Taxation

Taxation; inheritance and gift taxation

Probate Code §§657, 1001, 1004, 1024, 1174 (amended); Revenue and Taxation Code §§13314, 13551, 13552.5, 13554, 13554.5, 13555, 13556, 13556.5, 13557, 14141, 14142, 14143, 14144, 14342, 14343, 14344, 14346, 14791, 14792, 14793, 14794, 14795, 14798, 15104.5, 15301, 15301.5, 15303.5 (repealed); §§13311.5, 14180, 14181, 14182, 14902 (new); §§13311, 13801, 13802, 13803, 13805, 14104, 14128, 14143.5, 14211, 14345, 14347, 14774, 15310, 15421, 15422, 15423 (amended).

AB 2092 (Deddeh); STATS 1980, Ch 634
(Effective July 19, 1980)

Support: California Association of Independent Business, Inc.; Department of Food and Agriculture
Opposition: Department of Finance

Generally conforms California inheritance tax rules for valuation of estates with federal estate taxation rules when a large portion of the estate is an interest in a closely held business; employs federal estate taxation installment methods for payment of taxes for qualifying estates; exempts spousal inheritances and gifts from taxation; increases exemptions for all classes of gifts and inheritances; repeals provision prohibiting distribution of an estate unless the inheritance taxes have been paid.

Prior to the enactment of Chapter 634, all inheritance taxes were to be paid within nine months of the death of the decedent. Chapter 634, based on federal estate taxation rules, enacts installment methods for payment of inheritance taxes. Further, Chapter 634, using federal estate taxation law as a foundation, adopts valuation methods of certain types of real property for the computation of inheritance taxes. In addition, the Chapter exempts all spousal inheritances and gifts from taxation and expands all other class recipient exemptions for gifts and

1. See CAL. REV. & TAX. CODE §14103.
2. Compare id. §§14181, 14182 with I.R.C. §§6166, 6166A.
4. Compare id. §13311.5 with I.R.C. §2032A.
5. See generally CAL. REV. & TAX. CODE §13805.
6. See generally id. §13310.
Taxation

Finally, Chapter 634 revises provisions governing the administration of estates that will greatly reduce the time required for the distribution of property from estates.8

Valuation of Farms and Closely-Held Farms

As a general rule, for inheritance tax purposes, property transferred is to be valued at its clear market value9 at the date of the transferor's death, whether or not the transfer was made during the lifetime of the transferor.10 Prior to the enactment of Chapter 634, there was no valuation based on the use of the transferred property.11 Because property was to be valued at its clear market value, inheritance taxes were higher in some cases than the actual use dictated.12 As a result, many transferees had little choice but to convert the property inherited to the higher use reflected by the clear market value.13 Federal law recognized and attempted to alleviate this problem by enacting legislation allowing certain property to be valued at its value as used by the decedent.14 Chapter 634 adopts similar estate taxation rules for the valuation of certain qualified real property15 by allowing the property to be valued, in terms of the usage of the decedent, to the extent that the resulting aggregate decrease in the value of qualified real property with respect to any decedent does not exceed $500,000.16 In order to use this lower valuation, Chapter 634 requires that qualified property must fulfill all of the following requirements: (1) the property must be real property located in the United States;17 (2) the property must be devoted to a qualified use;18 (3) the property must have been acquired or passed from the decedent to a qualified heir;19 and (4) the property must meet certain value requirements in the decedent's estate.20 Once the property has been determined to meet these requirements, this lower valuation must

7. See generally id. §§13801-13803, 15421-15423.
8. See generally CAL. PROB. CODE §§1001, 1004.
10. See id. §§13311, 13402.
11. See id. §13402.
13. See generally id.
14. See generally I.R.C. §2032A.
15. See generally CAL. REV. & TAX. CODE §13311.5(b) (definition of qualified real property).
16. See id. §13311.5(a).
17. See id. §13311.5(b)(1).
18. See id. §13311.5(b)(2) (use as a farm for farming purposes or use in a trade or business other than the trade or business of farming).
19. See id. §13311.5(b)(1). See generally id. §13311.5(e)(1) (qualified heir is a member of any family of decedent).
20. See id. §13311.5(b)(1)(A), (B).
be elected by the executor on a timely basis, generally nine months. This new valuation method, however, is available only for decedents who were residents or citizens of the United States at the date of death.

In order for real property to be treated as qualified real property, Chapter 634 provides that 50 percent or more of the adjusted value of the clear market value of the estate must consist of real or personal property used on the date of the decedent’s death in the furtherance of a qualified use. Moreover, this real or personal property must have been acquired from or passed from the decedent to a qualified heir. In addition to the 50 percent requirement, at least 25 percent of the adjusted value of the clear market value of the estate must be real property. This real property also must have been acquired from or passed from the decedent to a qualified heir and must satisfy the following conditions: (1) during the eight-year period ending on the date of the decedent’s death there must have been periods aggregating five years or more in which the property was owned by the decedent or a member of the decedent’s family and used for a qualified use; and (2) the decedent or a member of the decedent’s family must have materially participated in the operation of the qualified use.

Chapter 634 further requires that in order to use the lower valuation, there must be an election filed within the time required to file the inheritance tax return. Since the election for lower valuation does restrict the use of property, each person with an interest in the property must sign an agreement consenting to this valuation. If at any time the property is disposed of by the heir or ceases to be used by the heir for the qualified use within 15 years after the decedent’s death and while the heir is still alive, there will be an additional tax levied on the heir. Failure to notify the Controller of the change in use will not avoid

21. See id. §13311.5(a)(1)(B), (d).
22. See id. §14103.
23. See id. §13311.5(a)(1)(A).
24. See id. §13311.5(b)(3) (definition of adjusted value).
25. See id. §13311.5(b)(1)(A)(i).
27. See id. §13311.5(b)(1)(B).
28. See id.
29. See id. §13311.5(b)(1)(C)(i).
30. See generally I.R.C. §1402(a) (definition of material participation).
32. See id. §§13311.5(a)(1)(B), (d), 14103.
33. See id. §13311.5(d)(2).
34. See id. §13311.5(c)(1)(A) (dispositions may be made to a member of the heir’s family).
35. See id. §13311.5(c)(1), (2). Basically, the additional tax will be the lesser of either (1) the adjusted tax difference attributable to provisions under Chapter 634, or (2) the excess of the amount realized on the disposition and the value assessed under this election.

