State of California
Franchise Tax Board

Summary of Federal Income Tax Changes 2012

Laws Affected

Personal Income Tax Laws
Corporation Tax Laws
Administration of Franchise and Income Tax Laws

Summary of Federal Income Tax Changes
2012

Prepared by the Staff of the

Franchise Tax Board

STATE OF CALIFORNIA

This report is submitted in fulfillment of the requirement in Revenue and Taxation Code section 19522.

TABLE OF CONTENTS

EXECUTIVE SUMMARY

Prepared by the Staff of the
Franchise Tax Board (FTB)
State of California

During 2012, the Internal Revenue Code (IRC) or its application by California was changed by:

PUBLIC LAW	TITLE	DATE
112-95 Title XI	FAA Modernization and Reform Act of 2012	February 14, 2012
112-96	Middle Class Tax Relief and Job Creation Act of 2012	February 22, 2012
112-141	Moving Ahead for Progress in the 21st Century Act (MAP-21)	July 6, 2012
112-91, 112-102, 112-140, and 112-163	2012 Miscellaneous Federal Acts Impacting the IRC That do not Require a California Response	Various

This report explains the new federal laws along with the effective dates, the corresponding California law, if any, including an explanation of any changes made in response to the new federal law, and the impact on California revenue were California to conform to the federal changes. This report also contains citations to the section numbers of federal Public Laws, the IRC, and the California Revenue and Taxation Code (R&TC) impacted by the federal changes.

2012 EXPIRING TAX PROVISIONS

Following is a list of California tax provisions that expire in 2012:

California Sunset[1]	California Section	Federal Section	Federal Sunset	Description
12/31/12	17144.5	108	12/31/13	Mortgage Forgiveness Debt Relief

This report contains the following exhibits:

Exhibit A — *2012 Miscellaneous Federal Acts Impacting the IRC Not Requiring a California Response* - Short explanations of federal law changes that are either not administered by the FTB or are not applicable to California.

Exhibit B — *Expiring Tax Provisions* - A complete listing of expiring provisions in California tax law.

Exhibit C — *Revenue Tables* - The impact on California revenue were California to conform to the federal changes.

[1] In general, this is the last taxable year to which the provision applies. Fiscal years beginning within this taxable year are, in general, also covered by the provision. In some cases, the repeal date of the section is listed or the expiration applies to transactions occurring after this date.

Section	Section Title
1101	Extension of Taxes Funding Airport and Airway Trust Fund

Background

Excise taxes are imposed on amounts paid for commercial air passenger and freight transportation and on fuels used in commercial and noncommercial (i.e., transportation that is not "for hire") aviation to fund the Airport and Airway Trust Fund. The present aviation excise taxes are as follows:

Tax (and IRC section)	Tax Rates
a. Domestic air passengers (IRC section 4261)	7.5 percent of fare, plus $3.70 (2011) per domestic flight segment generally[2]
b. International travel facilities tax (IRC section 4261)	$16.30 (2011) per arrival or departure[3]
c. Amounts paid for right to award free or reduced rate passenger air transportation (IRC section 4271)	7.5 percent of amount paid
d. Air cargo (freight) transportation (IRC section 4271)	6.25 percent of amount charged for domestic transportation; no tax on international cargo transportation
e. Aviation fuels (IRC section 4081):[4]	
i. Commercial aviation	4.3 cents per gallon
ii. Non-commercial (general) aviation:	
Aviation gasoline	19.3 cents per gallon
Jet fuel	21.8 cents per gallon

[2] The domestic flight segment portion of the tax is adjusted annually (effective each January 1) for inflation (adjustments based on the changes in the consumer price index (the "CPI")).

[3] The international travel facilities tax rate is adjusted annually for inflation (measured by changes in the CPI).

[4] Like most other taxable motor fuels, aviation fuels are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank Trust Fund.

All Airport and Airway Trust Fund excise taxes, except for 4.3 cents per gallon of the taxes on aviation fuels, are scheduled to expire after March 31, 2011. The 4.3-cents-per-gallon fuels tax rate is permanent.

New Federal Law (IRC sections 4081, 4261, and 4271)

This provision extends the present-law Airport and Airway Trust Fund excise taxes through September 30, 2015.

Effective Date

This provision is effective on February 18, 2012.

California Law

Aviation fuel taxes are not administered by the FTB. Defer to the Board of Equalization (BOE).

Impact on California Revenue

Defer to the BOE.

Section	Section Title
1102	Extension of Airport and Airway Trust Fund Expenditure Authority

Background

In General

The Airport and Airway Trust Fund was created in 1970 to finance a major portion of federal expenditures on national aviation programs. Operation of the Airport and Airway Trust Fund is governed by the IRC and authorizing statutes. The IRC provisions govern deposit of revenues into the trust fund and approve the use of trust fund money (as provided by appropriation Acts) for expenditure purposes in authorizing statutes as in effect on the date of enactment of the latest authorizing Act. The authorizing Acts provide specific trust fund expenditure programs and purposes.

Authorized expenditures from the Airport and Airway Trust Fund include the following principal programs:

1. Airport Improvement Program ("AIP") (airport planning, construction, noise compatibility programs, and safety projects);
2. Facilities and Equipment ("F&E") program (costs of acquiring, establishing, and improving the air traffic control facilities);

3. Research, Engineering, and Development (RED) program (Federal Aviation Administration (FAA) research and development activities);
4. FAA Operations and Maintenance (O&M) programs; and
5. Certain other aviation-related programs specified in authorizing Acts.

Part of the O&M programs also is financed from General Fund monies. Of the total FAA appropriations, the General-Fund contribution has ranged from 15 to 24 percent in recent years.[5]

Limits on Airport and Airway Trust Fund Expenditures

No expenditures are currently permitted to be made from the Airport and Airway Trust Fund after February 17, 2012. Because the purposes for which Airport and Airway Trust Fund monies are permitted to be expended are fixed, the IRC must be amended in order to authorize new Airport and Airway Trust Fund expenditure purposes. In addition, the IRC contains a specific enforcement provision to prevent expenditure of Airport and Airway Trust Fund monies for purposes not authorized under IRC section 9502. This provision provides that, should such unapproved expenditures occur, no further aviation excise tax receipts will be transferred to the Airport and Airway Trust Fund. Rather, the aviation taxes would continue to be imposed, but the receipts would be retained in the General Fund.

New Federal Law (IRC section 9502)

This provision authorizes expenditures from the Airport and Airway Trust Fund through September 30, 2015. This provision also amends the list of authorizing statutes to include the "FAA Air Transportation Modernization and Safety Improvement Act," which sets forth aviation program expenditure purposes through September 30, 2015.

Effective Date

This provision is effective on February 18, 2012.

California Law

Not applicable.

Impact on California Revenue

Not applicable.

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[5] Congressional Budget Office, *Financing Federal Aviation Programs: Statement of Robert A. Sunshine before the House Committee on Ways and Means* (May 7, 2009) at 3.

Section	Section Title
1103	Treatment of Fractional Aircraft Ownership Programs

Background

For excise tax purposes, fractional ownership aircraft flights are treated as commercial aviation. As commercial aviation, for 2011, such flights are subject to the *ad valorem* tax of 7.5 percent of the amount paid for the transportation, a $3.70 segment tax, and tax of 4.3 cents per gallon on fuel. For international flights, fractional ownership flights pay the $16.30 international travel facilities tax.

For purposes of the FAA safety regulations, fractional ownership aircraft programs are treated as a special category of general aviation.[6]

New Federal Law (IRC sections 4041, 4043, 4082, 4083, 4261, and 9502)

Under this provision, transportation as part of a fractional ownership aircraft program is not classified as commercial aviation for federal excise tax purposes. Instead, such flights are subject to the increased Airport and Airway Trust Fund fuel tax rate for noncommercial aviation and an additional fuel surtax of 14.1 cents per gallon. For this purpose, a "fractional ownership aircraft program" is defined as a program in which:

- A single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners;
- Two or more airworthy aircraft are part of the program;
- There are one or more fractional owners per program aircraft, with at least one program aircraft having more than one owner;
- Each fractional owner possesses at least a minimum fractional ownership interest in one or more program aircraft;[7]
- There exists a dry-lease exchange arrangement among all of the fractional owners;[8] and
- There are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

[6] 14 C.F.R. Part 91, subpart k.

[7] A "minimum fractional ownership interest" means: (1) A fractional ownership interest equal to or greater than one-sixteenth of at least one subsonic, fixed wing or powered lift program aircraft; or (2) a fractional ownership interest equal to, or greater than one-thirty-second of a least one rotorcraft program aircraft. A "fractional ownership interest" is: (1) the ownership interest in a program aircraft, (2) the holding of a multi-year leasehold interest in a program aircraft, or (3) the holding or a multi-year leasehold interest that is convertible into an ownership interest in a program aircraft.

[8] A "dry-lease aircraft exchange" means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as-needed basis without crew, to each fractional owner.

The fuel taxes are dedicated to the Airport and Airway Trust Fund. This provision has a sunset date of September 30, 2015, consistent with the general extension of the taxes that are dedicated to the Airport and Airway Trust Fund.

Effective Date

This provision is effective for fuel used after March 31, 2012, for the uses of aircraft after March 31, 2012, and for taxable transportation provided after March 31, 2012.

California Law

Aviation fuel taxes are not administered by the FTB. Defer to the BOE.

Impact on California Revenue

Defer to the BOE.

Section	Section Title
1104	Transparency in Passenger Tax Disclosures

Background

Transportation providers are subject to special penalties if they do not separately disclose the amount of the passenger taxes on tickets and in advertising. Failure to satisfy these disclosure requirements is a misdemeanor, upon conviction of which the guilty party is fined not more than $100 per violation.[9]

There is no prohibition against airlines including other charges in the required passenger taxes disclosure (e.g., fuel surcharges retained by the commercial airline). In practice, some but not all airlines include such other charges in the required passenger taxes disclosure.

New Federal Law (IRC section 7275)

This provision prohibits all transportation providers from including amounts other than charges payable to a government entity in the required disclosure of passenger taxes on tickets and in advertising. Disclosure elsewhere on tickets and in advertising (e.g., as an amount paid for transportation) of charges not payable to a government entity is allowed.

[9] IRC section 7275.

Effective Date

This provision is effective for taxable transportation provided after March 31, 2012.

California Law

The FTB does not administer aviation tax reporting requirements.

Impact on California Revenue

Not applicable.

Section	Section Title
1105	Tax-Exempt Bond Financing for Fixed-Wing Emergency Medical Aircraft

Background

Tax-Exempt Bonds in General

Subject to certain IRC restrictions, interest on bonds issued by state and local governments generally is excluded from gross income for federal income tax purposes. Bonds issued by state and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the state or local government serves as a conduit providing financing to nongovernmental persons. For this purpose, the term "nongovernmental person" generally includes the federal government and all other individuals and entities other than states or local governments. The exclusion from income for interest on state and local bonds does not apply to private activity bonds unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other IRC requirements are met.

Private-Activity-Bond Tests

Present law provides two tests for determining whether a state or local bond is in substance a private activity bond, the private-business test and the private-loan test.[10]

Private-Business Test

Private business use and private payments result in state and local bonds being private activity bonds if both parts of the two-part private-business test are satisfied: (1) more than 10 percent of

[10] IRC section 141(b) and (c).

the bond proceeds is to be used (directly or indirectly) by a private business (the "private-business-use test"), and (2) more than 10 percent of the debt service on the bonds is secured by an interest in property to be used in a private business use or to be derived from payments in respect of such property (the "private-payment test").[11]

Private business use generally includes any use by a business entity (including the federal government), which occurs pursuant to terms not generally available to the general public. For example, if bond-financed property is leased to a private business (other than pursuant to certain short-term leases for which safe harbors are provided under Treasury regulations), bond proceeds used to finance the property are treated as used in a private-business use, and rental payments are treated as securing the payment of the bonds. Private-business use also can arise when a governmental entity contracts for the operation of a governmental facility by a private business under a management contract that does not satisfy Treasury regulatory safe harbors regarding the types of payments made to the private operator and the length of the contract.[12]

Private-Loan Test

The second standard for determining whether a state or local bond is a private activity bond is whether an amount exceeding the lesser of five percent of the bond proceeds or $5 million is used (directly or indirectly) to finance loans to private persons. Private loans include both business and other (e.g., personal) uses and payments by private persons; however, in the case of business uses and payments, all private loans also constitute private-business uses and payments subject to the private-business test. Present law provides that the substance of a transaction governs in determining whether the transaction gives rise to a private loan. In general, any transaction which transfers tax ownership of property to a private person is treated as a loan.

