUIT-BEARING AND NUT-BEARING TREES AND GRAPEVINES: FREEZE, WILDFIRE, AND WIND RELIEF.** Restarts the four-year property tax exemption period for newly planted fruit and nut trees currently in their exemption phase that must be pruned back as a result of specified disasters.

**SCA 4 (Ashburn), Chapter 115. PROPERTY TAX: NEW CONSTRUCTION EXCLUSION: SEISMIC RETROFITTING.** Modifies Article XIII A of the California Constitution relating to the current property tax exemption for certain seismic safety improvements made to un-reinforced masonry buildings. Specifically, this measure, by revising Section 2(a) of Article XIII A of the California Constitution, creates a permanent exclusion from the definitions of "newly constructed" or "new construction" for construction or reconstruction of seismic retrofitting components of an existing structure, and authorizes the Legislature to define the phrase "seismic retrofitting components." This measure deletes the existing language that grants a 15-year exclusion from "new construction" for improvements needed to be made to un-reinforced masonry buildings to comply with local seismic safety ordinances.

**SJR 27 (Kehoe), Chapter 118. FEDERAL TAX CREDITS: PRODUCTION AND INVESTMENT FOR RENEWABLE ENERGY TECHNOLOGIES.** Encourages the United States President and Congress to provide a long-term extension of the investment and production tax credits for all renewable energy technologies.

**SBX1 28 (Committee on Budget), Chapter 1. TAXATION.** Modifies state tax laws to implement certain revenue provisions of the 2008-09 Budget Agreement. Accelerates quarterly estimated tax payments by increasing the first two estimated payments required to be made in April and June to 30% each and reducing the amounts paid in September and December to 20% each. Eliminates the "safe harbor" for estimated tax payments for taxpayers with incomes over \$1 million and imposes a new corporate penalty for an understatement of tax for any open taxable year beginning on or after January 1, 2003. The penalty is assessed on an "understatement of tax" at the rate of 20%. Repeals the tax amnesty



program created by AB 1452 (Committee on Budget), Chapter 763, Statutes of 2008. Clarifies certain provisions of AB 1452 by specifying that the new requirements for estimated payments of the Limited Liability Corporation fees apply to taxable years beginning on or after January 1, 2009, and that, in the case of an assignment of any unused business tax credit to an affiliated corporation, any limitation on the use of business tax credits that apply to the assigning taxpayer also apply to the eligible assignee.

### **VETOED**

**AB 3080 (Committee on Revenue and Taxation).** PROPERTY TAXATION: LOCAL ADMINISTRATION. Contains various non-controversial technical provisions to improve the administration of property tax laws by county assessors, tax collectors and treasurers. Authorizes county assessors to submit to the State Board of Equalization county records and specified information relating to disabled veterans' property tax exemption claims, as specified by the Board of Equalization's written request, in order to prevent approvals of multiple disabled veterans' property tax exemption claims within the state for the same homeowners. Allows, among other things, a property owner to file with the local county assessor a scale copy of an approved building plan in either paper or electronic format. Deletes, in the case of a corporate owner of property, a requirement that the employee or agent who signs the property statement be designated in writing by the board of directors, and permits a county assessor to make a separate valuation for a parcel covered by a subdivision map filed for record after the lien date immediately preceding the current fiscal year, if the board of supervisors of that county has adopted an ordinance allowing separate valuation.

#### **Governor's Veto Message:**

"The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time."

**SB 153 (Migden). PROPERTY TAXATION: CHANGE IN OWNERSHIP: EXCLUSION.** Revises existing property tax law to provide that a transfer of a co-tenancy interest in real property from one co-tenant to the other that takes effect upon the death of the transferor does not constitute a "change in ownership," if all of the following requirements are met:

- 1) The transfer is solely between and by two individuals who, together, own 100% of the real property in a joint tenancy or as tenants in common.
- 2) The deceased co-tenant's interest in the real property was transferred to the surviving co-tenant, thus, terminating the co-tenancy.
- 3) For the one-year immediately preceding the transfer, the real property was co-owned by the co-tenants and both co-tenants have been the owners of record of that real property.
- 4) The real property has been the principal residence of both co-tenants immediately preceding the transferor co-tenant's death.
- 5) The co-tenants continuously resided at the residence for the one-year period immediately preceding the transfer.
- 6) The transferee has signed, under penalty of perjury, an affidavit affirming that he/she continuously resided with the transferor at the residence for the one-year period immediately preceding the transfer.
- 7) The transfer takes place on or after January 1, 2009, and before January 1, 2019, by reason of the death of the transferor.