Selected 1980 California Legislation
these additional taxes since the three-year statute of limitation does not begin to run until the Controller is notified of the disposition of the property or the cessation of the qualified use.\textsuperscript{36} Furthermore, Chapter 634 specifies the additional tax treatment for partial dispositions of property\textsuperscript{37} and involuntary conversions of real property.\textsuperscript{38}

\textbf{Installment Methods for Payment of Inheritance Taxes}

Prior to the enactment of Chapter 634, all taxes were due within nine months of the death of the decedent\textsuperscript{39} and there were no installment methods of payment available.\textsuperscript{40} For federal estate tax purposes, when a large portion of the estate is a closely-held business, there are two installment methods available: the \textit{ten-year} installment method\textsuperscript{41} and the \textit{15-year} installment method.\textsuperscript{42} Chapter 634 adopts these methods\textsuperscript{43} and except for a few minor differences,\textsuperscript{44} federal law and California law are now identical.\textsuperscript{45}

Chapter 634 provides that in order to qualify for either the ten- or 15-year installment methods, there must be an election filed by the executor within nine months of the decedent's death.\textsuperscript{46} However, in certain cases when there has been a deficiency assessed and the estate does qualify for an installment method, but the executor has not so elected, the executor may elect to pay the deficiency in installments within 60 days of notice of the deficiency.\textsuperscript{47} There will be no election allowed if the failure to elect was due to negligence or intent to evade the tax.\textsuperscript{48} Under the 15-year installment method,\textsuperscript{49} after an election is made, there is up to a \textit{five-year deferral} of taxes payable.\textsuperscript{50} During this deferral period only accrued interest for the year is paid.\textsuperscript{51} After the deferral period the executor has up to ten years to pay the taxes, although a shorter period may be elected.\textsuperscript{52} Under the ten-year method, there is no

\begin{itemize}
  \item See id. §13311.5(f)(1).
  \item See generally id. §13311.5(o)(2)(D), (o)(3), (o)(4).
  \item See id. §13311.5(h).
  \item See id. §14103.
  \item Compare id. with id. §§14181, 14182.
  \item See generally I.R.C. §§6166A.
  \item See generally id. §6166.
  \item See generally CAL. REV. & TAX. CODE §§14181, 14182.
  \item Compare id. §§14181(a)(1), 14182(a) with I.R.C. §§6166(a)(1), 6166A(a).
  \item Compare CAL. REV. & TAX. CODE §§14181(a)(1), 14182(a) with I.R.C. §§6166, 6166A.
  \item See CAL. REV. & TAX. CODE §§14103, 14181(a)(3), (d).
  \item See id. §§14181(h)(1), (2), 14182(h)(1), (i)(2).
  \item See id. §§14181(h)(1), 14182(h)(1).
  \item See generally id. §14181.
  \item See id. §14181(a)(3).
  \item See id. §§14181(f)(1).
  \item See id. §14181(a)(1).
\end{itemize}
Selected 1980 California Legislation

deferral period, but the maximum time for payment of the tax installments is ten years, the same as for the 15-year method. After the deferral period, if available, interest attributable to the unpaid portion of the taxes must be paid with the tax installment due at the end of each year. However, in order to qualify for installment treatment under either method, the estate must meet certain requirements.

For the 15-year method, Chapter 634 provides that if the value of a closely-held business included in the decedent's gross estate exceeds 65 percent of the clear market value of the estate, the executor may elect within nine months of the decedent's death to pay all of the tax due in two or more equal installments up to a limit of ten equal installments. Under the ten-year method, the closely-held business must comprise either more than 35 percent of the market value of the estate or more than 50 percent of the clear market value of the taxable estate. Under both methods, the maximum amount of tax allowed to be paid in installments is limited to an amount that bears the same ratio to the tax imposed as the closely-held business amount bears to the amount of the clear market value of the estate. The remainder of the tax not allocable to this ratio is payable within nine months of the death of the decedent.

In addition, under the 15-year method, an interest in a closely-held business means any of the following: (1) an interest in a proprietorship as a proprietor; (2) an interest in a partnership as a partner so long as the partnership has 15 or fewer partners or at least 20 percent of the total capital interest of the partnership is included in determining the market value of the estate of the decedent; or (3) stock of a corporation carrying on a trade or business with either 15 or fewer shareholders or with the decedent having 20 percent or more of the voting stock of the corporation included in determining the market value of the decedent's estate. For the purposes of the ten-year method, the

53. Compare id. §§14181(a)(3) with id. §§14182(a).
54. Compare id. §§14181(a)(1) with id. §§14182(a).
55. See id. §§14181(f)(2), 14182(g).
56. See generally id. §§14181(a), 14182(a).
57. See id. §14181(a).
58. See id. §§14181(a)(1), (d), 14103.
59. See id. §14182(a)(1), (2).
60. See id. §§14181(a)(2), 14182(b) (the amount of tax imposed may be reduced by the credits against the tax).
61. See id. §§14181(a)(2), 14182(b).
62. See id. §14103.
63. See id. §14181(b)(1)(A).
64. See id. §14181(b)(1)(B)(ii).
65. See id. §14181(b)(1)(B)(i).
66. See id. §§14181(b)(1)(C)(ii).
67. See id. §§14181(b)(1)(C)(i).
number of partners or shareholders is limited to ten per entity;\textsuperscript{68} however, percentage of capital interest, 20 percent, is the same as the 15-year method.\textsuperscript{69} Moreover, in determining the number of shareholders or partners, interests of husband and wife are to be treated as a single interest.\textsuperscript{70} For the purpose of determining the percentage of control of the decedent in an entity, usual attribution rules apply\textsuperscript{71} unless the stock is traded on a stock exchange or over-the-counter, in which case the attribution rules will not apply.\textsuperscript{72} Chapter 634 also allows interests in two or more closely-held businesses to be combined and treated as a single closely-held interest under the 15-year method if the decedent owned 20 percent or more of the total value of the business.\textsuperscript{73} Under the ten-year method, at least 50 percent of the value of each business must be owned to receive similar combined treatment.\textsuperscript{74}

If a taxpayer violates any conditions under either installment method, the payment of taxes may be accelerated.\textsuperscript{75} There are three events that will generally cause the acceleration of installments: (1) deficiency of taxes due;\textsuperscript{76} (2) withdrawal or disposition of the property or business used to qualify for the installment method;\textsuperscript{77} or (3) ability of the estate to pay further installments at the end of a tax year.\textsuperscript{78} If an installment method has been elected under Chapter 634 and a deficiency has been assessed, the deficiency must be prorated over the remaining installments.\textsuperscript{79} However, in the case of a deficiency, the Controller may demand immediate payment of the deficient balance.\textsuperscript{80} All interest on a deficiency will bear the rate of 12 percent per annum from the date that the payment became delinquent to the date that it is paid.\textsuperscript{81} In the case of taxes payable in installments, interest on installments payable will be the lower of 12 percent per annum or the rate established by the Controller.\textsuperscript{82} All delinquent installments will bear the interest rate of 12 percent from the date that the installment becomes delinquent.\textsuperscript{83} Additionally, under the 15-year installment

