

An act to amend Section 1028 of, and to add Section 1028.1 to, the Code of Civil Procedure, and to amend Sections 18036 and 24916 of, to add Sections 18190, 19183.5, and 24996 to, and to repeal Section 18036.5 of, the Revenue and Taxation Code, relating to taxation.

SECURED
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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1028 of the Code of Civil Procedure is amended to read:
1028. ~~Notwithstanding~~ Except as provided in Section 1028.1, notwithstanding any other provisions of law, when the ~~State~~ state is a party, costs shall be awarded against it on the same basis as against any other party and, when awarded, must be paid out of the appropriation for the support of the agency on whose behalf the ~~State~~ state appeared.

SEC. 2. Section 1028.1 is added to the Code of Civil Procedure, to read:

1028.1. (a) The provisions of this chapter shall not apply to the payment of any costs, fees, and other expenses in connection with any proceeding relating to Section 18036, 18190, 19183.5, 24916, or 24996 of the Revenue and Taxation Code and only Section 19717 of the Revenue and Taxation Code shall apply.

(b) Subdivision (a) shall not prevent the payment of costs, fees, and other expenses awarded pursuant to Section 19717 of the Revenue and Taxation Code out of the appropriation for support of the Franchise Tax Board for civil proceedings relating to Section 18036, 18190, 19183.5, 24916, or 24996 of the Revenue and Taxation Code and only Section 19717 of the Revenue and Taxation Code shall apply.

SEC. 3. Section 18036 of the Revenue and Taxation Code is amended to read:

18036. (a) In addition to the adjustments to basis provided by Section 1016(a) of the Internal Revenue Code, a proper adjustment shall also be made for amounts allowed as deductions as deferred expenses under subdivision (b) of former Section 17689 or former Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under those sections for the taxable year and prior years. A proper adjustment shall also be made for amounts deducted under Section 17252.5, 17265, or 17266.

(b) Notwithstanding the provisions of Sections 164(a) and 1016(a) of the Internal Revenue Code, no adjustment to basis shall be made for any of the following:

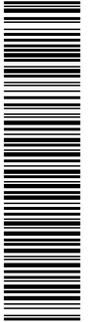
- (1) Abandonment fees paid in respect of property on which the open-space easement is terminated under Section 51061 or 51093 of the Government Code.
- (2) Tax recoupment fees paid under Section 51142 of the Government Code.
- (3) Sales or use tax which is paid or incurred by the taxpayer in connection with the acquisition of property for which a tax credit is claimed pursuant to Section 17052.13.

(c) The provisions of Section 1016(c) of the Internal Revenue Code, relating to increase in basis of property on which additional estate tax is imposed, shall be applicable.

(d) The amendments made to Section 1016 of the Internal Revenue Code by Section 1913(a) of Public Law 102-486, relating to deduction for clean-fuel vehicles and certain refueling property, shall apply to property placed in service after June 30, 1993, without respect to taxable year.

(e) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13823(b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 1016(a) of the Internal Revenue Code, relating to adjustments to basis, shall apply, except as otherwise provided.

SEC. 4. Section 18036.5 of the Revenue and Taxation Code is repealed.



~~18036.5. In addition to the adjustments to basis provided by Section 1016(a) of the Internal Revenue Code, a proper adjustment shall also be made in the case of property the acquisition of which resulted under Section 18038.5 in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in paragraph (4) of subdivision (b) of Section 18038.5.~~

SEC. 5. Section 18190 is added to the Revenue and Taxation Code, to read:

18190. (a) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13823(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to add Subchapter Z to Chapter 1 of Subtitle A of the Internal Revenue Code, relating to opportunity zones, shall apply, except as otherwise provided.

(b) (1) Section 1400Z-1 of the Internal Revenue Code, relating to designation, is modified by substituting “California qualified opportunity zone” for “qualified opportunity zone.”

(2) “California qualified opportunity zone” means a qualified opportunity zone under Section 1400Z-1 of the Internal Revenue Code, relating to designation, that is located within the State of California.

(c) Section 1400Z-2 of the Internal Revenue Code, relating to special rules for capital gains invested in opportunity zones, is modified as follows:

(1) (A) By substituting “California qualified opportunity zone business property” for “qualified opportunity zone business property.”

(B) “California qualified opportunity zone business property” means property, located in a California qualified opportunity zone, that meets either of the following conditions:

(i) It is a qualified low-to-moderate-income housing project. For purposes of this clause, a housing project is a “low-to-moderate-income housing project” if it meets all of the conditions of either subclause (I), subclause (II), or subclause (III).