Qualified Private Activity Bonds

As stated, interest on private activity bonds is taxable unless the bonds meet the requirements for qualified private activity bonds. Qualified private activity bonds permit states or local governments to act as conduits providing tax-exempt financing for certain private activities. The definition of qualified private activity bonds includes an exempt facility bond, or a qualified mortgage, veterans' mortgage, small-issue, redevelopment, IRC section 501(c)(3), or student-loan bond.[13] The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage,

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[11] The 10-percent private-business-use and private-payment thresholds are reduced to five percent for private business uses that are unrelated to a governmental purpose also being financed with proceeds of the bond issue. In addition, as described more fully below, the 10-percent private-business-use and private-payment thresholds are phased down for larger bond issues for the financing of certain "output" facilities. The term output facility includes electric generation, transmission, and distribution facilities.

[12] Treas. Reg. sec. 1.141-3(b)(4), and 1997-1 C.B. 632.

[13] IRC section 141(e).

water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities.[14] In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each state.

Restrictions on the Use of Private Activity Bond Proceeds

Qualified private activity bonds generally are subject to restrictions on the use of proceeds for the acquisition of land and existing property. In addition, qualified private activity bonds generally are subject to restrictions on the use of proceeds to finance certain specified facilities (e.g., proceeds may not be used for airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., proceeds may not be used for bond counsel and underwriter fees). Small issue and redevelopment bonds also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., proceeds may not be used for golf courses and massage parlors).

New Federal Law (IRC section 147)

This provision allows tax-exempt private activity bond financing for fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services.

Effective Date

This provision is effective for obligations issued after February 14, 2012.

California Law (R&TC sections 17143 and 24272)

California specifically does not conform to IRC sections 103 and 141 through 150, relating to the federal rules exempting the interest earned on state or municipal bonds, and the federal "private-activity-bond" rules have not been adopted by California.

California State and Municipal Bonds

The general rule in California is that for income tax purposes, all interest received or accrued is fully taxable, except for interest on federal obligations (such as Treasury bills, notes, and bonds, as more fully described below) and tax-exempt bonds issued by this state or a local government in this state.

Unlike federal law, the interest earned on bonds issued by other states and municipalities in other states is fully taxable to a resident of California. The California exemption from income taxation of interest on bonds of the state and its political subdivisions is contained in the California

[14] IRC section 142(a).

Constitution (subdivision (b) of section 26 of Article XIII). The R&TC further provides that the federal "private-activity-bond" analysis shall not be made in determining whether interest on bonds issued by the state or a political subdivision thereof is exempt from California income tax. Thus, in California, if the use of the bond proceeds of a state or local California issue is for private business use or is secured by property used for a private business use, the interest on that bond is still treated for California income tax purposes as tax exempt, even though the interest on the bond may be taxable for federal income tax purposes.

California Conduit Revenue Bonds

Conduit revenue bonds are issued by a governmental (state or municipal) entity for various purposes, including economic development, educational and health facilities construction, and multi-family housing. The funds obtained from the financing are loaned to a nongovernmental borrower who builds and operates the project. The use by a private firm (via expenditure of the bond proceeds) of a governmental agency's authority to issue tax-exempt debt is premised on the fact that the project will provide public benefit. A conduit revenue bond is payable solely from the loan payments received from the non-governmental party (unless the bond is insured by a third party who guarantees payment in the event of a default by the private firm who has pledged the revenue source). The governmental issuer typically has no liability for debt service on the bonds, except for the administration of the bond. Although the issuer has no actual liability on the bonds, their reputation and standing with respect to future debt financing may be negatively affected in the event of a default on the bonds. More importantly, should the bonds go into default, the governmental entity will likely be drawn into the settlement process. Most conduit revenue bonds are sold at negotiated sales with the interest rate and other terms of the bonds negotiated between the issuer, the non-governmental borrower, and an underwriter. The security for some of these transactions is sufficient to allow the underwriter to act as a pass-through for the bonds and in so doing act as a placement agent rather than an underwriter. Because the public agency's credit is not on the line, many issuers do not participate in any substantive fashion in the sale of the bonds. Rather, they may limit their role to reviewing the bond purchase contract and other legal and disclosure documents to ensure that they are adequately indemnified against liabilities and to accurately describe their role to investors as issuers and not as borrowers or guarantors of the debt.

Because the conduit revenue bonds issued in California are issued by this state or a local government in this state, the interest paid on such bonds is exempt from state income taxation under the California Constitution.

California Treatment of Federal Bond Interest

Interest earned on federal bonds is tax exempt for California income tax purposes. This results from federal law (31 U.S.C. section 3124(a)) that prohibits all states from imposing an income tax on interest income from direct obligations of the U. S. government. Examples of bonds that are exempt for California income tax purposes include those issued by federal land banks, the Federal Home Loan Bank, and Banks for Cooperatives. Not all federal bonds are direct obligations of the U.S. government, and interest on those bonds is taxable. Examples of federal bonds not exempt are those issued by the Federal National Mortgage Association (Fannie Maes), Government

National Mortgage Association (Ginnie Maes), and Federal Loan Home Mortgage Corporation (Freddie Macs).

California Franchise Tax Treatment

Interest received from federal, state, municipal, or other bonds is includable in the gross income of corporations taxable under the franchise tax. The franchise tax is a nondiscriminatory privilege tax for the right to exercise the corporate franchise and is not a tax on the income received, but instead merely uses that income as the measure of the tax for the privilege of exercising the corporate franchise.

Impact on California Revenue

Not applicable.

Section	Section Title
1106	Rollover of Amounts Received in Airline Carrier Bankruptcy

Background

The IRC provides for two types of individual retirement arrangements (IRAs): traditional IRAs and Roth IRAs.[15] In general, contributions (other than a rollover contribution) to a traditional IRA may be deductible, and distributions from a traditional IRA are includible in gross income to the extent not attributable to a return of nondeductible contributions. In contrast, contributions to a Roth IRA are not deductible, and qualified distributions from a Roth IRA are excludable from gross income. Distributions from a Roth IRA that are not qualified distributions are includible in gross income to the extent attributable to earnings. In general, a qualified distribution is a distribution that is made on or after the individual attains age 59½, death, disability, or which is a qualified special purpose distribution.

The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount ($5,000 for 2012), or (2) the amount of the individual's compensation that is includible in gross income for the year. As under the rules relating to traditional IRAs, a contribution of up to the dollar limit for each spouse may be made to a Roth IRA provided the combined compensation of the spouses is at least equal to the contributed amount. The maximum annual contribution that can be made to a Roth IRA is phased out for taxpayers with adjusted gross income for the taxable year over certain indexed levels. The adjusted gross income phase-out ranges for 2012 are: (1) for single taxpayers, $110,000 to $125,000; (2) for married taxpayers filing joint returns, $173,000 to $183,000; and (3) for married taxpayers filing separate returns, $0 to $10,000.

[15] Traditional IRAs are described in IRC section 408, and Roth IRAs are described in IRC section 408A.

The foregoing contribution limitations for IRAs do not apply in the case of a rollover contribution to an IRA. If certain requirements are satisfied, a participant in an employer-sponsored qualified plan (which includes a tax-qualified retirement plan described in IRC section 401(a), an employee retirement annuity described in IRC section 403(a), a tax-sheltered annuity described in IRC section 403(b), and a governmental IRC section 457(b) plan) or a traditional IRA may roll over distributions from the plan, annuity or IRA into another plan, annuity or IRA.

2008 Provision Specifically for Airline Employees

Under an uncodified provision of the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA),[16] a qualified airline employee may contribute any portion of an airline payment amount to a Roth IRA within 180 days of receipt of such amount (or, if later, within 180 days of December 23, 2008). Such a contribution is treated as a qualified rollover contribution to the Roth IRA. Thus, the portion of the airline payment amount contributed to the Roth IRA is includible in gross income to the extent that such payment would be includible were it not part of the rollover contribution.

Under this provision, an airline payment amount is defined as any payment of any money or other property payable by a commercial passenger airline to a qualified airline employee: (1) under the approval of an order of a federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007, and (2) in respect of the qualified airline employee's interest in a bankruptcy claim against the airline carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump-sum amount. An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits. In determining the amount that may be contributed to a Roth IRA under this provision, any reduction in the airline payment amount on account of employment tax withholding is disregarded. A qualified airline employee is an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier that: (1) is qualified under IRC section 401(a); and (2) was terminated or became subject to the benefit accrual and other restrictions applicable to plans maintained by commercial passenger airlines pursuant to paragraphs 402(b)(2) and (3) of the Pension Protection Act of 2006.[17]

New Federal Law (Uncodified Act section 1106 Affecting IRC section 402)

This provision provides that a qualified airline employee may contribute up to 90 percent of an airline payment amount to a traditional IRA. This provision also allows qualified airline employees who previously transferred an airline payment amount into a Roth IRA (under the WRERA provision) to transfer such payment from the Roth IRA to a traditional IRA, subject to the 90-percent limit.

[16] Section 125 of Public Law 110-458, December 23, 2008.

[17] Public Law 109-280, August 17, 2006.

Transfers made to a traditional IRA are excluded from income, and if an employee previously included any such transferred amount in income, an amended return may be flied to claim a refund (for the taxable year the payment was received). This provision modifies that statute of limitations for filing an amended return to claim a refund for such a transfer to the later of the normal statute of limitations or April 15, 2013.

Effective Date

This provision applies to transfers made after February 14, 2012, with respect to airline payment amounts paid before, on, or after February 14, 2012.

California Law (R&TC sections 17501 and 17551)

The federal uncodified changes that allow qualified airline employees to make IRA contributions of airline payment amounts, and transfers of previous airline payment amounts from a Roth IRA to a traditional IRA, automatically apply under California law without regard to taxable year to the same extent as applicable for federal income tax purposes.[18]

California law does not conform to this provision's change to the IRC that extends the federal statute of limitations for filing an amended return to claim a refund based on a transfer from a Roth IRA to a traditional IRA; however, California law provides that an amended return to claim a refund that is based on a federal change may be filed within two years from the date of the final federal determination (or two years from the date the federal change is allowed by the IRS).[19]

Impact on California Revenue

Baseline—based on a proration of federal estimates developed by the Joint Committee on Taxation, baseline revenue losses are estimated to be $2,600,000 in 2012-13, $1,400,000 in 2013-14, and $150,000 in subsequent fiscal years.

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[18] California conforms by reference to Subchapter D of Chapter 1 of Subtitle A of the IRC, relating to deferred compensation, consisting of Part I (IRC sections 401 to 420, relating to pension, profit-sharing, stock bonus plans, etc.), Part II (IRC sections 421 to 424, relating to certain stock options), and Part III (IRC sections 430 to 436, relating to rules relating to minimum funding standards and benefit limitations), in R&TC section 17501. Additionally, California conforms by reference to IRC 457, relating to deferred compensation plans of state and local governments and tax-exempt organizations, in R&TC section 17551.

Except for increases in the maximum amount of elective deferrals that may be excluded from income under IRC section 402(g), R&TC sections 17501(b) and 17551(c) specifically provide that federal changes to Part I and Part III of Subchapter D of Chapter 1 of Subtitle A of the IRC, and IRC section 457, automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes (and thus adopt all changes made to those IRC sections without regard to the "specified date" contained in R&TC section 17024.5).

[19] R&TC section 19311.

Section	Section Title
1107	Termination of Exemption for Small Jet Aircraft on Nonestablished Lines

Background

Under present law, transportation by aircraft with a certificated maximum takeoff weight of 6,000 pounds or less is exempt from the excise taxes imposed on the transportation of persons by air and the transportation of cargo by air when operating on a nonestablished line. Similarly, when such aircraft are operating on a flight for the sole purpose of sightseeing, the taxes imposed on the transportation or persons or cargo by air do not apply.

New Federal Law (IRC section 4281)

This provision repeals the exemption for transportation by small aircraft operating on nonestablished lines. The present-law exemption for flights operated for the sole purposes of sightseeing is unchanged by this provision.

Effective Date

This provision is effective for transportation provided after March 31, 2012.

California Law

The FTB does not administer aviation taxes. Defer to the BOE.

Impact on California Revenue

Defer to the BOE.