\textsuperscript{68} See id. §§14182(c)(2)(B), (c)(3)(B).
\textsuperscript{69} Compare id. §§14181(b)(1)(B)(ii), (b)(1)(C)(i) with id. §§14182(c)(2)(A), (c)(3)(A).
\textsuperscript{70} See id. §§14181(b)(2)(B), 14182(d).
\textsuperscript{71} See id. §§14181(b)(2)(C), (b)(2)(D). See generally I.R.C. §318.
\textsuperscript{72} See CAL. REV. & TAX. CODE §§14181(b)(5)(B).
\textsuperscript{73} See id. §§14181(c).
\textsuperscript{74} See id. §§14182(d).
\textsuperscript{75} See generally id. §§14181(e), (f), (g), 14182(f), (g), (h).
\textsuperscript{76} See id. §§14181(e), 14182(f).
\textsuperscript{77} See id. §§14181(g)(1)(A), 14182(b)(1)(A).
\textsuperscript{78} See id. §§14181(g)(3), 14182(b)(3).
\textsuperscript{79} See id. §§14181(e), 14182(f).
\textsuperscript{80} See id. §§14182(b)(2), 14182(d).
\textsuperscript{81} See id. §§14182(b)(2), 14182(d).
\textsuperscript{82} See id.
\textsuperscript{83} See id.
method, Chapter 634 provides for the acceleration of payment of taxes if one-third or more of the value of a trade or business is disposed of. Under the ten-year method, at least one-half of the value of the closely-held business must be disposed of before there is an acceleration of taxes. Generally, payment also may be accelerated under either method if the estate has undistributed net income for any taxable year ending on or after the due date of the first tax installment.

In addition, Chapter 634 provides for an extension of the time period within which inheritance taxes must be paid if reasonable cause for the extension is shown and if there is assurance received by the Controller that the payment of the tax is secured. If taxes are to be paid in a single payment, the payment may be extended for a reasonable period not in excess of ten years from the delinquency date. However, if an installment method has been elected, the extension must not be in excess of 12 months after the last installment is due.

Change in Inheritance and Gift Tax Exemptions

California inheritance and gift taxes are to be paid by the transferees of the property transferred. These transferees are divided into three classes with each class provided a different amount of exemption from taxation and taxed at a different rate. Class A transferees include spouses, orphans under the age of 18, minor orphans, and all other lineal issue. Prior to the enactment of Chapter 634, for inheritance tax purposes, the spouse generally was taxed on one-half of all property transferred from the decedent to the extent that the clear market value of the property transferred exceeded $60,000. Interspousal gifts were taxed to the extent that they exceeded the lifetime specific exemption of $60,000. Chapter 634 exempts all property received from both inheritance and gift taxes, except to the extent that there is a limited power of appointment retained over all or any portion of the property.

---

84. See id. §14181(g)(1)(A).
85. See id. §14182(b)(1)(A).
86. See id. §17771 (definition of undistributed net income).
87. See id. §§14181(g)(2)(A), 14182(b)(2)(A).
88. See id. §14180.
89. See id. §§14105, 14180, 14181, 14182.
90. See id. §14180. See generally id. §§14181, 14182.
91. See id. §§14101, 15901.
92. See generally id. §§13307-13309, 15110-15112.
93. See generally id. §§13404-13406, 15205-15207.
94. See id. §13307.
95. See generally CAL. STATs. 1975, c. 942, §§2, 3, at 2104; CAL. STATs. 1957, c. 490, §§6, 7, at 1522 (interests of decedent included in estate).
96. See CAL. STATs. 1977, c. 1079, §8, at 3292 (amending CAL. REV. & TAX. CODE §13801(a)).
of the property transferred to the spouse.\textsuperscript{98} If there is a limited power retained, the value of the power, and not the value of the property, will be taxed.\textsuperscript{99} In an apparent oversight, however, Chapter 634 does not specify an exemption or a tax rate for the taxable portion of the limited power of appointment.\textsuperscript{100}

Chapter 634 also makes changes in the amount of exemptions allowed for the remainder of Class A transferees and changes for all Class B and C transferees.\textsuperscript{101} Prior to the enactment of Chapter 634, for inheritance tax purposes, minor orphans received an exemption equal to the product of $5,000 multiplied by the excess of 21 over the age of the child, who is under the age of 18,\textsuperscript{102} and minor children other than orphans received an exemption of $12,000.\textsuperscript{103} Chapter 634, increases the amount of exemptions allowed for children under the age of 18 who are orphaned by the death of the decedent by allowing an exemption equal to the product of $10,000 multiplied by the excess of 21 over the age of the child, who is under the age of 18.\textsuperscript{104} Minor children other than orphans receive exemptions of $40,000 for bequests from either parent.\textsuperscript{105} Prior to the enactment of Chapter 634, each minor child and all other Class A transferees were allowed gift tax lifetime exemptions of $12,000\textsuperscript{106} and $5,000\textsuperscript{107}, respectively. Chapter 634 provides that each minor child receives a $40,000\textsuperscript{108} lifetime exemption and all other Class A transferees receive $20,000 exemptions.\textsuperscript{109} Moreover, Chapter 634 increases the exemption for all other Class A beneficiaries from $5,000 to $20,000.\textsuperscript{110}

Class B transferees or donees include brothers and sisters of the decedent, descendants of a brother or sister of the decedent, and daughters-in-law and sons-in-law of the decedent.\textsuperscript{111} Chapter 634 increases the inheritance and gift tax exemption for Class B transferees from $2,000\textsuperscript{112} to $10,000.\textsuperscript{113} In addition, Chapter 634 increases the inheritance and gift tax exemption for Class C transferees defined as any

\textsuperscript{99.} See id.
\textsuperscript{100.} See id.
\textsuperscript{101.} See generally id. §§13801, 13802, 13803.
\textsuperscript{102.} See Cal. Stats. 1977, c. 1079, §8, at 3292.
\textsuperscript{103.} See id.
\textsuperscript{104.} See Cal. Rev. & Tax. Code §13801(b).
\textsuperscript{105.} See id. §13801(a).
\textsuperscript{106.} See Cal. Stats. 1975, c. 942, §12, at 2106.
\textsuperscript{107.} See id.
\textsuperscript{109.} See id.
\textsuperscript{110.} Compare id. §13801(c) with Cal. Stats. 1977, c. 1079, §8, at 3292.
\textsuperscript{111.} See Cal. Rev. & Tax. Code §§13308, 15111.
transferee who is not a Class A or Class B transferee or donee from $300 to $3,000.

**Distributions Before Inheritance Taxes Are Paid**

Prior to the enactment of Chapter 634, all inheritance taxes payable were required to be paid before any property of the estate could be distributed. Once paid, upon a petition for distribution, the estate could be distributed to the extent that it did not cause loss to any creditors or injury to the estate. Chapter 634 deletes the requirement that inheritance taxes must be paid prior to the distribution of the estate. This is true for both court-supervised and nonsupervised distributions. However, Chapter 634 still requires that the Controller be given adequate security, usually in the form of a bond. The elimination of the payment prior to distribution should greatly reduce the time for the distribution of property from estates.

**Conclusion**

The changes made by Chapter 634 are wide-sweeping. By providing installment methods for the payment of certain taxes and by permitting a lower valuation for specified real property, Chapter 634 should greatly reduce the burden imposed by inheritance taxes. Finally, Chapter 634 increases the exemption from inheritance and gift taxes for all classes of beneficiaries.