(I) The project is a qualified low-to-moderate-income housing project if it meets all of the following conditions:

(ia) The project will be constructed to meet the requirements of Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, relating to density bonuses, and any inclusionary requirements that the local agency that has jurisdiction over the project may apply.

(ib) The project owner and the city in which the project is located shall provide the Franchise Tax Board with the annual certification of compliance with all density bonus requirements, pursuant to Chapter 4.3 (commencing with Section 69515) of Division 1 of Title 7 of the Government Code. The certification shall also be sent to the Department of Housing and Community Development and shall be included in the annual report requirement of paragraph (2) of subdivision (f).

(ic) The project meets the definition of “qualified low-income housing project” provided in Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project, as amended by The Consolidated Appropriations Act, 2018 (Public Law 115-141), modified as follows:

(Ia) Section 42(g)(1)(A) and Section 42(g)(2)(D)(ii) of the Internal Revenue Code are modified by substituting “15” for “20.”

(Ib) Section 42(g)(1)(A) and Section 42(g)(2)(D)(ii) of the Internal Revenue Code are modified by substituting “30” for “40.”



(II) The project is a qualified low-to-moderate-income housing project if it meets both of the following conditions:

(ia) The project meets the definition of “qualified low-income housing project” provided in Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(ib) There is an agreement between the housing sponsor and the California Tax Credit Allocation Committee for the taxable year in which the investment in the California qualified opportunity zone is made that meets the conditions of an extended low-income housing commitment as defined in Section 42(h)(6)(B) of the Internal Revenue Code, relating to extended low-income housing commitment.

(III) The project is a qualified low-to-moderate-income housing project if it meets both of the following conditions:

(ia) It meets the definition of “qualified residential rental project,” as defined in Section 142(d) of the Internal Revenue Code, relating to qualified residential rental projects.

(ib) It has an agreement between the housing sponsor and the municipal issuer of private activity bonds pursuant to Section 142(d) of the Internal Revenue Code, relating to qualified residential retail project, that enforces the tax exempt bond requirements imposed by the California Debt Limit Allocation Committee.

(ii) It is a qualified clean energy project. A “qualified clean energy project” shall be determined by the Franchise Tax Board, in consultation with the Department of Finance, in accordance with standards and guidelines provided by any state and local programs aimed at meeting the state’s greenhouse gas emissions targets. A qualified clean energy project may include, but is not limited to, a project that meets any of the following criteria:

(I) It is primarily engaged in those lines of business described in Codes 221111 to 221118, inclusive, or 221122, of the 2012 North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), only if engaged in making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

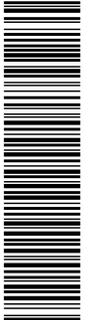
(II) It is a photovoltaic system that meets the prescriptive and performance standards set forth in subdivisions (b) and (c) of Section 150.1 of the 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings.

(III) Is it a distributed energy storage system or an energy storage management system, as defined by Section 2838.2 of the Public Utilities Code, and approved by the Public Utilities Commission.

(IV) It is a distributed energy resource, as defined by subdivision (b) of Section 8370 of the Public Utilities Code, and determined to meet the requirements of that definition by the Public Utilities Commission and the State Air Resources Board.

(V) It is a load modifying demand response resource, as established by the Public Utilities Commission in the implementation of subdivision (j) of Section 380 of the Public Utilities Code.

(VI) It achieves energy efficiency savings, as determined by the Public Utilities Commission in accordance with subdivisions (c) and (d) of Section 25310 of the Public Resources Code.



(VII) It is electric vehicle service equipment, as defined by Section 44268 of the Health and Safety Code and interpreted by the State Energy Resources Conservation and Development Commission in its administration of the Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code).

(VIII) It is an electric vehicle charging station, as defined by Section 65850.7 of the Government Code, and certified by a city or county government in California.

(2) (A) By substituting “California qualified opportunity fund” for “qualified opportunity fund.”

(B) “California qualified opportunity zone fund” means a fund that has registered with the Secretary of State, as applicable, and, at all times during the taxable year, holds at least 90 percent of its total assets in California qualified opportunity zone property and that, at all times during the taxable year, holds any remaining assets either in cash, liquid assets, or tangible property located in California.

(3) By substituting “California qualified opportunity zone property” for “qualified opportunity zone property.”

(4) By substituting “California qualified opportunity zone stock” for “qualified opportunity zone stock.”

(5) By substituting “California qualified opportunity zone partnership interest” for “qualified opportunity zone partnership interest.”

(6) By substituting “California qualified opportunity zone business” for “qualified opportunity zone business.”