Section	Section Title
1108	Modification of Control Definition for Purposes of Section 249

Background

In general, where a corporation repurchases its indebtedness for a price in excess of the adjusted issue price, the excess of the repurchase price over the adjusted issue price (the "repurchase premium") is deductible as interest.[20] However, in the case of indebtedness that is convertible into the stock of: (1) the issuing corporation, (2) a corporation in control of the issuing corporation, or (3) a corporation controlled by the issuing corporation, IRC section 249 provides that any repurchase premium is not deductible to the extent it exceeds "a normal call premium on bonds or other evidences of indebtedness which are not convertible."[21]

For purposes of IRC section 249, the term "control" has the meaning assigned to such term by IRC section 368(c) that defines "control" as "ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation." Thus, IRC section 249 can apply to debt convertible into the stock of the issuer, the parent of the issuer, or a first-tier subsidiary of the issuer.

New Federal Law (IRC section 249)

This provision modifies the definition of "control" in IRC section 249(b)(2) to incorporate indirect control relationships, of the nature described in IRC section 1563(a)(1).

IRC section 1563(a)(1) defines a parent-subsidiary controlled group as one or more chains of corporations connected through stock ownership with a common parent corporation if: (1) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned (within the meaning of IRC section 1563(d)(1)) by one or more of the other corporations; and (2) the common parent corporation owns (within the meaning of IRC section 1563(d)(1)) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing such voting power or value, stock owned directly by such other corporations.

[20] See Treas. Reg. section 1.163-7(c).

[21] Regulations under IRC section 249 provide that "[f]or a convertible obligation repurchased on or after March 2, 1998, a call premium specified in dollars under the terms of the obligation is considered to be a normal call premium on a nonconvertible obligation if the call premium applicable when the obligation is repurchased does not exceed an amount equal to the interest (including original issue discount) that otherwise would be deductible for the taxable year of repurchase (determined as if the obligation were not repurchased)." Treas. Reg. section 1.249-1(d)(2). Where a repurchase premium exceeds a normal call premium, the repurchase premium is still deductible to the extent that it is attributable to the cost of borrowing (e.g., a change in prevailing yields or the issuer's creditworthiness) and not attributable to the conversion feature. See Treas. Reg. section 1.249-1(e).

Effective Date

The amendments made by this provision apply to repurchases after February 14, 2012.

California Law (R&TC section 24439)

California does not conform to IRC section 249, relating to limitation on deduction of bond premium on repurchase; instead, California has its own deduction limitation of bond premium on repurchase under R&TC section 24439 that generally parallels the federal limitation that applied before the enactment of this provision.

Impact on California Revenue

Not applicable.

Section	Section Title
1001	Extension of Payroll Tax Reduction

Background

Federal Insurance Contributions Act ("FICA") taxes apply to employers and employees and each consists of: (1) the old age, survivors, and disability insurance ("OASDI") taxes at a rate of 6.2 percent of covered wages up to the taxable wage base ($106,800 for 2011 and $110,100 for 2012), and (2) the Medicare hospital insurance ("HI") taxes at a rate of 1.45 percent of all covered wages. For 2011, a reduced OASDI tax rate of 4.2 percent applies to employees.

Self-Employment Contributions Act ("SECA") taxes apply to a self-employed individual's self-employment income and consist of: (1) OASDI tax at a rate of 12.4 percent of self-employment income up to the taxable wage base, and (2) HI tax at a rate of 2.9 percent of all self-employment income. A self-employed individual receives an income tax deduction for one-half of SECA taxes paid. For 2011, a reduced OASDI tax rate of 10.4 percent applies to self-employed individuals, with an adjustment to the deduction for one-half of SECA tax to reflect the reduced OASDI rate.

The Temporary Payroll Tax Cut Extension Act of 2011:[22] (1) extended the 2011 reduced OASDI tax rate for employees to wages received through February 29, 2012, and applied to employees an additional two-percent tax on wages received during that period in excess of $18,350, and (2) extended the 2011 reduced OASDI tax rate for self-employed individuals, and the adjustment to the deduction for one-half of SECA tax, through 2012, and limited the self-employment income eligible for the reduced rate to $18,350.

New Federal Law (IRC section 1401)

This provision extends the 2011 reduced OASDI tax rates for employees and self-employed individuals, and the adjustment to the deduction for one-half of SECA tax, to apply for all of 2012.

Effective Date

This provision is effective for remuneration received, and taxable years beginning, on or after January 1, 2012.

[22] Public Law 112-78.

California Law (R&TC section 17201)

OASDI Tax Cut

The FTB does not administer payroll taxes. Defer to the Employment Development Department (EDD).

Deductible OASDI Portion of SECA Tax

For purposes of computing the deductible OASDI portion of the SECA tax, the Personal Income Tax Law (PITL) conforms to the deduction allowed under federal law as of the "specified date" of January 1, 2009, with modifications;[23] thus, California does not conform to this provision's change to the computation of the SECA income tax deduction (i.e., California does not conform to the change that increases the deductible SECA tax from 50 percent to 59.6 percent of the OASDI tax paid, plus one-half of the HI tax paid). Instead, the California deduction for SECA taxes is 50 percent of the OASDI tax paid plus one-half of the HI tax paid.

Impact on California Revenue

OASDI Tax Cut

Defer to the EDD.

Deductible OASDI Portion of SECA Tax

Estimated Revenue Impact of Extension of Payroll Tax Deduction – Deductible OASDI Portion of SECA Tax For Taxable Years Beginning On or After January 1, 2012 Enactment Assumed After June 30, 2013		
2012-13	**2013-14**	**2014-15**
- $30,000,000	$0	$0

Estimates are based on a proration of federal estimates developed by the Joint Committee on Taxation.

[23] R&TC section 17201 conforms to IRC section 164, relating to taxes, as of the "specified date" of January 1, 2009, with modifications in R&TC sections 17220 and 17222.

Section	Section Title
2103 - 2184	Various Unemployment Compensation Provisions

Background

Emergency Unemployment Compensation

Basic income support for unemployed workers is generally provided through the joint federal-state unemployment compensation, which generally pays up to 26 weeks of unemployment benefits. Unemployment benefits may be extended at the state level by the permanent extended-benefits (EB) program if high unemployment exists within the state.

Once regular unemployment benefits are exhausted, the EB program may provide additional weeks of benefits, depending on worker eligibility, state law, and state economic conditions. Under permanent law,[24] the EB program is funded 50 percent by the federal government and 50 percent by the states. The American Recovery and Reinvestment Act of 2009,[25] the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010,[26] and the Temporary Payroll Tax Cut Continuation Act of 2011[27] temporarily provided for 100 percent federal funding of the EB program until March 7, 2012.

Modified Look-Back Triggers

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and the Temporary Payroll Tax Cut Continuation Act of 2011 allowed states to temporarily use look-back calculations based on three years of unemployment rate data (rather than the a look-back of two years of data) as part of their EB triggers if states would otherwise trigger off or not be on a period of EB benefits. The temporary option to use three-year EB trigger look-back calculations expired the week ending on or before February 29, 2012.

Suspension of the Waiting Week

States that do not require a one-week UC waiting period, or that have an exception for any reason to the waiting period, must pay 100 percent of the first week of EB (rather than 50 percent). Public Law 111-78, the Temporary Payroll Tax Cut Continuation Act of 2011, suspended this waiting week requirement from the time of its enactment until the week ending on or before February 29, 2012.

[24] Public Law 91-373.

[25] Public Law 111-5.

[26] Public Law 111-312.

[27] Public Law 112-78.

Unemployment Benefit Overpayments

States are authorized (but not required) to reduce current unemployment benefits to recover prior unemployment benefit overpayments.

<u>New Federal Law (IRC sections 3304 and 3306)</u>

Act sections 2103 - 2184 provide the following changes to unemployment compensation:

- Section 2103 requires states to reduce current unemployment benefits to recover prior unemployment benefit overpayments, effective for weeks beginning after the end of the first session of the state legislature which begins after February 22, 2012.

- Section 2122 extends and modifies the federal financing of EB through January 2, 2013, and extends and modifies the option for states to temporarily use look-back calculations based on three years (instead of two) to the week ending on or before December 31, 2012, effective as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011.

- Section 2123 temporarily alters federal-state funding ratios; extended benefits are 100 percent federally financed through December 31, 2012, and continues the temporary suspension of the waiting week requirement for federal funding until the week ending before June 30, 2013, effective as if included in the enactment of the Temporary Payroll Tax Cut Continuation Act of 2011.

- Section 2141 allows a state agency to make emergency unemployment compensation payments to individuals who are able to work, available to work, and actively seeking work, and requires states to establish a minimum number of such benefit claims that will be audited, effective February 22, 2012.

- Section 2142 requires states to provide reemployment services and reemployment eligibility assessment activities to certain recipients of emergency unemployment compensation, and conditions an individual's continuing eligibility for emergency unemployment compensation for any week on whether such individual has been referred to such services or activities and participated, or has completed such participation, unless there is justifiable cause for failure to do so, effective February 22, 2012.

- Section 2143 requires a state agency (that, currently, is merely authorized) to recover an emergency unemployment compensation overpayment to an individual by making deductions from such individual's emergency unemployment compensation payments during the three-year period after such individual received the payment to which he or she was not entitled, effective February 22, 2012.

- Section 2144 makes the non-reduction rule inapplicable for a state that has enacted a law before March 1, 2012, that, upon taking effect, would violate such rule, thus allows a particular federal-state emergency unemployment compensation agreement to be effective for a state even though it passes a law that would modify the method for computing regular compensation so that the average weekly benefit amount of regular compensation payable during the period of the agreement on or after June 2, 2010, will be less than the average weekly benefit amount that otherwise would be payable during that period under state law as in effect on June 2, 2010. The "non-reduction rule" declares that a federal-state EUC agreement shall not apply, or shall cease to apply, to such a state.

- Sections 2160 – 2165 are contained in the subtitle “Layoff Prevention Act of 2012,” which sets forth requirements relating to short-time compensation programs to allow employers to reduce the workweek of their employees in lieu of layoffs, and provides for federal financing of state short-time compensation programs, effective February 22, 2012.

- Sections 2181 – 2184 are contained in the subtitle “Self Employment Assistance,” which:

    - Authorize states to establish a self-employment assistance program (a program to provide unemployed individuals with an allowance in lieu of emergency unemployment compensation to establish a business and become self-employed), and allow participants in a self-employment assistance program to opt to discontinue such participation;

    - Direct the Secretary of Labor to: (1) award grants to states for self-employment assistance programs; (2) develop model language that may be used by states in enacting such programs and provide technical assistance to states in establishing, improving, and administering such programs; (3) establish reporting requirements for states that have established such programs; and (4) report to Congress on the effectiveness of such programs;

    - Direct the Secretary of Labor to: (1) develop model language that may be used by states in enacting such programs, and (2) provide technical assistance and guidance in establishing, improving, and administering the programs; and, requires the Secretary to use resources available through the Department of Labor and coordinate with the Administrator of the Small Business Administration to ensure that adequate funding is reserved and made available for entrepreneurial training to individuals participating in self-employment assistance programs; and

    - Are effective February 22, 2012.

Effective Date

The effective date of this provision’s changes is generally February 22, 2012, except as specified otherwise above.

California Law

The FTB does not administer unemployment compensation. Defer to the EDD.

Impact on California Revenue

Defer to the EDD.

Section	Section Title
7001	Repeal of Certain Shifts in the Timing of Corporate Estimated Tax Payments

Background

In general, corporations are required to make quarterly estimated tax payments of their income tax liability.[28] For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15. The following federal Acts shifted the timing of certain estimated tax payments of corporations with assets of at least $1 billion (determined as of the end of the preceding taxable year):

1. The Corporate Estimated Tax Shift Act of 2009;[29]
2. The Hiring Incentives to Restore Employment Act;[30]
3. The United States-Korea Free Trade Agreement Implementation Act;[31]
4. The United States-Columbia Trade Promotion Agreement Implementation Act;[32] and
5. The United States-Panama Trade Promotion Agreement Implementation Act.[33]

New Federal Law (IRC section 6655)

This provision repeals the above-listed timing shifts of corporate estimated tax payments of corporations with assets of at least $1 billion (determined as of the end of the preceding taxable year).

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[28] IRC section 6655.

[29] Public Law 111-42, Section 201. Payments due in July, August, or September, 2012, were increased to 100.50 percent of the payment otherwise due, with the next required payment reduced accordingly.