---

114. See id. §§13309, 15112.
115. See CAL. STATS. 1943, c. 658, §1, at 2338 (enacting CAL. REV. & TAX. CODE §15112).
117. See CAL. REV. & TAX. CODE §§13803, 15423.
118. See CAL. PROB. CODE §1000 (definition of petition of distribution).
119. See CAL. PROB. CODE §1000 (definition of petition of distribution).
120. See CAL. PROB. CODE §§1001, 1004.
121. See id.
122. See id.
123. See id.
125. See generally CAL. REV. & TAX. CODE §§14181, 14182.
126. See generally id. §§13311.5.
127. See generally id. §§13801, 15310.
128. See generally id. §§13801-13803, 15421-15423.

**Taxation; repeal of carryover basis**

Revenue and Taxation Code §§18047, 18104 (repealed); §§18046, 18051.1, 18052 (amended); California Statutes 1977, Chapter 1079, Section 157 (amended).

Selected 1980 California Legislation
SB 1598 (Holmdahl); STATS 1980, Ch 1250
(Effective September 29, 1980)
Support: Department of Finance; Franchise Tax Board

Chapter 1250, in conformity with recent federal legislation,\(^1\) repeals the carryover basis rules\(^2\) for property acquired from a decedent\(^3\) and thereby reestablishes the fair market value\(^4\) of the property at the time of its acquisition as the basis for this property.\(^5\) Under the new law, a beneficiary who sells property acquired from a decedent is subject to tax on the difference between the fair market value of the property on the date of the decedent's death and the beneficiary's ultimate sales price.\(^6\)

Chapter 1250 also provides that for a decedent dying after December 31, 1976, and before November 7, 1978, an irrevocable election of the carryover basis rules made under federal law may be deemed to be an election for state purposes.\(^7\) In this situation the executor\(^8\) may elect to use the carryover basis rules for all property acquired or passing from the decedent under federal law.\(^9\) Chapter 1250 states that this election will constitute an election for state purposes unless the Franchise Tax Board is otherwise notified in writing on or before December 31, 1980.\(^10\)

In addition, Chapter 1250 deletes from the Revenue and Taxation Code the method for computing an increase in basis for federal gift tax paid\(^11\) on gifts made after December 31, 1976.\(^12\) Prior law required the increase in basis due to federal gift tax paid to bear the same ratio to taxes paid as the net appreciation\(^13\) in value of the gift bore to the amount of the gift.\(^14\) Chapter 1250 applies existing law regarding the

---

3. See CAL. REV. & TAX. CODE §18045 (definition of property acquired from a decedent).
4. See id. §§110, 110.5 (definition of fair market value).
7. See CAL. STATS. 1980, c. 1250, §5.5, at —.
8. See I.R.C. §2203 (definition of executor).
10. See CAL. STATS. 1980, c. 1250, §5.5, at —.
11. See CAL. REV. & TAX. CODE §18051.1(b) (definition of tax paid with respect to the gift).
12. Compare id. §18051.1 with CAL. STATS. 1977, c. 1079, §97, at 3401-02.
13. See CAL. STATS. 1977, c. 1079, §97, at 3401-02 (definition of net appreciation).
14. See id.
increase in basis due to the federal gift tax paid to gifts made after December 31, 1976.15

Chapter 1250 was apparently enacted to keep California tax law in substantial conformity with the changes in federal law.16 Prior to the enactment of the Federal Tax Reform Act of 1976,17 most of California's tax laws were in substantial conformity with the Internal Revenue Code.18 The California Tax Reform Act of 1977,19 which enacted the carryover basis rules for California, was a logical response to the enactment of the federal carryover basis provisions by the Federal Tax Reform Act of 1976.20 Chapter 1250 was enacted in response to the revisions in the Internal Revenue Code by the Federal Crude Oil Windfall Profit Tax Act of 1980.21

16. See CAL. STATS. 1980, c. 1250, §6, at —.

Taxation; charitable contributions and corporate tax rates

Revenue and Taxation Code §§17216.2, 23501 (amended)
SB 393 (Sieroty); STATS 1980, Ch 25
(Effective March 5, 1980)
Support: Department of Finance; Franchise Tax Board

As a general rule, under existing personal income tax law, a deduction for a charitable contribution of appreciated property must be reduced by the amount of gain that would have been included in taxable income had the property been sold.1 An exception to this rule for tax years beginning after December 31, 1979, and before January 1, 1985, is provided for a charitable contribution of artistic property created by the personal efforts of the taxpayer.2 Prior to the enactment of Chapter 25, a charitable contribution of artistic property qualified for this exception when, among other requirements,3 the taxpayer was a resident of California for the entire tax year and the property was contributed to

2. See id. §17216.2(a)(2), (d).
3. See id. §17216.2(c).
a qualified recipient.\(^4\)

Chapter 25 amends this exception by eliminating the residency requirement and by expanding the class of qualified recipients.\(^5\) Under the new law, the State of California, any political subdivision or agency thereof, including the Regents of the University of California, and any city organized under a freeholder's charter\(^6\) are now qualified recipients of artistic property.\(^7\) This apparently eliminates an inconsistency of prior law that permitted a private institution, such as the University of the Pacific to be a qualified recipient of artistic property, but denied that status to a state institution, such as the University of California at Berkeley.\(^8\)

Chapter 25 also conforms the corporate income tax rate to the corporate franchise tax rate for calendar and fiscal years ending after December 31, 1979.\(^9\) As a result of this change, the corporate income tax rate will be 9.6 percent for tax years ending in 1980\(^10\) and will be varying rates thereafter.\(^11\) In apparent response to the transitional problems that may arise in implementing the new tax rate, Chapter 25 provides that tax returns required to be filed on or after April 15, 1980, must use the rates as specified in the apportionment formula\(^12\) provided in the Revenue and Taxation Code.\(^13\) All returns that are required to be filed prior to April 15, 1980, without regard to extensions, however, must use the rate in effect as of December 31, 1979.\(^14\) Any increase in taxes payable due to this rate change, as determined by the Franchise Tax Board, will be due within 30 days after the Board mails a notice of the amount payable.\(^15\) Finally, Chapter 25 provides, with respect to taxpayers subject to the corporate income tax, that estimated tax payments due and payable after March 15, 1980, must reflect the change in the tax rate in accordance with instructions provided by the Franchise Tax Board.\(^16\)

---

4. See CAL. STATS. 1979, c. 925, §1(c), at — (enacting CAL. REV. & TAX. CODE §17216.2(c)).
5. Compare id. with CAL. REV. & TAX. CODE §17216.2(c).
6. See generally CAL. CONST. art. XI, §§3-6 (origin of freeholder's charter).
7. See CAL. REV. & TAX. CODE §17216.2(c)(3).
8. Compare id. §17216.2(e) with CAL. STATS. 1979, c. 925, §1, at —.
9. See CAL. REV. & TAX. CODE §§23151(c), (d), (e), (f), 23501(c).
10. See id. §23151(c).
11. See id. §23151(d), (e), (f).
12. See id. §24251.
13. See CAL. STATS. 1980, c. 25, §3(a), at —.
14. See id.
15. See id. §3(b), at —; CAL. REV. & TAX. CODE §§23501-23504.
16. See CAL. STATS. 1980, c. 25, §3(b), at —.
Taxation; low value property tax exemption