(d) (1) The Franchise Tax Board shall make a California qualified opportunity zone investment allocation to a California qualified opportunity zone fund on a first-come-first-served basis, which shall be the maximum amount that a California qualified opportunity zone is allowed to raise as investment in the fund.

(A) The maximum amount that the Franchise Tax Board may allocate to a California qualified opportunity zone fund is one hundred million dollars (\$100,000,000).

(B) The Franchise Tax Board shall not consider requests for allocations received prior to 30 days after this section is enacted.

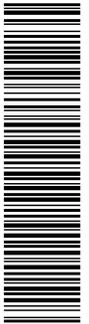
(2) (A) The maximum aggregate amount of California qualified opportunity zone investment that the Franchise Tax Board may allocate pursuant to this section and Section 24996 is five billion dollars (\$5,000,000,000) for all taxable years.

(B) The Franchise Tax Board shall reduce the California qualified opportunity zone investment amount allocated to any California qualified opportunity fund to the total amount of capital raised, as reported in the second six-month report described in subdivision (f), and shall add the reduction to the available balance to allocate in the taxable year that the reduction occurs.

(3) The Franchise Tax Board shall develop an application process for qualified opportunity zone investment allocations pursuant to this subdivision.

(4) The determination of the Franchise Tax Board pursuant to this subdivision with respect to an allocation may not be reviewed in any administrative or judicial proceeding.

(e) Notwithstanding Part 11 (commencing with Section 23001), capital gains invested in California qualified opportunity funds shall retain their character as gains from tangible or intangible property for purposes of this section.



(f) (1) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to the Franchise Tax Board every six months information including, but not limited to, the following items:

- (A) The investment purpose of the fund.
- (B) A description of the project or projects for which the fund investment is made.
- (C) The location of the project or projects for which the investment is to be made.
- (D) The total amount of capital raised.
- (E) The total amount of capital invested in California qualified opportunity zone business property.
- (F) The total amount of capital invested in California qualified opportunity stock.
- (G) The total amount of capital invested in California qualified opportunity zone partnership interest.
- (H) The names of each investor and their applicable investment in the fund.
- (I) The date the investment or investments are made.

(2) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to the Franchise Tax Board no later than 120 days after the close of their taxable year, in a form and manner specified by the Franchise Tax Board. The items included on the report may include, but are not limited to:

- (A) A description of each project that received an allocation during the taxable year.
- (B) The local agency and the census tracts where the investment was made.
- (C) The number of low-income housing units created as a result of the investment, if applicable.
- (D) The number jobs created as a result of the investment and the average wage paid for those jobs.
- (E) The alternative electricity production capacity created as a result of the investment, if applicable.

(3) (A) The Franchise Tax Board shall post on its internet website the total amount of California qualified opportunity zone investment allocated as of the end of each month.

(B) The Franchise Tax Board shall report to the Legislature, on no less than a yearly basis, in consultation with the Department of Finance, the Department of Housing and Community Development, and the Governor's Office of Business and Economic Development, on the effectiveness of the program. The information provided in the report shall include information reported to the Franchise Tax Board by the California opportunity zone funds. A report submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.

(4) (A) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to each investor, no later than January 31, the amounts provided in subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (f) for the prior calendar year.

(B) A California qualified opportunity zone fund whose allocation is revoked shall report that revocation to each investor within 30 days of the revocation.



(g) (1) Except as otherwise provided in this section, Section 1400Z-2(b)(2)(B) of the Internal Revenue Code, relating to determination of basis, shall apply, and the date that the investment is held begins the date that the qualified California opportunity zone fund makes the investment.

(2) A taxpayer with gain excluded under Section 1400Z-2(a)(1)(A) of the Internal Revenue Code must include capital gains excluded in prior years on their return in the current taxable year if any of the following applies:

(A) The California qualified opportunity fund allocation is revoked pursuant to paragraph (6) of subdivision (a) of Section 19183.5.

(B) The taxpayer sells or exchanges the California qualified opportunity zone property.

(C) The taxable year includes December 31, 2026.

(3) If the California qualified opportunity fund is determined to be out of compliance as specified in subparagraph (B) of paragraph (2) of subdivision (c) or an investor in the California qualified opportunity zone fund makes a transfer of an intangible asset to a business owned by that California qualified opportunity zone fund:

(A) The gain excluded under Section 1400Z-2(a)(1)(A) of the Internal Revenue Code shall be taxable in the current taxable year and the taxpayer's basis of the investment shall be reduced to zero.