[30] Public Law 111-147, Section 561. Payments due in July, August, or September, 2014, were increased to 174.25 percent of the payment otherwise due, with the next required payment reduced accordingly.

[31] Public Law 112-41, Section 505. Payments due in July, August, or September, 2015, were increased to 163.75 percent of the payment otherwise due, with the next required payment reduced accordingly.

[32] Public Law 112-42, Section 603. Payments due in July, August, or September, 2016, were increased to 103.50 percent of the payment otherwise due, with the next required payment reduced accordingly.

[33] Public Law 112-43, Section 502. Payments due in July, August, or September, 2019, were increased to 106.50 percent of the payment otherwise due, with the next required payment reduced accordingly.

Effective Date

This provision is effective on February 22, 2012.

California Law (R&TC section 19025)

California law does not conform to IRC section 6655, and instead has its own rules for estimated tax payments. Corporate estimated payments are required in the following percentages:

Quarter Installment	Percent of Estimated Tax
1st	30
2nd	40
3rd	0
4th	30

Corporate taxpayers who are not required to make an estimate payment installment in the first quarter are required to make the following installment payments in subsequent quarters:

Quarter Installment	Percent of Estimated Tax
2nd	60
3rd	0
4th	40

Corporate taxpayers who are not required to make an estimate payment installment in the first two quarters are required to make the following installment payments in subsequent quarters:

Quarter Installment	Percent of Estimated Tax
3rd	70
4th	30

Corporate taxpayers who are not required to make an estimate payment installment in the first three quarters are required to pay 100 percent in the fourth quarter.

Impact on California Revenue

Not applicable.

Section	Section Title
40101	Extension of Trust Fund Expenditure Authority

Background

In General

Under present law, revenues from the highway excise taxes, as imposed through June 30, 2012, generally are dedicated to the Highway Trust Fund. Dedication of excise tax revenues to the Highway Trust Fund and expenditures from the Highway Trust Fund are governed by the IRC.[34] The IRC authorizes expenditures (subject to appropriations) from the Highway Trust Fund through June 30, 2012, for the purposes provided in authorizing legislation, as such legislation was in effect on the date of enactment of the Surface Transportation Extension Act of 2012.

Highway Trust Fund Expenditure Purposes

The Highway Trust Fund has a separate account for mass transit, the Mass Transit Account.[35] The Highway Trust Fund and the Mass Transit Account are funding sources for specific programs. Highway Trust Fund expenditure purposes have been revised with each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are specified by the IRC as Highway Trust Fund expenditure purposes.[36]

The IRC provides that the authority to make expenditures from the Highway Trust Fund expires after June 30, 2012. Thus, no Highway Trust Fund expenditures may occur after June 30, 2012, without an amendment to the IRC. As noted above, IRC section 9503 appropriates to the Highway Trust Fund amounts equivalent to the taxes received from the following: the taxes on diesel, gasoline, kerosene and special motor fuel, the tax on tires, the annual heavy vehicle use tax, and the tax on the retail sale of heavy trucks and trailers.[37]

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[34] IRC section 9503. The Highway Trust Fund statutory provisions were placed in the IRC in 1982.

[35] IRC section 9503(e)(1).

[36] The authorizing Acts that currently are referenced in the Highway Trust Fund provisions of the IRC are: the Highway Revenue Act of 1956; Titles I and II of the Surface Transportation Assistance Act of 1982; the Surface Transportation and Uniform Relocation Act of 1987; the Intermodal Surface Transportation Efficiency Act of 1991; the Transportation Equity Act for the 21st Century, the Surface Transportation Extension Act of 2003, the Surface Transportation Extension Act of 2004; the Surface Transportation Extension Act of 2004, Part II; the Surface Transportation Extension Act of 2004, Part III; the Surface Transportation Extension Act of 2004, Part IV; the Surface Transportation Extension Act of 2004, Part V; the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; the SAFETEA-LU Technical Corrections Act of 2008; the Surface Transportation Extension Act of 2010; the Surface Transportation Extension Act of 2010, Part II; the Surface Transportation Extension Act of 2011; the Surface Transportation Extension Act of 2011, Part II, and the Surface Transportation Extension Act of 2012.

[37] IRC section 9503(b)(1).

IRC section 9601 provides that amounts appropriated to a trust fund pursuant to IRC sections 9501 through 9511 are to be transferred at least monthly from the General Fund of the Treasury to such trust fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in the IRC section appropriating the amounts to such trust fund. The IRC requires that proper adjustments be made in amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

New Federal Law (IRC sections 9503, 9504, and 9508)

This provision extends the expenditure authority for the Highway Trust Fund through September 30, 2014. The IRC provisions governing the purposes for which monies in the Highway Trust Fund may be spent are updated to include this Act. Cross references to the reauthorization bill in the IRC provisions governing the Sport Fish Restoration and Boating Trust Fund are also updated to include this Act.

Effective Date

This provision is effective on July 1, 2012.

California Law

Not applicable.

Impact on California Revenue

Not applicable.

Section	Section Title
40102	Extension of Highway-Related Taxes

Background

In General

Six separate excise taxes are imposed to finance the federal Highway Trust Fund program. Three of these taxes are imposed on highway motor fuels. The remaining three are a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles. A substantial majority of the revenues produced by the Highway Trust Fund excise taxes are derived from the taxes on motor fuels. The annual use tax on heavy vehicles expires October 1, 2013. Except for 4.3 cents per gallon of the Highway Trust Fund fuels tax rates, the remaining taxes are scheduled to expire after June 30, 2012. The 4.3-cents-per-gallon portion of the fuels tax rates is permanent.[38]

The six taxes are summarized below:

Highway Motor Fuels Taxes

The Highway Trust Fund motor fuels tax rates are as follows:[39]

Gasoline	18.3 cents per gallon
Diesel Fuel and Kerosene	24.3 cents per gallon
Alternative Fuels	18.3 or 24.3 cents per gallon (generally)

Non-Fuel Highway Trust Fund Excise Taxes

In addition to the highway motor fuels excise tax revenues, the Highway Trust Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

1. A 12-percent excise tax imposed on the first retail sale of heavy highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds);[40]
2. An excise tax imposed on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 0.945 cents per 10 pounds of excess;[41] and
3. An annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more.[42] (The maximum rate for this tax is $550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

The taxable year for the annual use tax is from July 1st through June 30th of the following year. For the period July 1, 2013, through September 30, 2013, the amount of the annual use tax is reduced by 75 percent.

[38] This portion of the tax rates was enacted as a deficit reduction measure in 1993. Receipts from it were retained in the General Fund until 1997 legislation provided for their transfer to the Highway Trust Fund.

[39] IRC sections 4081(a)(2)(A)(i), 4081(a)(2)(A)(iii), 4041(a)(2), 4041(a)(3), and 4041(m). Some of these fuels also are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank Trust Fund (IRC sections 4041(d) and 4081(a)(2)(B)).

[40] IRC section 4051.

[41] IRC section 4071.

[42] IRC section 4481.

New Federal Law (IRC sections 4041, 4051, 4071, 4081, 4221, 4481, 4482, 4483, 6412, 9503, and 9508)

In general, this provision extends the taxes dedicated to the Highway Trust Fund at their present-law rates through September 30, 2016, and for the heavy vehicle use tax, through September 30, 2017.[43]

Effective Date

This provision is generally effective July 1, 2012. The technical corrections regarding taxable period are effective as if included in section 142 of the Surface Transportation Extension Act of 2011, Part II.

California Law

The FTB does not administer fuel or motor vehicle excise taxes. Defer to the BOE.

Impact on California Revenue

Defer to the BOE.

Section	Section Title
40201	Transfer from Leaking Underground Storage Tank Trust Fund to Highway Trust Fund

Background

Leaking Underground Storage Tank Trust Fund Financing Rate

Fuels of a type subject to other trust fund excise taxes generally are subject to an add-on excise tax of 0.1 cent per gallon to fund the Leaking Underground Storage Tank (LUST) Trust Fund.[44] For example, the LUST excise tax applies to gasoline, diesel fuel, kerosene, and most alternative fuels subject to highway and aviation fuels excise taxes, and to fuels subject to the inland waterways fuel excise tax. This excise tax is imposed on both uses and parties subject to the other taxes, and to situations (other than export) in which the fuel otherwise is tax exempt. For example, off-highway business use of gasoline and off-highway use of diesel fuel and kerosene generally are exempt from highway motor fuels excise tax. Similarly, states and local governments and certain

[43] The Leaking Underground Storage Tank Trust Fund financing rate also is extended through September 30, 2016. This provision also corrects a potential drafting ambiguity regarding the taxable period as reflected in prior legislation.

[44] IRC sections 4041, 4042, and 4081.

other parties are exempt from such tax. Nonetheless, all such uses and parties are subject to the 0.1-cent-per-gallon LUST excise tax.

Liquefied natural gas, compressed natural gas, and liquefied petroleum gas are exempt from the LUST tax. Additionally, methanol and ethanol fuels produced from coal (including peat) are taxed at a reduced rate of 0.05 cents per gallon.

Overview of Leaking Underground Storage Tank Trust Fund Expenditure Provisions

Amounts in the LUST Trust Fund are available, as provided in appropriations Acts, for purposes of making expenditures to carry out sections 9003(h)-(j), 9004(f), 9005(c), and 9010-9013 of the Solid Waste Disposal Act as in effect on the date of enactment of Public Law 109-168. Any claim filed against the LUST Trust Fund may be paid only out of such fund, and the liability of the United States for claims is limited to the amount in the fund.

The monies in the LUST Trust Fund are used to pay expenses incurred by the Environmental Protection Agency (EPA) and the states for preventing, detecting, and cleaning up leaks from petroleum underground storage tanks, as well as programs to evaluate the compatibility of fuel storage tanks with alternative fuels, methyl tertiary butyl ether (MTBE) additives, and ethanol and biodiesel blends.

The EPA makes grants to states to implement the program, and states use cleanup funds primarily to oversee and enforce corrective actions by responsible parties. States and the EPA also use cleanup funds to conduct corrective actions where no responsible party has been identified, where a responsible party fails to comply with a cleanup order, in the event of an emergency, and to take cost recovery actions against parties. In 2005, Congress authorized the EPA and states to use trust fund monies for non-cleanup purposes as well, specifically for administration and enforcement of the leak prevention requirements of the LUST program.[45]

New Federal Law (IRC sections 9503 and 9508)

This provision transfers $2.4 billion from the LUST Trust Fund to the Highway Account of the Highway Trust Fund.

Effective Date

This provision is effective on July 6, 2012.

California Law

Not applicable.

[45] Public Law 109-58.

Impact on California Revenue

Not applicable.

Section	Section Title
40211	Pension Funding Stabilization

Background

Minimum Funding Rules

Defined benefit plans generally are subject to minimum funding rules that require the sponsoring employer generally to make a contribution for each plan year to fund plan benefits.[46] Parallel rules apply under the Employee Retirement Income Security Act of 1974 (ERISA), which is generally in the jurisdiction of the Department of Labor.[47] The minimum funding rules for single-employer defined benefit plans were substantially revised by the Pension Protection Act of 2006 (PPA).[48]

Minimum Required Contributions

In General

The minimum required contribution for a plan year for a single-employer defined benefit plan generally depends on a comparison of the value of the plan's assets, reduced by any prefunding balance or funding standard carryover balance ("net value of plan assets"),[49] with the plan's

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[46] IRC section 412. A number of exceptions to the minimum funding rules apply. For example, governmental plans (within the meaning of IRC section 414(d)) and church plans (within the meaning of IRC section 414(e)) are generally not subject to the minimum funding rules. Under IRC section 4971, an excise tax applies to an employer maintaining a single-employer plan if the minimum funding requirements are not satisfied.

[47] Section 302 of ERISA.

[48] Public Law 109-280. The PPA minimum funding rules for single-employer plans are generally effective for plan years beginning after December 31, 2007. Delayed effective dates apply to single-employer plans sponsored by certain large defense contractors, multiple-employer plans of some rural cooperatives, eligible charity plans, and single-employer plans affected by settlement agreements with the Pension Benefit Guaranty Corporation. Subsequent changes to the single-employer plan and multiemployer-plan funding rules (including temporary funding relief) were made by the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110-458), and the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (Public Law 111-192).