Revenue and Taxation Code §§155.20, 2612, 2621 (amended); California Statutes 1979, Chapter 49, Section 2 (amended).
SB 1414 (Keene); STATS 1980, Ch 1098
Support: Department of Finance; California Taxpayers Association

The California Constitution allows the legislature to authorize a county board of supervisors (hereinafter referred to as the board) to exempt from taxation real property having a full value\(^1\) so low that the costs of assessing and collecting taxes would exceed the proceeds of the tax.\(^2\) Prior to the enactment of Chapter 1098, however, a board only had the authority to exempt real property with a full value of less than $400.\(^3\) Also under prior law, there was no low value property tax exemption for personal property,\(^4\) although the legislature was permitted to classify tangible personal property for an exemption.\(^5\) In response to the limitations on the property tax rate imposed by the California Constitution,\(^6\) Chapter 1098, with limited exception,\(^7\) provides that a board may exempt from property tax for the next succeeding fiscal year all real property with a base year value, and personal property with a full value, so low that, if not exempt, the total taxes, assessments, and subventions on the property would not equal the cost of assessment and collection.\(^8\) Under no circumstances, however, may the board exempt property that has a base year value or full value of more than $1,500.\(^9\)

Current law further provides for correction of the 1978-79 property tax rolls by refund or reduction in the next succeeding tax installment or installments in order to prevent undue financial hardship resulting from erroneous tax levies for the 1978-79 fiscal year.\(^10\) Chapter 1098 allows interest to be paid on these refunds at the rate and in the manner specified by the Revenue and Taxation Code.\(^11\)

---
\(\text{1. See Cal. Rev. & Tax. Code §110.5 (definition of full value).}\)
\(\text{2. See Cal. Const. art. XIII, §7.}\)
\(\text{3. See Cal. Stats. 1975, c. 106, §1, at 179 (enacting Cal. Rev. & Tax. Code §155.20); id. §2, at 179.}\)
\(\text{5. See Cal. Const. art. XIII, §2.}\)
\(\text{6. See id. art. XIII A.}\)
\(\text{7. See Cal. Rev. & Tax. Code §52(a) (enforceably restricted property), (b) (timberland), (c) (golf course), (d) (local governmental lands outside its boundaries).}\)
\(\text{8. See id. §155.20.}\)
\(\text{9. See id.}\)
\(\text{10. See Cal. Stats. 1980, c. 1098, §2(b), at — (amending Cal. Stats. 1979, c. 1188, §7, at —).}\)
The legislature is constitutionally authorized to provide an exemption for real property with a full value so low that costs exceed the proceeds of the tax.\textsuperscript{12} Chapter 1098, however, substitutes the term base year value for full value for purposes of the low value real property tax exemption.\textsuperscript{13} The base year value of property is equivalent to the full or fair market value\textsuperscript{14} of the property at the 1975 lien date unless the property is newly purchased or newly constructed, or if it changes ownership after the 1975 lien date.\textsuperscript{15} The full value is equivalent to the fair market value on any given date.\textsuperscript{16} Since in succeeding years the base year value of property may remain unchanged,\textsuperscript{17} while the full value of property will change subject to the conditions of the open market,\textsuperscript{18} the terms may not be equivalent for purposes of the low value real property tax exemption.\textsuperscript{19}

\textsuperscript{12} See CAL. CONST. art. XIII, §7.
\textsuperscript{13} Compare CAL. REV. & TAX. CODE §155.20 with CAL. STATS. 1975, c. 106, §1, at 179.
\textsuperscript{14} Compare CAL. REV. & TAX. CODE §110 (definition of fair market value) with id. §110.5 (definition of full value).
\textsuperscript{15} See id. §110.1(a), (b), (c). See generally 11 PAC. L.J., REVIEW OF SELECTED 1979 CALIFORNIA LEGISLATION 625, 628 (1980) (change in ownership).
\textsuperscript{16} Compare CAL. REV. & TAX. CODE §110 with id. §110.5. Fair market value and full cash value mean the amount of cash or its equivalent that the property would bring if exposed for sale in the open market. See id. §110. Full value means fair market value, full cash value, or any other value standard as prescribed by the California Constitution. See id. §110.5. However, the California Constitution provides that the value at which property is taxed, whether it be fair market value or another standard prescribed by the constitution or by statute authorized by the constitution, will be known as the full value. See CAL. CONST. art. XIII, §1. See also CAL. REV. & TAX. CODE §110.5. As a result, the relationship between base year value and full value, as it applies to Chapter 1098, appears to be uncertain.
\textsuperscript{17} See note 15 and accompanying text supra.
\textsuperscript{18} See CAL. REV. & TAX. CODE §§110, 110.5.
\textsuperscript{19} See id. See also CAL. CONST. art. XIII, §7.

Taxation; special assessment deduction, escape assessment penalty

Revenue and Taxation Code §§862, 17204 (amended).
AB 2136 (Brown); STATS 1980, Ch 1266
(Effective September 29, 1980)
Support: Department of Finance

Under existing law, the State Board of Equalization (hereinafter referred to as the Board) is required to apply a ten percent penalty to state-assessed property\textsuperscript{1} if an assessee, after a request by the Board, fails to file a property statement or files a statement that fails to accu-

\textsuperscript{1} See CAL. CONST. art. XIII, §19; CAL. REV. & TAX. CODE §108 (state-assessed property).
rately report any taxable tangible property information.\textsuperscript{2} Moreover, this penalty is applied regardless of whether the information is available to the assessee to the extent that the error causes the Board not to assess the property or to assess it at a lower valuation than the Board would have had the property information been reported accurately.\textsuperscript{3} Chapter 1266 adds, however, that if an assessee establishes to the satisfaction of the Board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, the Board must order the penalty abated.\textsuperscript{4} This abatement may be ordered only if the assessee files with the Board a written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.\textsuperscript{5}

Prior to the enactment of Chapter 1266, no deduction was allowed for taxes assessed against local benefits of a kind tending to increase the value of the property assessed.\textsuperscript{6} Chapter 1266 provides that taxpayers electing to itemize deductions are permitted to deduct standby or availability charges\textsuperscript{7} or special taxes for fire suppression and police protection services.\textsuperscript{8} This deduction, however, will not become operative until January 1, 1981.\textsuperscript{9}

\begin{itemize}
\item \textsuperscript{2} See CAL. REV. & TAX. CODE §862.
\item \textsuperscript{3} See id.
\item \textsuperscript{4} See id.
\item \textsuperscript{5} See id. §§862, 1603 (prescribed time for filing an application for reduction).
\item \textsuperscript{6} See CAL. STATS. 1976, c. 534, §48, at 1363 (amending CAL. REV. & TAX. CODE §17204).
\item \textsuperscript{7} See CAL. GOV'T CODE §§53972 (standby or availability charges).
\item \textsuperscript{8} See CAL. REV. & TAX. CODE §17204(a)(5).
\item \textsuperscript{9} See CAL. STATS. 1980, c. 1266, §3, at —.
\end{itemize}