Applies to a transfer of real property interests only if the transfer does not qualify for any other exclusion from a property tax reassessment under the Revenue and Taxation Code [Chapter 2 of Part .5 of Division 1 (Sections 62-69.5)], and provides that a transfer of a co-tenancy interest in real property takes effect upon the death of the transferor co-tenant pursuant to the co-tenant's will or trust, through intestate succession, or by operation of law. Defines "co-tenancy interest" as an interest in real property held only as tenants in common or joint tenants and "principal residence" as a dwelling eligible for either the homeowners' exemption or the disabled veterans' exemption.

**Governor's Veto Message:**

"This bill would exempt real property from reassessment due to change of ownership when one co-owner dies, leaving his or her interest in the property to the surviving co-owner.

"Existing law already provides that real property transferred between spouses and registered domestic partners, or between parents, grandparents, and children, is exempt from reassessment. Further, co-owners not covered by any of these exemptions have the option of changing a real property title to a joint tenancy, thus ensuring that a reassessment does not occur upon the death of one joint tenant. Given these exemptions and options provided under existing law, this bill is not necessary."

**SB 1641 (Oropeza).** STATE BOARD OF EQUALIZATION AND FRANCHISE TAX BOARD REPORTS. Allows the Board of Equalization and the Franchise Tax Board to submit reports required by law in electronic format.

**Governor's Veto Message:**

"The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California.

"This bill does not meet that standard and I cannot sign it at this time."

**SB 1776 (Committee on Revenue and Taxation).** PROPERTY TAXATION. Requires a county to return a replicated property tax payment to the tendering party within 60 days of the date the payment becomes final, instead of 60 days following the date of receipt of that payment. Defines the phrase "final payment" as the original payment that is not subject to chargeback, dishonor, or reversal. Provides that interest on the amount of a replicated tax payment begins to accrue within 60 days of the date the payment becomes final, instead of 60 days of the date of receipt, until the replicated payment is returned to the tendering party. In addition, this measure allows a county board of supervisors to rescind a sale of tax-defaulted property, under specified circumstances, even if the purchaser of

that property does not consent to the rescission in writing, provided that the tax collector notifies, in writing, the purchaser or his or her successor in interest in that property, and a hearing is scheduled before the board of supervisors. Applies to sales of tax-defaulted property that are completed on or after January 1, 2009.

**Governor's Veto Message:**

"The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time."

**SB 1777 (Committee on Revenue and Taxation).** TAXATION. Makes various technical changes to property tax law relating to disabled veterans, assessment practice services, preliminary change of ownership reports, online continuing education, disaster-affected property, welfare exemptions, and locations of the State Board of Equalization hearings. This measure was sponsored by the Board of Equalization to improve the administration of property tax laws to help both taxpayers and tax administration agencies.

**Governor's Veto Message:**

"The historic delay in passing the 2008-2009 State Budget has forced me to prioritize the bills sent to my desk at the end of the year's legislative session. Given the delay, I am only signing bills that are the highest priority for California. This bill does not meet that standard and I cannot sign it at this time."

# ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

## 2008 LEGISLATIVE SUMMARY

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# 2008

## LEGISLATIVE SUMMARY

The following is a list of bills adopted by the Legislature during the second year of the 2007-2008 Legislative Session that changed state law in the area of revenue and taxation. The measures are listed in bill number order, with 2008 chapter numbers provided, and the provisions of each bill briefly summarized. The list also includes bills adopted by the Legislature and vetoed by the Governor.

The Assembly Revenue and Taxation Committee heard the majority of bills listed in this report.

This publication is intended to be a useful summary of the Legislature's work in the area of revenue and taxation during 2008 and a helpful reference document for anyone who needs to know about state and local taxation law and policy. An electronic copy of this summary is available under "Publications" on the committee's web page at [www.assembly.ca.gov](http://www.assembly.ca.gov).

Copies of analyses of bills heard by the Assembly Revenue and Taxation Committee can be obtained by accessing the Official California Legislative Information internet web page maintained by the Legislative Counsel at [www.leginfo.ca.gov](http://www.leginfo.ca.gov), by contacting the Committee office at (916) 319-2098, or by writing to the Assembly Revenue and Taxation Committee, Legislative Office Building, 1020 N Street - Room 162, Sacramento, CA 95814.