[49] The value of plan assets is generally reduced by any prefunding balance or funding standard carryover balance in determining minimum required contributions, including for this purpose. A prefunding balance results from contributions (to a plan) that exceed the minimum required contributions. A funding standard carryover balance results from a positive balance in the funding standard account that applied under the funding requirements in effect before the PPA. Subject to certain conditions, a prefunding balance or funding standard carryover balance may be credited against the minimum required contribution for a year, reducing the amount that must be contributed.

funding target and target normal cost. The plan's funding target for a plan year is the present value of all benefits accrued or earned as of the beginning of the plan year. A plan's target normal cost for a plan year is generally the present value of benefits expected to accrue or to be earned during the plan year.

If the net value of plan assets is less than the plan's funding target, so that the plan has a funding shortfall (discussed further below), the minimum required contribution is the sum of the plan's target normal cost and the shortfall amortization charge for the plan year (determined as described below).[50] If the net value of plan assets is equal to or exceeds the plan's funding target, the minimum required contribution is the plan's target normal cost, reduced by the amount, if any, by which the net value of plan assets exceeds the plan's funding target.

Shortfall Amortization Charge

The shortfall amortization charge for a plan year is the sum of the annual shortfall amortization installments attributable to the shortfall bases for that plan year and the six previous plan years. Generally, if a plan has a funding shortfall for the plan year, a shortfall amortization base must be established for the plan year.[51]

A plan's funding shortfall is the amount by which the plan's funding target exceeds the net value of plan assets. The shortfall amortization base for a plan year is: (1) the plan's funding shortfall, minus (2) the present value, determined using the segment interest rates (discussed below), of the aggregate total of the shortfall amortization installments that have been determined for the plan year and any succeeding plan year with respect to any shortfall amortization bases for the six previous plan years. The shortfall amortization base is amortized in level annual installments ("shortfall amortization installments") over a seven-year period beginning with the current plan year and using the segment interest rates (discussed below).[52]

The shortfall amortization base for a plan year may be positive or negative, depending on whether the present value of remaining installments with respect to amortization bases for previous years is more or less than the plan's funding shortfall. If the shortfall amortization base is positive (that

[50] If the plan has obtained a waiver of the minimum required contribution (a funding waiver) within the past five years, the minimum required contribution also includes the related waiver amortization charge; that is, the annual installment needed to amortize the waived amount in level installments over the five years following the year of the waiver.

[51] If the value of plan assets, reduced only by any prefunding balance if the employer elects to apply the prefunding balance against the required contribution for the plan year, is at least equal to the plan's funding target, no shortfall amortization base is established for the year.

[52] Under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (Public Law 111-192), employers were permitted to elect to use one of two alternative extended amortization schedules for up to two eligible plan years during the period 2008-2011. The use of an extended amortization schedule has the effect of reducing the amount of the shortfall amortization installments attributable to the shortfall amortization base for the eligible plan year. However, the shortfall amortization installments attributable to an eligible plan year may be increased by an additional amount, an "installment acceleration amount," in the case of employee compensation exceeding $1 million, extraordinary dividends, or stock redemptions within a certain period of the eligible plan year.

is, the funding shortfall exceeds the present value of the remaining installments), the related shortfall amortization installments are positive. If the shortfall amortization base is negative, the related shortfall amortization installments are negative. The positive and negative shortfall amortization installments for a particular plan year are netted when adding them up in determining the shortfall amortization charge for the plan year, but the resulting shortfall amortization charge cannot be less than zero (i.e., negative amortization installments may not offset normal cost).

If the net value of plan assets for a plan year is at least equal to the plan's funding target for the year, so the plan has no funding shortfall, any shortfall amortization bases and related shortfall amortization installments are eliminated.[53] As indicated above, if the net value of plan assets exceeds the plan's funding target, the excess is applied against target normal cost in determining the minimum required contribution.

Interest Rates Used to Determine Target Normal Cost and Funding Target

The minimum funding rules for single-employer plans specify the interest rates and other actuarial assumptions that must be used in determining the present value of benefits for purposes of a plan's target normal cost and funding target.

Present value is determined using three interest rates ("segment rates"), each of which applies to benefit payments expected to be made from the plan during a certain period. The first segment rate applies to benefits reasonably determined to be payable during the five-year period beginning on the first day of the plan year; the second segment rate applies to benefits reasonably determined to be payable during the 15-year period following the initial five-year period; and the third segment rate applies to benefits reasonably determined to be payable at the end of the 15-year period. Each segment rate is a single interest rate determined monthly by the Secretary of the Treasury on the basis of a corporate bond yield curve, taking into account only the portion of the yield curve based on corporate bonds maturing during the particular segment rate period. The corporate bond yield curve used for this purpose reflects the average, for the 24-month period ending with the preceding month, of yields on investment grade corporate bonds with varying maturities and that are in the top three quality levels available. The Internal Revenue Service (IRS) publishes the segment rates each month.

The present value of liabilities under a plan is determined using the segment rates for the "applicable month" for the plan year. The applicable month is the month that includes the plan's valuation date for the plan year, or, at the election of the employer, any of the four months preceding the month that includes the valuation date.

Solely for purposes of determining minimum required contributions, in lieu of the segment rates described above, an employer may elect to use interest rates on a yield curve based on the yields on investment grade corporate bonds for the month preceding the month in which the plan year

[53] Any amortization base relating to a funding waiver for a previous year is also eliminated.

begins (i.e., without regard to the 24-month averaging described above) ("monthly yield curve"). If an election to use a monthly yield curve is made, it cannot be revoked without IRS approval.

Use of Segment Rates for Other Purposes

In General

In addition to being used to determine a plan's funding target and target normal cost, the segment rates are used also for other purposes, either directly because the segment rates themselves are specifically cross-referenced or indirectly because funding target, target normal cost, or some other concept, such as funding target attainment percentage (discussed below) in which funding target or target normal cost is an element, is cross-referenced elsewhere.

Funding Target Attainment Percentage

A plan's funding target attainment percentage for a plan year is the ratio (expressed as a percentage) that the net value of plan assets bears to the plan's funding target for the year. Special rules may apply to a plan if its funding target attainment percentage is below a certain level. For example, funding target attainment percentage is used to determine whether a plan is in "at-risk" status, so that special actuarial assumptions ("at-risk assumptions") must be used in determining the plan's funding target and target normal cost.[54] A plan is in at-risk status for a plan year if, for the preceding year: (1) the plan's funding target attainment percentage, determined without regard to the at-risk assumptions, was less than 80 percent, and (2) the plan's funding target attainment percentage, determined using the at-risk assumptions (without regard to whether the plan was in at-risk status for the preceding year), was less than 70 percent.[55] In addition, special reporting to the Pension Benefit Guaranty Corporation (PBGC) may be required if a plan's funding target attainment percentage is less than 80 percent.[56]

Restrictions on benefit increases, certain types of benefits and benefit accruals (collectively referred to as "benefit restrictions") may apply to a plan if the plan's adjusted funding target attainment percentage is below a certain level.[57] Adjusted funding target attainment percentage is determined in the same way as funding target attainment percentage, except that the net value of plan assets and the plan's funding target are both increased by the aggregate amount of purchases of annuities for employees, other than highly-compensated employees, made by the plan during the two preceding plan years. Although anti-cutback rules generally prohibit

[54] If a plan is in at-risk status, under IRC section 409A(b)(3), limitations apply on the employer's ability to set aside assets to provide benefits under a nonqualified deferred compensation plan.

[55] A similar test applies in order for an employer to be permitted to apply a prefunding balance against its required contribution, that is, for the preceding year, the ratio of the value of plan assets (reduced by any prefunding balance) must be at least 80 percent of the plan's funding target (determined without regard to the at-risk rules).

[56] ERISA section 4010.

[57] IRC section 436 and ERISA section 206(g).

reductions in benefits that have already been earned under a plan,[58] reductions required to comply with the benefit restrictions are permitted.

Minimum and Maximum Lump Sums, Limits on Deductible Contributions, and Retiree Health

Defined benefit plans commonly allow a participant to choose among various forms of benefit offered under the plan, such as a lump-sum distribution. These optional forms of benefit generally must be actuarially equivalent to the life annuity benefit payable to the participant at normal retirement age. For certain forms of benefit, such as lump sums, the benefit amount cannot be less than the amount determined using the segment rates and a specified mortality table.[59] For this purpose, however, the segment rates are determined on a monthly basis, rather than using a 24-month average of corporate bond rates.

The amounts of benefits under a defined benefit plan are subject to certain limits.[60] The segment rates used in determining minimum lump sums (and certain other forms of benefit) are also used in applying the benefit limits to lump sums (and the certain other forms of benefit).

Limits apply to the amount of plan contributions that may be deducted by an employer.[61] In the case of a single-employer defined benefit plan, the plan's funding target and target normal cost, determined using the segment rates that apply for funding purposes, are taken into account in calculating the limit on deductible contributions.

Subject to various conditions, a qualified transfer of excess assets of a single-employer defined benefit plan to a retiree medical account within the plan may be made in order to fund retiree health benefits.[62] For this purpose, excess assets generally means the excess, if any, of the value of the plan's assets over 125 percent of the sum of the plan's funding target and target normal cost for the plan year.

PBGC Premiums and 4010 Reporting

PBGC premiums apply with respect to defined benefit plans covered by ERISA.[63] In the case of a single-employer defined benefit plan, flat-rate premiums apply at a rate of $35.00 per participant for 2012.[64] If a single-employer defined benefit plan has unfunded vested benefits, variable-rate

[58] IRC section 411(d)(6) and ERISA section 204(g).

[59] IRC section 417(e) and ERISA section 205(g).

[60] IRC section 415(b).

[61] IRC section 404.

[62] IRC section 420. Under present law, a qualified transfer is not permitted after December 31, 2013.

[63] ERISA section 4006.

[64] Flat-rate premiums apply also to multiemployer defined benefit plans at a rate of $9.00 per participant. Single-employer and multiemployer flat-rate premium rates are indexed for inflation. The rate of variable-rate premiums is not indexed.

premiums also apply at a rate of $9 per $1,000 of unfunded vested benefits divided by the number of participants. For purposes of determining variable-rate premiums, unfunded vested benefits are equal to the excess (if any) of: (1) the plan's funding target for the year determined as under the minimum funding rules, but taking into account only vested benefits, over (2) the fair market value of plan assets. In determining the plan's funding target for this purpose, the interest rates used are segment rates determined as under the minimum funding rules, but determined on a monthly basis, rather than using a 24-month average of corporate bond rates.

In certain circumstances, the contributing sponsor of a single-employer plan defined benefit pension plan covered by the PBGC (and members of the contributing sponsor's controlled group) must provide certain information to the PBGC (referred to as "section 4010 reporting").[65] This information includes actuarial information with respect to single-employer plans maintained by the contributing sponsor (and controlled group members). Section 4010 reporting is required if: (1) the funding target attainment percentage at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent; (2) the conditions for imposition of a lien (i.e., required contributions totaling more than $1 million have not been made) have occurred with respect to a plan maintained by the contributing sponsor or any member of its controlled group; or (3) minimum funding waivers in excess of $1 million have been granted with respect to a plan maintained by the contributing sponsor or any member of its controlled group and any portion of the waived amount is still outstanding.

Annual Funding Notice

The plan administrator of a defined benefit plan must provide an annual funding notice to: (1) each participant and beneficiary; (2) each labor organization representing such participants or beneficiaries; and (3) the PBGC.[66]

In addition to the information required to be provided in all funding notices, certain information must be provided in the case of a single-employer defined benefit plan, including: (1) a statement as to whether the plan's funding target attainment percentage (as defined under the minimum funding rules) for the plan year to which the notice relates and the two preceding plan years, is at least 100 percent (and, if not, the actual percentages); and, (2) a statement of (a) the total assets (separately stating any funding standard carryover or prefunding balance) and the plan's liabilities for the plan year and the two preceding years, determined in the same manner as under the funding rules, and (b) the value of the plan's assets and liabilities as of the last day of the plan year to which the notice relates, determined using fair market value and the interest rate used in determining variable rate premiums.

A funding notice may also include any additional information that the plan administrator elects to include to the extent not inconsistent with regulations. The notice must be written so as to be

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[65] ERISA section 4010.

[66] ERISA section 101(f). In the case of a multiemployer plan, the notice must also be sent to each employer that has an obligation to contribute under the plan.

understood by the average plan participant. As required under the PPA, the Secretary of Labor has issued a model funding notice that can be used to satisfy the notice requirement.