\textbf{Taxation; energy conservation measure tax credit and solar energy systems tax credit}

Revenue and Taxation Code §§17052.8, 17208.7, 23601.5, 24349.7 (new and repealed); §§17052.5, 17208, 23601, 24349 (amended).

\begin{enumerate}
\item AB 2030 (Levine); STATS 1980, Ch 904
\textit{(Effective September 17, 1980)}
\end{enumerate}

Support: Department of Finance; Energy Resources Conservation and Development Commission

\begin{enumerate}
\item AB 2036 (Hart); STATS 1980, Ch 903
\textit{(Effective September 17, 1980)}
\end{enumerate}

Support: Department of Finance; Department of General Services; Energy Resources Conservation and Development Commission

\textit{Selected 1980 California Legislation}
Prior to the enactment of Chapters 903 and 904, the solar energy tax credit was to expire on January 1, 1981. In addition, an energy conservation tax credit was available only for the installation of a solar energy system. Chapter 903 extends the solar energy tax credit available under the Personal Income Tax and Bank and Corporations Tax Laws to January 1, 1984. Chapter 904 creates a tax credit for energy conservation measures that are not installed in conjunction with a solar energy system. Together, Chapters 903 and 904 accomplish the following: (1) increase the number of systems eligible for a tax credit; (2) allow refunds to lower income households; (3) allow for depreciation deductions in lieu of, and in addition to, the tax credit; and (4) allow a taxpayer to carry forward any unused portions of the credit into succeeding tax years. Moreover, Chapter 903 gradually reduces the credit available on recreational or therapeutic solar energy water heating systems.

General Tax Credit Provisions

Currently, a person or business may claim a tax credit of 55 percent of the cost of a solar energy system up to a maximum of $3,000. Chapter 903 expands the solar energy tax credit from $3,000 per year to $3,000 per solar energy system that has a useful life of not less than three years. As a result, a taxpayer may claim more than $3,000 per
Selected 1980 California Legislation

year if he or she installs more than one solar energy sys-tem.17 In addi-
tion, Chapter 904 provides a credit of 40 percent of the cost18 of an
energy conservation measure that is not installed in conjunction with a
solar energy system, up to a maximum of $1,500.19 Both Chapters pro-
vide that a taxpayer who claimed a credit during the year in which the
system was installed also may claim the credit for any subsequent addi-
tions to that system.20 In the case of the solar energy tax credit, how-
ever, the total credit claimed may not exceed 55 percent of the cost or
$3,000.21 Moreover, Chapter 904 provides that no energy conservation
tax credit under ten dollars will be allowed,22 and that the energy con-
servation tax credit must be reduced by the amount of any grant or
nonreimbursable financial assistance, other than interest charges, pro-
vided by a utility or public entity.23

Existing law limits the solar energy tax credit to 25 percent of the
cost of installation of a solar energy system in a building other than a
dwelling when the total cost exceeds $12,000.24 Prior to Chapter 903,
however, “dwelling” was restricted to a single family dwelling.25
Chapter 903 expands the definition of “dwelling” to include single fam-
ily residences, mobilehomes, apartments, individual units of a condo-
minium, cooperatives, or other similar multiple unit dwellings.26
Similarly, Chapter 904 implements this expanded definition of dwelling
for the energy conservation tax credit.27 Under Chapter 904, installa-
tion of an energy conservation measure in other than a dwelling, when
the costs exceed $6,000, is entitled to a tax credit of 25 percent of that
cost.28 Both Chapters 903 and 904 provide that the tax credits must be
divided proportionately among multiple owners29 and among part-
ners.30 Moreover, when a system serves more than one dwelling, the
credit is to be divided proportionately among the buildings.31

17. See id. §§17052.5(a)(2), 23601(a)(2).
18. See id. §§17052.8(a)(2), 23601.5(a)(2) (allowable costs).
19. See id.
20. See id. §§17052.5(a)(2)(C), 17052.8(a)(2), 23601(a)(2)(C), 23601.5(a)(2).
22. See id. §§17052.8(k), 23601.5(f).
23. See id. §§17052.8(a)(7), 23601.5(a)(7).
25. See CAL. STATS. 1979, c. 816, §§1, 2, at — (definition of dwelling).
with CAL. STATS. 1979, c. 816, §§1, 2, at —.
27. See id. §§17052.8(a)(3), 23601.5(a)(3).
28. See id. §§17052.5(c), 17052.8(c).
29. See id. §§17052.5(c), 17052.8(c), 23601(b), 23601.5(b).
Taxation

Tax Refunds and Depreciation Deductions

Under prior law, no refund was available to a taxpayer if the solar energy tax credit exceeded the tax liability of that taxpayer. Under Chapters 903 and 904, a person may be entitled to a credit of up to his or her tax liability plus a refund of the excess, or a combined refund and credit equal to the solar energy or energy conservation measure tax credit. Chapter 903 states that if the solar energy tax credit exceeds a person's tax liability after deduction of all other credits, except the withholding, renter's, and unemployment insurance credits, the taxpayer may be entitled to a refund. Chapter 904 provides for the same procedure for the energy conservation tax credit; however, it does not require deduction of the renter's credit. These refunds are only available to a taxpayer with an adjusted gross income less than $15,000 in the taxable year for which the credit is claimed, or to a married taxpayer filing a joint return with an adjusted gross income less than $30,000. Under Chapter 903, however, no refund of a solar energy tax credit of less than ten dollars will be allowed.

Prior to the enactment of Chapters 903 and 904, a person or business could not elect to depreciate the cost of a solar energy system or of an energy conservation measure. Chapter 903 permits a taxpayer to depreciate the cost of the solar energy system in lieu of taking the solar energy tax credit. Similarly, Chapter 904 allows a taxpayer to depreciate the cost of an energy conservation measure that is not installed in conjunction with a solar energy system in lieu of taking the credit. Moreover, a taxpayer may take a depreciation deduction for the cost of a system, of either category, in excess of the amount of the tax credit. Both Chapters provide that where the tax credit exceeds the net tax for that taxable year, a taxpayer may carry forward into succeeding tax years the excess tax credit.