New Federal Law (IRC sections 404, 417, 420, and 430)

In General

This provision makes parallel modifications to the IRC and ERISA to revise the rules for determining the segment rates under the single-employer plan funding rules by adjusting a segment rate if the rate determined under the regular rules is outside a specified range of the average of the segment rates for the preceding 25-year period ("average" segment rates). In particular, if a segment rate determined for an applicable month under the regular rules is less than the applicable minimum percentage, the segment rate is adjusted upward to match that percentage. If a segment rate determined for an applicable month under the regular rules is more than the applicable maximum percentage, the segment rate is adjusted downward to match that percentage. For this purpose, the average segment rate is the average of the segment rates determined under the regular rules for the 25-year period ending September 30 of the calendar year preceding the calendar year in which the plan year begins. The Secretary of the Treasury is to determine average segment rates on an annual basis and may prescribe equivalent rates for any years in the 25-year period for which segment rates determined under the regular rules are not available. The Secretary of the Treasury is directed to publish the average segment rates each month.

The applicable minimum percentage and the applicable maximum percentage depend on the calendar year in which the plan year begins as shown by the following table:

If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
2012	90 percent	110 percent
2013	85 percent	115 percent
2014	80 percent	120 percent
2015	75 percent	125 percent
2016 or later	70 percent	130 percent

Thus, for example, if the first segment rate determined for an applicable month under the regular rules for a plan year beginning in 2012 is less than 90 percent of the average of the first segment rates determined under the regular rules for the 25-year period ending September 30, 2011, the segment rate is adjusted to 90 percent of the 25-year average.

The change in the method of determining segment rates generally applies for the purposes for which segment rates are used under present law, except for purposes of determining minimum and maximum lump-sum benefits,[67] limits on deductible contributions to single-employer defined benefit plans, qualified transfers of excess pension assets to retiree medical accounts,[68] and PBGC variable-rate premiums.

If, as of July 6, 2012, an employer election is in effect to use a monthly yield curve in determining minimum required contributions, rather than segment rates, the employer may revoke the election and use segment rates without obtaining IRS approval. The revocation must be made at any time before July 6, 2013, and the revocation will be effective for the first plan year to which the amendments made by this provision apply and all subsequent plan years. The employer is not precluded from making a subsequent election to use a monthly yield curve in determining minimum required contributions in accordance with present law.

Annual Funding Notice

This provision requires additional information to be included in the annual funding notice in the case of an applicable plan year. For this purpose, an applicable plan year is any plan year beginning after December 31, 2011, and before January 1, 2015, for which (1) the plan's funding target, determined using segment rates as adjusted to reflect average segment rates ("adjusted" segment rates), is less than 95 percent of the funding target determined without regard to adjusted segment rates (that is, determined as under present law), (2) the plan has a funding shortfall, determined without regard to adjusted segment rates, greater than $500,000, and (3) the plan had 50 or more participants on any day during the preceding plan year.

The additional information that must be provided is:

1. A statement that MAP-21 modified the method for determining the interest rates used to determine the actuarial value of benefits earned under the plan, providing for a 25-year average of interest rates to be taken into account in addition to a 2-year average;
2. A statement that, as a result of MAP-21, the plan sponsor may contribute less money to the plan when interest rates are at historical lows, and
3. A table showing, for the applicable plan year and each of the two preceding plan years, the plan's funding target attainment percentage, funding shortfall, and the employer's minimum required contribution, each determined both using adjusted segment rates and without regard to adjusted segment rates (that is, as under the law prior to the enactment of this provision). In the case of a preceding plan year beginning before January 1, 2012, the plan's funding target attainment percentage, funding shortfall, and the employer's minimum required contribution provided are determined only without regard to adjusted segment rates (that is, as under the law prior to the enactment of this provision).

[67] This provision does not provide a specific exception for determining maximum lump-sum benefits. However, the exception for minimum lump-sum benefits applies by cross reference.

[68] This provision also extends to December 31, 2021, the ability to make a qualified transfer, and allows qualified transfers to be made to provide group-term life insurance benefits.

As under the law prior to the enactment of this provision, a funding notice may also include any additional information that the plan administrator elects to include to the extent not inconsistent with regulations. For example, a funding notice may include a statement of the amount of the employer's actual or planned contributions to the plan.

The Secretary of Labor is directed to modify the model funding notice required so that the model includes the additional information in a prominent manner, for example, on a separate first page before the remainder of the notice.

Effective Date

This provision is generally effective for plan years beginning after December 31, 2011. Under a special rule, an employer may elect, for any plan year beginning before January 1, 2013, not to have this provision apply either: (1) for all purposes for which this provision would otherwise apply, or (2) solely for purposes of determining the plan's adjusted funding target attainment percentage (used in applying the benefit restrictions) for that year. A plan is not treated as failing to meet the requirements of the anti-cutback rules solely by reason of an election under the special rule.

California Law (R&TC sections 17501, 17551, and 24601)

IRC Conformity

This provision's IRC modifications generally apply under California law without regard to taxable year to the same extent as applicable for federal income tax purposes.[69]

ERISA Preemption

This provision's parallel ERISA modifications apply to all pension plans in California; there are no California law provisions because federal law precludes any state-level law relating to such plans.

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[69] California conforms by reference to Subchapter D of Chapter 1 of Subtitle A of the IRC, relating to deferred compensation, consisting of Part I (IRC sections 401 to 420, relating to pension, profit-sharing, stock bonus plans, etc.), Part II (IRC sections 421 to 424, relating to certain stock options), and Part III (IRC sections 430 to 436, relating to rules relating to minimum funding standards and benefit limitations), in R&TC sections 17501 and 24601. Additionally, California conforms by reference to IRC 457, relating to deferred compensation plans of state and local governments and tax-exempt organizations, in R&TC section 17551.

Except for increases in the maximum amount of elective deferrals that may be excluded from income under IRC section 402(g), R&TC sections 17501(b) and 17551(c) specifically provide that federal changes to Part I and Part III of Subchapter D of Chapter 1 of Subtitle A of the IRC, and IRC section 457, automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes (and thus adopt all changes made to those IRC sections without regard to the "specified date" contained in R&TC section 17024.5); and, R&TC section 24601(b) specifically provides that federal changes to Part I of Subchapter D of Chapter 1 of Subtitle A of the IRC automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes (and thus adopts all changes made to those IRC sections without regard to the "specified date" contained in R&TC section 23051.5).

Impact on California Revenue

Baseline—based on a proration of federal estimates developed by the Joint Committee on Taxation, baseline revenue gains are estimated to be $100,000,000 in 2013-14, $130,000,000 in 2014-15, and $110,000,000 in 2015-16.

Sections	Section Title
40241 & 40242	Transfers of Excess Pension Assets

Background

Defined Benefit Pension Plan Reversions

Defined benefit plan assets generally may not revert to an employer prior to termination of the plan and satisfaction of all plan liabilities.[70]

Upon plan termination, the accrued benefits of all plan participants are required to be 100-percent vested. A reversion prior to plan termination may constitute a prohibited transaction and may result in plan disqualification. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate is 20 percent if the employer maintains a replacement plan or makes certain benefit increases in connection with the termination; if not, the excise tax rate is 50 percent.

Medical Benefits and Life Insurance Benefits Provided Under a Pension Plan

Retiree Medical Accounts

A pension plan may provide medical benefits to retired employees through a separate account that is part of a defined benefit plan ("retiree medical accounts").[71] Medical benefits provided through a retiree medical account are generally not includible in the retired employee's gross income.[72]

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[70] In addition, a reversion may occur only if the terms of the plan so provide.

[71] IRC section 401(h) and Treas. Reg. section 1.401-1(b).

[72] Treas. Reg. section 1.72-15(h).

Transfers of Excess Pension Assets – In General

A qualified transfer of excess assets of a defined benefit plan, including a multiemployer plan,[73] to a retiree medical account within the plan may be made in order to fund retiree health benefits.[74] A qualified transfer does not result in plan disqualification, is not a prohibited transaction, and is not treated as a reversion. Thus, transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions. No more than one qualified transfer may be made in any taxable year. No qualified transfer may be made after December 31, 2013.

Excess assets generally means the excess, if any, of the value of the plan's assets[75] over 125 percent of the sum of the plan's funding target and target normal cost for the plan year. In addition, excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No deduction is allowed to the employer for: (1) a qualified transfer, or (2) the payment of qualified current retiree health liabilities out of transferred funds (and any income thereon). In addition, no deduction is allowed for amounts paid other than from transferred funds for qualified current retiree health liabilities to the extent such amounts are not greater than the excess of: (1) the amount transferred (and any income thereon), over (2) qualified current retiree health liabilities paid out of transferred assets (and any income thereon). An employer may not contribute any amount to a health benefits account or welfare benefit fund with respect to qualified current retiree health liabilities for which transferred assets are required to be used.

Transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities for the taxable year of the transfer. Transferred amounts generally must benefit pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the separate account. Retiree health benefits of key employees may not be paid out of transferred assets.

Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to a 20-percent excise tax.

In order for the transfer to be qualified: (1) accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer (or in the case of a participant who separated in the one-year period ending on the date of the transfer, immediately before the separation), and (2) there is a maintenance-of-effort requirement

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[73] The Pension Protection Act of 2006 (PPA), Public Law 109-280, extended the application of the rules for qualified transfers to multiemployer plans with respect to transfers made in taxable years beginning after December 31, 2006. However, the rules for qualified future transfers and collectively-bargained transfers do not apply to multiemployer plans.

[74] IRC section 420.

[75] The value of plan assets for this purpose is the lesser of fair market value or actuarial value.

under which the employer generally must maintain retiree health benefits at the same level for the taxable year of the transfer and the following four years.

In addition, the Employee Retirement Income Security Act of 1974 (ERISA)[76] provides that, at least 60 days before the date of a qualified transfer, the employer must notify the Secretary of Labor, the Secretary of the Treasury, employee representatives, and the plan administrator of the transfer, and the plan administrator must notify each plan participant and beneficiary of the transfer.[77]

Transfers of Excess Pension Assets – Qualified Future Transfers and Collectively Bargained Transfers

If certain requirements are satisfied, transfers of excess pension assets under a single-employer plan to retiree medical accounts to fund the expected cost of retiree medical benefits are permitted for the current and future years (a “qualified future transfer”) and such transfers are also allowed in the case of benefits provided under a collective bargaining agreement (a “collectively bargained transfer”).[78]

Transfers must be made for at least a two-year period. An employer can elect to make a qualified future transfer or a collectively bargained transfer rather than a qualified transfer. A qualified future transfer or collectively bargained transfer must meet the requirements applicable to qualified transfers, except that this provision modifies the rules relating to: (1) the determination of excess pension assets; (2) the limitation on the amount transferred; and (3) the maintenance-of-effort requirement. The general sunset applicable to qualified transfer applies (i.e., no transfers can be made after December 31, 2013).

Qualified future transfers and collectively bargained transfers can be made to the extent that plan assets exceed 120 percent of the sum of the plan's funding target and the normal cost for the plan year. During the transfer period, the plan's funded status must be maintained at the minimum level required to make transfers. If the minimum level is not maintained, the employer must make contributions to the plan to meet the minimum level or an amount required to meet the minimum level must be transferred from the health benefits account. The transfer period is the period not to exceed a total of ten consecutive taxable years beginning with the taxable year of the transfer. As previously discussed, the period must be not less than two consecutive years.

Employer Provided Group-Term Life Insurance

Group-term life insurance coverage provided under a policy carried by an employer is includible in the gross income of an employee (including a former employee) but only to the extent that the

[76] Public Law 93-406.

[77] ERISA section 101(e). ERISA also provides that a qualified transfer is not a prohibited transaction under ERISA or a prohibited reversion.

[78] The rules for qualified transfers and collectively bargained transfers were added by the PPA and apply to transfers after the date of its enactment, August 17, 2006.

cost exceeds the sum of the cost of $50,000 of such insurance plus the amount, if any, paid by the employee toward the purchase of such insurance.[79] Special rules apply for determining the cost of group-term life insurance that is includible in gross income under a discriminatory group-term life insurance plan.

A pension plan may provide life insurance benefits for employees (including retirees) but only to the extent that the benefits are incidental to the retirement benefits provided under the plan.[80] The cost of term life insurance provided through a pension plan is includible in the employee's gross income.[81]

New Federal Law (IRC sections 79 and 420)

Extension of Existing Provisions

This provision allows qualified transfers, qualified future transfers, and collectively bargained transfers to retiree medical accounts to be made through December 31, 2021. No transfers are permitted after that date.

Transfers to Fund Retiree Group-Term Life Insurance Permitted

This provision allows qualified transfers, qualified future transfers, and collectively bargained transfers to be made to fund the purchase of retiree group-term life insurance. The assets transferred for the purchase of group-term life insurance must be maintained in a separate account within the plan ("retiree life insurance account"), which must be separate both from the assets in the retiree medical account and from the other assets in the defined benefit plan.

Under this provision, the general rule that the cost of group-term life insurance coverage provided under a defined benefit plan is includable in gross income of the participant does not apply to group-term life insurance provided through a retiree life insurance account. Instead, the general rule for determining the amount of employer-provided group-term life insurance that is includible in gross income applies. However, group-term life insurance coverage is permitted to be provided through a retiree life insurance account only to the extent that it is not includible in gross income. Thus, generally, only group-term life insurance not in excess of $50,000 may be purchased with such transferred assets.

Generally, the present-law rules for transfers of excess pension assets to retiree medical accounts to fund retiree health benefits also apply to transfers to retiree life insurance accounts to fund retiree group-term life. However, generally, the rules are applied separately. Thus, for example, the one-transfer-a-year rule generally applies separately to transfers to retiree life insurance accounts and transfers to retiree medical accounts. Further, the maintenance-of-effort

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[79] IRC section 79.

[80] Treas. Reg. section 1.401-1(b).

[81] IRC sections 72(m)(3) and 79(b)(3).

requirement for qualified transfers applies separately to life insurance benefits and health benefits. Similarly, for qualified future transfers and collectively bargained transfers for retiree group-term life insurance, the maintenance-of-effort requirement and other special rules are applied separately to transfers to retiree life insurance accounts and retiree medical accounts.

Reflecting the inherent differences between life insurance coverage and health coverage, certain rules are not applied to transfers to retiree life insurance accounts, such as the special rules allowing the employer to elect to determine the applicable employer cost for health coverage during the cost maintenance period separately for retirees eligible for Medicare and retirees not eligible for Medicare. However, a separate test is allowed for the cost of retiree group-term life insurance for retirees under age 65 and those retirees who have reached age 65.

This provision makes other technical and conforming changes to the rules for transfers to fund retiree health benefits and removes certain obsolete ("deadwood") rules.

The same sunset applicable to qualified transfers, qualified future transfers, and collectively bargained transfers to retiree medical accounts applies to transfers to retiree life insurance accounts (i.e., no transfers can be made after December 31, 2021).

Effective Date

This provision applies to transfers made after July 6, 2012.

California Law (R&TC sections 17081, 17501, 17551, and 24601)

Changes to IRC Section 420 and Parallel Changes to ERISA

IRC Conformity

This provision's changes to IRC section 420 apply under California law without regard to taxable year to the same extent as applicable for federal income tax purposes.[82]

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[82] California conforms by reference to Subchapter D of Chapter 1 of Subtitle A of the IRC, relating to deferred compensation, consisting of Part I (IRC sections 401 to 420, relating to pension, profit-sharing, stock bonus plans, etc.), Part II (IRC sections 421 to 424, relating to certain stock options), and Part III (IRC sections 430 to 436, relating to rules relating to minimum funding standards and benefit limitations), in R&TC sections 17501 and 24601. Additionally, California conforms by reference to IRC 457, relating to deferred compensation plans of state and local governments and tax-exempt organizations, in R&TC section 17551.

Except for increases in the maximum amount of elective deferrals that may be excluded from income under IRC section 402(g), R&TC sections 17501(b) and 17551(c) specifically provide that federal changes to Part I and Part III of Subchapter D of Chapter 1 of Subtitle A of the IRC, and IRC section 457, automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes (and thus adopt all changes made to those IRC sections without regard to the "specified date" contained in R&TC section 17024.5); and, R&TC section 24601(b) specifically provides that federal changes to Part I of Subchapter D of Chapter 1 of Subtitle A of the IRC automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes (and thus adopts all changes made to those IRC sections without regard to the "specified date" contained in R&TC section 23051.5).

ERISA Preemption

This provision's parallel ERISA modifications apply to all pension plans in California; there are no California law provisions because federal law precludes state-level law relating to such plans.

Changes to IRC Section 79

Under the PITL, California generally conforms to IRC sections 72 and 79 as of the "specified date" of January 1, 2009;[83] thus, under California law, the new IRC section 79(f) exception[84] for life insurance proceeds purchased in connection with qualified transfers of excess pension assets does not apply. Instead, the federal rules that applied to life insurance proceeds purchased in connection with qualified transfers of excess pension assets that were in effect prior to this provision apply under California law.

<u>Impact on California Revenue</u>

Changes to IRC Section 420 and Parallel Changes to ERISA

Baseline.

Changes to IRC Section 79

Negligible.

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[83] R&TC section 17081 conforms to Part II of Subchapter B of Chapter 1 of Subtitle A of the IRC, containing IRC sections 71 to 90, relating to items that are specifically included in gross income, as of the "specified date" of January 1, 2009, except as otherwise provided. Additionally, although this provision does not change IRC section 72(m)(3), that provides income rules for life insurance contracts that are purchased as part of certain plans and trusts, its changes to IRC section 79, relating to group-term life insurance purchased for employees, provide that IRC section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in IRC section 420(e)(4)) under a defined benefit plan.

[84] The new IRC section 79(f) exception means that the general rule (under IRC section 79(a)) for determining the amount of employer-provided group-term life insurance that is includible in gross income applies. Specifically, group-term life insurance coverage is permitted to be provided through a retiree life insurance account to the extent that it is not includible in gross income; that is, only to the extent that the cost exceeds the sum of the cost of $50,000 of such insurance plus the amount, if any, paid by the employee toward the purchase of such insurance.

Section Section Title

40251 Additional Transfers to Highway Trust Fund

Background

Public Law 111-46, an Act to restore funds to the Highway Trust Fund, provided that out of money in the Treasury not otherwise appropriated, $7 billion was appropriated to the Highway Trust Fund effective August 7, 2009. The Hiring Incentives to Restore Employment Act (the "HIRE Act") provided that out of money in the Treasury not otherwise appropriated, $14,700,000,000 is appropriated to the Highway Trust Fund and $4,800,000,000 is appropriated to the Mass Transit Account in the Highway Trust Fund.

New Federal Law (IRC section 9503)

This provision provides that out of money in the Treasury not otherwise appropriated, the following transfers are to be made from the General Fund to the Highway Trust Fund:

Account	Fiscal Year 2013	Fiscal Year 2014
Highway Account	$6.2 billion	$10.4 billion
Mass Transit Account		$2.2 billion

Effective Date

This provision is effective on July 6, 2012.

California Law

Not applicable.

Impact on California Revenue

Not applicable.

Section Section Title

100121 Phased Retirement Authority

Background

Federal Employees' Retirement Benefits

Federal employees are allowed to receive retirement benefits under the Civil Service Retirement System (CSRS) or the Federal Employee Retirement System (FERS) upon separation from federal service after meeting certain age and years-of-service requirements. There is no provision for an employee entering a period of phased retirement to receive a partial annuity during a period of reduction to part-time employment after meeting the age and service requirements for retirement benefit eligibility under the CSRS or the FERS. Thus, an individual who is retirement eligible but wants to continue employment on a part-time basis generally has little economic incentive to do so because the individual's retirement benefits are often greater than or equal to the salary that would be paid for part-time work.

Additional Tax on Early Distributions from Qualified Retirement Plans

Under present law, a taxpayer who receives a distribution from a qualified retirement plan prior to age 59½, death, or disability generally is subject to a 10-percent early-distribution tax on the amount includible in income, unless an exception to the tax applies. Among other exceptions, the early-distribution tax does not apply to distributions made to an employee who separates from service after age 55, distributions to individuals called to active duty, or to distributions that are part of a series of substantially equal periodic payments made for the life (or life expectancy) of the employee or the joint lives (or life expectancies) of the employee and his or her beneficiary.

<u>New Federal Law (IRC section 72)</u>

Federal Employees' Retirement Benefits

Under this provision, a federal agency may allow a full-time retirement eligible employee to elect to enter phased retirement status in accordance with regulations issued by the Office of Personnel Management (OPM). During that status, generally the employee's work schedule is a percentage of a full-time work schedule, and the employee receives a retirement annuity equal to the annuity to which the employee would have been entitled if the employee separated from service multiplied by the employee's retirement percentage.

Additional Tax on Early Distributions from Qualified Retirement Plans

This provision also provides that the 10-percent early-distribution tax does not apply to phased-retirement payments that eligible employees receive from a federal agency.

<u>Effective Date</u>

This provision is effective on the effective date of the implementation regulations issued by the Director of the OPM.

<u>California Law (R&TC sections 17081 and 17085)</u>

Federal Employees' Retirement Benefits

Not applicable.

Additional Tax on Early Distributions from Qualified Retirement Plans

California automatically conforms to any federal changes made to the additional tax on early distributions from qualified retirement plans, modified to provide that the California early-distribution additional tax is 2½ percent of the amount includible in income rather than the federal rate of 10 percent.[85] Thus, under California law, the 2½ percent additional tax on early distributions from qualified retirement plans does not apply to phased-retirement payments that eligible employees receive from a federal agency.

Impact on California Revenue

Federal Employees' Retirement Benefits

Not applicable.

Additional Tax on Early Distributions from Qualified Retirement Plans

Baseline—based on federal estimates developed by the Joint Committee on Taxation, this provision is estimated to result in a negligible revenue loss.

Section	Section Title
100122	Roll-Your-Own Cigarette Machines

Background

Tobacco products and cigarette papers and tubes manufactured in the United States or imported into the United States are subject to federal excise tax at the following rates:[86]

- Cigars weighing not more than three pounds per thousand ("small cigars") are taxed at the rate of $50.33 per thousand;
- Cigars weighing more than three pounds per thousand ("large cigars") are taxed at the rate equal to 52.75 percent of the manufacturer's or importer's sales price but not more than 40.26 cents per cigar;

[85] California generally conforms to IRC section 72, relating to the additional tax on early distributions from qualified retirement plans, as of the "specified date" of January 1, 2009, in R&TC section 17081, with modifications in R&TC section 17085; specifically, R&TC section 17085(c) provides that the additional tax on early distributions from qualified retirement plans under IRC section 72(t) is modified to provide that the early-distribution tax is 2½ percent of the amount includible in income rather than the federal rate of 10 percent, and such modified additional tax applies as applicable for federal income tax purposes for the same taxable year.

[86] IRC section 5701.

- Cigarettes weighing not more than three pounds per thousand ("small cigarettes") are taxed at the rate of $50.33 per thousand ($1.0066 per pack);
- Cigarettes weighing more than three pounds per thousand ("large cigarettes") are taxed at the rate of $105.69 per thousand, except that, if they measure more than six and one-half inches in length, they are taxed at the rate applicable to small cigarettes, counting each two and three-quarter inches (or fraction thereof) of the length of each as one cigarette;
- Cigarette papers are taxed at the rate of 3.15 cents for each 50 papers or fractional part thereof, except that, if they measure more than six and one-half inches in length, they are taxable by counting each two and three-quarter inches (or fraction thereof) of the length of each as one cigarette paper;
- Cigarette tubes are taxed at the rate of 6.30 cents for each 50 tubes or fractional part thereof, except that, if they measure more than six and one-half inches in length, they are taxable by counting each two and three-quarter inches (or fraction thereof) of the length of each as one cigarette tube;
- Snuff is taxed at the rate of $1.51 per pound, and proportionately at that rate on all fractional parts of a pound;
- Chewing tobacco is taxed at the rate of 50.33 cents per pound, and proportionately at that rate on all fractional parts of a pound;
- Pipe tobacco is taxed at the rate of $2.8311 per pound, and proportionately at that rate on all fractional parts of a pound; and
- Roll-your-own tobacco is taxed at the rate of $24.78 per pound, and proportionately at that rate on all fractional parts of a pound.

In general, the excise tax on tobacco products and cigarette papers and tubes manufactured in the United States comes into existence when the products are manufactured and is determined and payable when the tobacco products or cigarette papers and tubes are removed from the bonded premises of the manufacturer. "Tobacco products" means cigars, cigarettes, smokeless tobacco (snuff and chewing tobacco), pipe tobacco, and roll-your-own tobacco. Processed tobacco is regulated under the IRC but no excise tax is imposed. Tobacco products and cigarette papers and tubes may be exported from the United States without payment of tax.