---

years that portion of the credit that exceeds the net tax.\textsuperscript{46} The excess credit remains in effect until it has been exhausted.\textsuperscript{47} A taxpayer may not, however, claim a tax credit for any expenditures that have been otherwise claimed as a tax credit for the current or any prior taxable year.\textsuperscript{48}

\textbf{Miscellaneous}

Prior to Chapter 903, recreational or therapeutic solar energy water heating systems were allowed the same tax credit, 55 percent of the cost of installation, as all other eligible systems.\textsuperscript{49} Under Chapter 903, the tax credit available for these systems will be gradually reduced as follows: (1) 45 percent of the cost in calendar year 1981; (2) 35 percent of the cost in calendar year 1982; and (3) 25 percent of the cost in calendar year 1983.\textsuperscript{50}

Under prior law, the basis for any solar energy system was to be reduced to the salvage value\textsuperscript{51} at the end of its useful life or reduced by the credit, whichever resulted in the lesser basis.\textsuperscript{52} Chapter 903 eliminates this choice for the solar energy tax credit and both Chapters now require that the basis be reduced by the amount of the credit and by the amount of any grant provided by a public utility.\textsuperscript{53} These adjustments are to be made for the taxable year in which the credits are allowed.\textsuperscript{54}

Finally, Chapters 903 and 904 mandate that if the federal government institutes a similar tax credit, the state tax credit will be reduced so that the total credit allowed does not exceed 55 percent for the solar energy tax credit or 40 percent for the energy conservation tax credit.\textsuperscript{55} These limitations apply notwithstanding the provisions that allow the excess credit to be carried forward into succeeding tax years.\textsuperscript{56} Moreover, Chapter 904 provides that the energy conservation tax credit is not applicable to any installations required by law.\textsuperscript{57} Both Chapters 903 and 904 state that a credit is not available to trusts or estates subject

---

\textsuperscript{46} See id. §§17052.5(e), 17052.8(e), 23601(e), 23601.5(e).
\textsuperscript{47} See id.
\textsuperscript{48} See id. §§17052.5(k), 17052.8(j), 23601(b), 23601.5(b).
\textsuperscript{49} See CAL. STATS. 1979, c. 816, §§1, 2, at —.
\textsuperscript{50} See CAL. REV. & TAX. CODE §§17052.5(a)(2)(D), 23601(a)(2)(D).
\textsuperscript{51} See generally Cohn v. United States, 259 F.2d 371, 377 (6th Cir. 1958); I.R.C. §167(f) (definition of salvage value).
\textsuperscript{52} See CAL. STATS. 1979, c. 816, §§1, 2, at —.
\textsuperscript{53} See CAL. REV. & TAX. CODE §§17052.5(b), 17052.8(a)(6), (b), 23601(b), 23601.5(a)(6), (b).
\textsuperscript{54} See id. §§17052.5(b), 17052.8(b), 23601(b), 23601.5(b).
\textsuperscript{55} See id. §§17052.5(h), 17052.8(g), 23601(e), 23601.5(e).
\textsuperscript{56} See id.
\textsuperscript{57} See id. §17052.8(d).
to tax under the Personal Income Tax Laws.\textsuperscript{58} Chapter 903 extends the solar energy tax credit through 1983\textsuperscript{59} and Chapter 904 provides an energy conservation tax credit until January 1, 1987.\textsuperscript{60} In addition, Chapter 904 provides that installations of the following energy saving devices in multiple family dwellings are only eligible for the energy conservation tax credit until January 1, 1986:\textsuperscript{61} (1) ceiling insulations;\textsuperscript{62} (2) weatherstripping;\textsuperscript{63} (3) water heater insulation blankets;\textsuperscript{64} (4) low flow devices on all accessible shower heads;\textsuperscript{65} (5) caulking and sealing;\textsuperscript{66} and (6) insulation of heating and cooling ducts.\textsuperscript{67} Covers for swimming pools or hot tubs,\textsuperscript{68} other designated "residential energy conservation measures" in dwellings,\textsuperscript{69} and generic installations\textsuperscript{70} in other than dwellings are ineligible for the energy conservation tax credit after December 31, 1983.\textsuperscript{71}

**Conclusion**

In summary, Chapters 903 and 904 increase the number of energy conservation measures eligible for a tax credit.\textsuperscript{72} In addition, both chapters allow refunds to lower income households,\textsuperscript{73} permit a depreciation deduction in lieu of, and in addition to, the tax credits\textsuperscript{74} and permit the unused portions of the credits to be carried forward into succeeding tax years.\textsuperscript{75} Chapter 903 also gradually reduces the amount of the solar energy tax credit available on recreational or therapeutic solar energy water heating systems.\textsuperscript{76}

---

58. See id. §§17052.5(d), 17052.8(b).  
59. See Cal. Stats. 1980, c. 903, §5, at —.  
60. See Cal. Stats. 1980, c. 904, §7, at —.  
62. See id. §17052.8(h)(6)(A).  
63. See id. §17052.8(h)(6)(B).  
64. See id. §17052.8(h)(6)(C).  
65. See id. §17052.8(h)(6)(D).  
66. See id. §17052.8(h)(6)(E).  
67. See id. §17052.8(h)(6)(F).  
68. See id. §17052.8(h)(6)(G).  
69. See id. §17052.8(h)(6)(H)(i)-(vi) (definition of residential energy conservation measures).  
70. See id. §17052.8(h)(6)(I)(i)-(vi) (definition of the generic categories).  
71. See id. §17052.8(h)(6).  
72. See id. §§17052.5(a)(2), 17052.8(a)(2), 23601(a)(2), 23601.5(a)(2).  
73. See id. §§17052.5(i), 17052.8(a)(4).  
74. See id. §§17052.5(j), 17052.8(i), 17208(d), 17208.7, 23601(g), 23601.5(g), 24349(c).  
75. See id. §§17052.5(e), 17052.8(e), 23601(e), 23601.5(e).  
76. See id. §§17052.5(a)(2)(D), 23601(a)(2)(D).

**Taxation; motor vehicle fuel—alcohol**

Revenue and Taxation Code §7360 (new).
Current law provides for an excise tax of between two and four dollars per gallon on alcoholic beverages. An alcoholic beverage includes every liquid or solid containing one-half of one percent or more of alcohol by volume that is fit for beverage purposes, either alone or when diluted, mixed, or combined with other substances. Existing law also imposes a license tax of seven cents per gallon on the distribution of motor vehicle fuel. Prior to the enactment of Chapter 228, therefore, the use of alcohol in or as a motor vehicle fuel could conceivably have resulted in the taxation of alcohol both as a motor vehicle fuel and as an alcoholic beverage.

In an effort to encourage production of alcohol for use in or as a motor vehicle fuel, Chapter 228 states that alcohol produced for these purposes is to be taxed as a fuel and not as an alcoholic beverage under the Alcoholic Beverage Tax Law or under the provisions of the Alcoholic Beverage Control Act. Chapter 228 further provides that the state requirements for determining whether alcohol is produced for use in or as a motor vehicle fuel are to be the same as the requirements set forth under federal law.