Manufacturers and importers of tobacco products or processed tobacco are subject to certain permitting, bonding, reporting, and record-keeping requirements. "Manufacturer of tobacco products" means any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco. There is an exception for a person who produces these products for their own personal consumption or use.

New Federal Law (IRC section 5702)

This provision amends the definition of manufacturer of tobacco products to include any person who for commercial purposes makes available machines capable of making tobacco products for consumer use. This includes making a machine available for consumers to produce tobacco products for personal consumption or use. A person who sells a machine directly to a consumer at retail for the consumer's personal home use is not a manufacturer of tobacco products under this provision if the machine is not used at a retail establishment and is designed to produce only personal use quantities.

The addition of this provision is not intended to change the treatment of such machines under present law, or to make taxable the sale, at retail, for a consumer's personal home use, a machine designed to produce tobacco only in personal use quantities, where the machine is not used on the retail premises.

For purposes of imposing the tax liability, the person making the machine available for consumer use is deemed to be the person making the removal with respect to any tobacco products manufactured by the machine.

Effective Date

This provision is effective for articles removed after July 6, 2012.

California Law

The FTB does not administer tobacco excise taxes. Defer to the BOE.

Impact on California Revenue

Defer to the BOE.

1. Public Law 112-91, the Airport and Airway Extension Act of 2012. This Act amends the IRC to extend through February 17, 2012, increased excise taxes on aviation fuels, the excise tax on air transportation of persons and property, and the expenditure authority for the Airport and Airway Trust Fund.

IRC Section	Public Law No.	Act Section No.	126 Stat. Page
4081	112-91	2(a)	3
4261	112-91	2(b)(1)	3
4271	112-91	2(b)(2)	3
4081	112-91	2(c)	3
9502	112-91	3(a), (b)	3
9502	112-91	3(c)	3

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2. Public Law 112-102, the Surface Transportation Extension Act of 2012. This Act amends the IRC to extend through June 30, 2012, authority for expenditures from: (1) the Highway Trust Fund Highway and Mass Transit accounts, (2) the Sport Fish Restoration and Boating Trust Fund, and (3) the Leaking Underground Storage Tank Trust Fund.

   This Act amends the IRC to extend through June 30, 2012, (1) excise taxes on: (a) fuel used by certain buses, (b) certain alcohol fuels, (c) gasoline (other than aviation gasoline) and diesel fuel or kerosene, (d) certain heavy trucks and trailers, and (e) tires, (2) the Leaking Underground Storage Tank Trust Fund, (3) the exemptions from excise taxes on: (a) certain sales, and (b) motor vehicles used by a state and local government, and (4) the transfer of (a) certain highway excise taxes to the Highway Trust Fund, and (b) motorboat fuel taxes from the Highway Trust Fund into the Land and Water Conservation Fund.

   The Act also extends through fiscal year 2013 the excise tax on certain heavy vehicles.

IRC Section	Public Law No.	Act Section No.	126 Stat. Page
9503	112-102	401(a)	281
9504	112-102	401(b)	281
9508	112-102	401(c)	281
9503	112-102	401(d)	281
4041	112-102	402(a)(1)(A), (B)	281, 282
4081	112-102	402(a)(1)(C)	282
4041	112-102	402(a)(2)(A)	282
4051	112-102	402(a)(2)(B)	282
4071	112-102	402(a)(2)(C)	282
4081	112-102	402(a)(2)(D)	282

4481	112-102	402(b)(1)	282
4482	112-102	402(b)(2)	282
6412	112-102	402(c)	282
4221	112-102	402(d)	282
4483	112-102	402(d)	282
9503	112-102	402(e)(1), (2)(A)	282

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3. Public Law 112-140, the Temporary Surface Transportation Act of 2012. This Act amends the IRC to extend through July 6, 2012, authority for expenditures from: (1) the Highway Trust Fund Highway and Mass Transit accounts, (2) the Sport Fish Restoration and Boating Trust Fund, and (3) the Leaking Underground Storage Tank Trust Fund. the

This Act amends the IRC to extend through July 6, 2012, (1) excise taxes on: (a) fuel used by certain buses, (b) certain alcohol fuels, (c) gasoline (other than aviation gasoline) and diesel fuel or kerosene, (d) certain heavy trucks and trailers, and (e) tires, (2) the Leaking Underground Storage Tank Trust Fund, (3) the exemptions from excise taxes on: (a) certain sales, and (b) motor vehicles used by a state and local government, and (4) the transfer of (a) certain highway excise taxes to the Highway Trust Fund, and (b) motorboat fuel taxes from the Highway Trust Fund into the Land and Water Conservation Fund.

IRC Section	Public Law No.	Act Section No.	126 Stat. Page
9503	112-140	401(a)	402
9504	112-140	401(b)	402
9508	112-140	401(c)	402
9503	112-140	401(d)	402
4041	112-140	402(a)(1)(A), (B)	402
4081	112-140	402(a)(1)(C)	402
4041	112-140	402(a)(2)(A)	402
4051	112-140	402(a)(2)(B)	402
4071	112-140	402(a)(2)(C)	402
4081	112-140	402(a)(2)(D)	402
6412	112-140	402(b)	402
4221	112-140	402(c)	402
4483	112-140	402(c)	403
9503	112-140	402(d)(1), (2)(A)	403
4482	112-140	402(e)	403

4. Public Law 112-163, an Act to amend the African Growth and Opportunity Act to extend the third-country fabric program and to add South Sudan to the list of countries eligible for designation under that Act, to make technical corrections to the Harmonized Tariff Schedule of the United States relating to the textile and apparel rules of origin for the Dominican Republic-Central America-United States Free Trade Agreement, to approve the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes. This Act amends the IRC to require estimated tax payments which are otherwise due in the third quarter of 2017 for corporations with assets of at least $1 billion to be 100.25 percent of such amount, and requires the next required installment to be appropriately reduced to reflect the amount of this increase.

IRC Section	Public Law No.	Act Section No.	126 Stat. Page
26	112-163	4	1,277

EXHIBIT B – EXPIRING TAX PROVISIONS

California Sunset[87]	California Section	Federal Section	Federal Sunset	Description
12/31/12	17144.5	108	12/31/13	Mortgage Forgiveness Debt Relief
12/31/13	19551.1	N/A	N/A	City Business Tax/License Information Mandate
12/31/13	18851 - 18855	N/A	N/A	Voluntary Contribution: Emergency Food Assistance Program Fund
12/31/14	18721 - 18724	N/A	N/A	Voluntary Contribution: California Fund for Senior Citizens
12/31/14	18761 - 18766	N/A	N/A	Voluntary Contribution - California Alzheimer's Disease and Related Research Fund
12/31/14	18815	N/A	N/A	Voluntary Contribution: California Veterans Home Fund
12/31/14	18856	N/A	N/A	Voluntary Contribution: California Police Activities League (CALPAL)
12/31/14	18887	N/A	N/A	Voluntary Contribution: Safely Surrendered Babies Fund
12/31/14	18891	N/A	N/A	Voluntary Contribution: Arts Council Fund
12/31/15	18754 – 18754.3	N/A	N/A	Voluntary Contribution: California Sea Otter Fund
12/31/15	18801 - 18804	N/A	N/A	Voluntary Contribution: California Firefighter's Memorial Fund
12/31/15	18805 - 18808	N/A	N/A	Voluntary Contribution: California Peace Officer's Memorial Foundation Fund

[87] In general, this is the last taxable year to which the provision applies. Fiscal years beginning within this taxable year are, in general, also covered by the provision. In some cases, the repeal date of the section is listed or the expiration applies to transactions occurring after this date.

EXHIBIT B – EXPIRING TAX PROVISIONS

California Sunset	California Section	Federal Section	Federal Sunset	Description
6/30/16	19558	N/A	N/A	Permit the FTB to Disclose Income Tax Return Information to the Public Employees Retirement System Regarding the Early Retiree Reinsurance Program
12/31/16	17131.3 & 24303	48(d)	12/31/12	Grants for Specified Energy Property in Lieu of Tax Credits Excluded from Income[88]
12/31/17	17053.57 & 23657	N/A	N/A	Credit: Community Development Financial Institution Deposits
12/31/17	17053.85 & 23685	N/A	N/A	Credit: California Motion Picture Credit
12/31/17	18711 - 18716	N/A	N/A	Voluntary Contribution: State Children's Trust Fund
12/31/17	18741 - 18744	N/A	N/A	Voluntary Contribution: Fish and Game Preservation Fund
12/31/17	18791 - 18796	N/A	N/A	Voluntary Contribution: Designations to California Breast Cancer Research Fund
12/31/17	18861 - 18864	N/A	N/A	Voluntary Contribution: California Cancer Research Fund
12/31/17	17053.62 & 23662	45H	Permanent	Credit: Environmental Credit for Production of Ultra Low Sulfur Diesel Fuel
12/31/17	18416.5	N/A	N/A	Allow Electronic Communication to Taxpayers to Inform of Tax Change
12/31/21	17501 - 24601	420	12/31/21	Transfer of Excess Pension Assets to Retiree Health Accounts
12/31/21	17501 - 24601	420	12/31/21	Transfer of Excess Pension Assets to Fund Group-Term Life Insurance

[88] The eligible property must be placed in service in calendar years 2009, 2010, or 2011, or its construction must begin during that period and must be completed prior to 2013 (in the case of wind facility property), 2014 (in the case of other renewable power facility property eligible for credit under IRC section 45), or 2017 (in the case of any specified energy property described in IRC section 48).

California Sunset	California Section	Federal Section	Federal Sunset	Description
See footnote.[89]	17053.80 & 23623	N/A	N/A	Credit: New Jobs

[89] This credit is repealed on December 1 of the year in which the total amount of the credit allocated reaches $400 million. As of December 1, 2012, $138,157,483 of this credit had been allocated.

EXHIBIT C – REVENUE TABLES

Assumed Enactment after June 30, 2013

Table 1 – FAA Modernization and Reform Act of 2012 (Public Law 112-95, Title XI)				
Act Section	**Provision**	**2012-13**	**2013-14**	**2014-15**
1101	Extension of Taxes Funding Airport and Airway Trust Fund	Defer to the BOE	Defer to the BOE	Defer to the BOE
1102	Extension of Airport and Airway Trust Fund Expenditure Authority	N/A	N/A	N/A
1103	Treatment of Fractional Aircraft Ownership Programs	Defer to the BOE	Defer to the BOE	Defer to the BOE
1104	Transparency in Passenger Tax Disclosures	N/A	N/A	N/A
1105	Tax-Exempt Bond Financing for Fixed-Wing Emergency Medical Aircraft	N/A	N/A	N/A
1106	Rollover of Amounts Received in Airline Carrier Bankruptcy	Baseline	Baseline	Baseline
1107	Termination of Exemption for Small Jet Aircraft on Nonestablished Lines	Defer to the BOE	Defer to the BOE	Defer to the BOE
1108	Modification of Control Definition for Purposes of Section 249	N/A	N/A	N/A

Table 2 – Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96)				
Act Section	**Provision**	**2012-13**	**2013-14**	**2014-15**
1001	Extension of Payroll Tax Reduction	- $30,000,000	$0	$0
2103 - 2184	Various Unemployment Compensation Provisions	Defer to the EDD	Defer to the EDD	Defer to the EDD
7001	Repeal of Certain Shifts in the Timing of Corporate Estimated Tax Payments	N/A	N/A	N/A

Table 3 – Moving Ahead for Progress in the 21st Century Act (MAP-21) (Public Law 112-141)				
Act Section	Provision	2012-13	2013-14	2014-15
40101	Extension of Trust Fund Expenditure Authority	N/A	N/A	N/A
40102	Extension of Highway-Related Taxes	Defer to the BOE	Defer to the BOE	Defer to the BOE
40201	Transfer From Leaking Underground Storage Tank Trust Fund to Highway Trust Fund	N/A	N/A	N/A
40211	Pension Funding Stabilization	Baseline	Baseline	Baseline
40241 - 40242	Transfers of Excess Pension Assets	Baseline & Negligible	Baseline & Negligible	Baseline & Negligible
40251	Additional Transfers to Highway Trust Fund	N/A	N/A	N/A
100121	Phased Retirement Authority	Baseline	Baseline	Baseline
100122	Roll-Your-Own Cigarette Machines	Defer to the BOE	Defer to the BOE	Defer to the BOE