Taxation; implementation of Proposition Four

SB 1352 (Marks); STATS 1980, Ch 1205
Support: Department of Education; Department of Finance; League of California Cities

Article XIIIIB, which was added to the California Constitution by the passage of Proposition Four in November, 1979, places an appropriations limit on the state and local governments and provides for the
refund of any excess revenues. The purpose of Chapter 1205 is to provide for the effective and efficient implementation of the new constitutional provisions by (1) defining the terminology used in article XIIIB, (2) establishing the formula for the determination of an appropriations limit and the procedure for judicial review of this determination, and (3) enacting a system to effectuate the refunding of excess revenues.

The appropriations limit for fiscal year 1981-82 and each succeeding fiscal year is computed by multiplying the appropriations limit for the prior fiscal year by the lesser of the change in the cost of living for the calendar year in which the fiscal year begins or the change in the California per capita personal income for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined. The product obtained is then multiplied by the change in the population of the local jurisdiction for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined.

To ascertain the appropriations limit for the prior fiscal year for purposes of calculating the 1980-81 fiscal year appropriations limit, the total appropriations subject to limitations in the 1978-79 fiscal year must be multiplied by the lesser of the change in the cost of living for the 1979 calendar year or the change in the California per capita personal income for the 1978 calendar year. The resulting product is then multiplied by the change in the population of the local jurisdiction for the 1978 calendar year. The amount so determined will be the appropriation for the prior year to be used in the calculation of the appropriations limit for fiscal year 1980-81. If, however, a local agency has a fiscal year beginning on January 1, Chapter 1205 provides that the agency must base its appropriations limit on its appropriations subject

---

2. See id. §2.
3. See CAL. GOV'T CODE §7900.
4. See id. §§7901, 7906-7908.
5. See id. §§7902, 7909, 7910.
6. See id. §7911.
7. See id. §7901(b) (definition of change in the cost of living).
8. See id. §7902(b). See also id. §7901(a) (definition of change in California per capita personal income).
9. See id. §§7901(c) (local agencies), 7901(d) (school districts), 7901(e) (community college districts).
10. See id. §7901(h) (definition of local jurisdiction).
11. See id. §7902(b).
12. See id. §§7906 (school districts), 7907 (county superintendent of schools), 7908 (community college districts). See also CAL. CONST. art. XIIIB, §§(a), (b).
14. See id.
15. See id. §7902(a).
to limitation for the 1979 calendar year and, therefore, the agency is not subject to an appropriations limit until the 1981 calendar year. The agency is to use the same factors in the formula as if its fiscal year had begun on the previous July.17

Chapter 1205 also provides that the revenues derived from regulatory licenses and user fees, if they are reasonably related, may be aggregated for the purpose of computing the proceeds of taxes used in the computation of the appropriations limit.18 These revenues, however, cannot be subject to the appropriations limit of more than one local jurisdiction or the state.20 Chapter 1205 further provides for adjustments to these computations, as allowed by article XIIIB of the California Constitution, for emergencies, transfers of functions, and transfers of financing.21

Chapter 1205 requires the Department of Finance, by May 1 of each year, to notify each local jurisdiction of the lesser of the change in the cost of living or the change in the California per capita personal income, and to provide the population figures for the prior calendar year.22 Thereafter, the governing body of each local jurisdiction must, by resolution, establish the appropriations limit for the following fiscal year at a regularly scheduled meeting or at a “noticed special meeting.”23 The documentation used in this determination must be made available to the public 15 days prior to the meeting.24 The determination of the governing body is made a legislative act25 by Chapter 1205 and thus is reviewable through a writ of mandate26 upon a showing of an abuse of the authority vested in that body.27 Any judicial review of the action taken by the governing body for the 1980-81 fiscal year must be brought within 60 days of the effective date of the resolution or the

16. See id. §7902(o).
17. See id.
18. See id. §7901(j) (definition of revenue).
19. See id. §7905. See generally id. §§7901(j), 53715 (definition of proceeds of taxes).
20. See id. §7904.
21. See id. §7902(a), (b). See also CAL. CONST. art. XIIIB, §3.
22. See CAL. GOV'T CODE §7909. See also CAL. REV. & TAX. CODE §§2227, 2228.
23. See CAL. GOV'T CODE §7910.
24. See id.
25. See id. See also Wulzen v. San Francisco, 101 Cal. 15, 24, 35 P. 353, 354 (1894); City Council v. Superior Court, 179 Cal. App. 2d 389, 393, 3 Cal. Rptr. 796, 798 (1960).
26. See generally CAL. CIV. PROC. CODE §§1085-1097 (writ of mandate procedures).
effective date of this Chapter, whichever is later.  For fiscal 1981-82 and each fiscal year thereafter, any judicial review must be brought within 45 days of the effective date of the resolution. Chapter 1205 further requires that these proceedings be given preference over all other civil actions.

The California Constitution requires that any revenues in excess of the appropriations limit are to be returned to the taxpayers within two years. Chapter 1205 provides that this may be done either by (1) granting a tax refund or credit, (2) providing a temporary suspension of tax rates or fee schedules, or (3) using any other means consistent with article XIIIB. The determination of the means by which a refund is to be returned is also a legislative act, and judicial review of this determination may be obtained only by a proceeding for a writ of mandate brought within 30 days of the determination. Chapter 1205 provides that review of a refund determination also must be given preference over all civil actions.

Chapter 1205 exempts certain special districts from the appropriations limit of article XIIIB. To qualify for the exemption, a special district must meet one of the following criteria: (1) the special district must have been in existence on January 1, 1978, and either did not possess the power to levy a property tax at that time or did not levy, or have levied on its behalf, an ad valorem property tax on all taxable property on the secured roll in excess of 12 1/2 cents per $100 assessed value for the 1977-78 fiscal year; or (2) it must have been in existence on January 1, 1978, or created thereafter by a vote of the people, and be totally funded with revenues other than the proceeds of taxes. A special district will be deemed not to have levied a secured property tax rate in excess of 12 1/2 cents per $100 of assessed value if the district had different property tax rates applied within its boundary for the 1977-78 fiscal year and the total derived from the ad valorem property tax for 1977-78 divided by the total amount of taxable assessed valuation within the district for 1977-78 does not exceed .00125.

---

29. See id.
30. See id.
34. See Cal. Gov't Code §7911.
35. See generally Cal. Rev. & Tax. Code §2215 (definition of a special district).
38. See id. See also Cal. Const. art. XIIIB, §8(c) (definition of proceeds of taxes).
of this exemption is to remove any special district meeting one of the requirements from the prescribed appropriations limit procedure. As a result, the amount an exempted district can appropriate will not be limited.

In summary, Chapter 1205 defines the terminology used in article XIIIIB, establishes the procedures for computing the appropriations limit and judicial review thereof, and enacts a system to effectuate the refunding of any excess revenues. Chapter 1205 also exempts certain special districts from the provision of article XIIIIB.

40. See id.
41. See id.; Cal. Const. art. XIIIIB, §9(c).
42. See Cal. Gov't Code §§7900-7912.
43. See id. §7901(f). See also Cal. Const. art. XIIIIB, §9(c).