(B) Section 1400Z-2(b)(2)(B)(ii), (iii), and (iv) and Section 1400Z-2(c) of the Internal Revenue Code, relating to determination of basis, shall not apply.

(h) Notwithstanding Section 19542, the Franchise Tax Board may disclose information reported pursuant to subdivision (f) for the purpose of reporting on the effectiveness of this section.

(i) The Franchise Tax Board may disclose to the Governor's Office of Business and Economic Development, the Department of Housing and Community Development, the Energy Commission, the Public Utilities Commission, the State Air Resources Board, and other state and local agencies, for purposes of administering this section, individual income tax return information and other information related to the income tax return in the records of the Franchise Tax Board, through information-sharing agreements or data interfaces, for purposes of administering this section.

(j) The Franchise Tax Board may, in consultation with the Governor's Office of Economic Development, adopt regulations that are necessary and appropriate to implement this part.

(k) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this part.

SEC. 6. Section 19183.5 is added to the Revenue and Taxation Code, to read:

19183.5. (a) In the case of a failure to make a report required under Section 18190 or Section 24996 that contains the information required by those sections on the date prescribed therefor, or for failure to meet the requirements specified in paragraph (2) of subdivision (c) of Section 18190 or 24996, there shall be paid on notice and demand by the Franchise Tax Board and in the same manner as the tax, by the California qualified opportunity fund, an amount equal to a percentage of the amount allocated under Section 18190 or 24966, as follows:

(1) For the first failure, a penalty of 0.5 percent.



- (2) For the second failure, a penalty of 1 percent.
- (3) For the third failure, a penalty of 1.5 percent.
- (4) For the fourth failure, a penalty of 2 percent.
- (5) For the fifth failure, a penalty of 2.5 percent.
- (6) After the fifth failure, any subsequent failure shall result in revocation of the qualified California opportunity zone fund allocation.

(b) In the case of a failure to make a return as required under Section 18190 or Section 24996 on or before the due date of the return or the due date as extended by the Franchise Tax Board, a penalty of 10 percent of the capital gains required to be included on a return under paragraph (2) of subdivision (g) of Section 18190 or 24226 shall be added to the tax due and the basis of the investment shall be reduced to zero.

SEC. 7. Section 24916 of the Revenue and Taxation Code is amended to read:
24916. Proper adjustment with regard to the property shall in all cases be made as follows:

(a) For expenditures, receipts, losses, or other items properly chargeable to capital account. However, no adjustment shall be made for any of the following:

(1) Sales or use tax paid or incurred in connection with the acquisition of property for which a tax credit is claimed pursuant to Section 23612.2.

(2) Taxes or other carrying charges described in Section 24426, or for expenditures described in Sections 24364 and 24369 for which deductions have been taken in determining net income for the taxable year or any prior taxable year.

(b) For exhaustion, wear and tear, obsolescence, amortization, and depletion:

(1) In the case of corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this part, except that no deduction shall be made for amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value and amounts in excess of the adjustments required by Section 113(b)(1)(B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932.

(2) In the case of a taxpayer subject to the tax imposed by Chapter 3 (commencing with Section 23501), to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allowable) under the provisions of this part.

(3) If a taxpayer has not claimed an amortization deduction for an emergency facility, the adjustment under paragraph (1) shall be made only to the extent ordinarily provided under Sections 24349 and 24372.

(c) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation, which was classified as a personal service corporation under the provisions of the Federal Revenue Act of 1918 or 1921, out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Federal Revenue Act of 1918 or 1921).

(d) (1) In the case of corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), in the case of any bond, as defined in Section



24363, to the extent of the deductions allowable pursuant to Section 24360 with respect thereto.

(2) In the case of taxpayers subject to the tax imposed by Chapter 3 (commencing with Section 23501), in the case of any bond, as defined in Section 24363, the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 24360, and in the case of any other bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to subdivision (a) of Section 24360 (or the amount applied to reduce interest payments under paragraph (2) of subdivision (a) of Section 24363.5) with respect thereto.

(3) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 24273, and to the extent of any deficiency on that loan with respect to which the taxpayer has been relieved from liability.

(e) For amounts allowed as deductions as deferred expenses under Section 616(b) of the Internal Revenue Code, relating to certain expenditures in the development of mines, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the taxable year and prior years.

(f) For amounts allowable as deductions as deferred expenses under Section 617(a) of the Internal Revenue Code, relating to certain exploration expenditures, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the taxable year and prior years.

(g) For amounts allowed as deductions as deferred expenses under subdivision (a) of Section 24366, relating to research and experimental expenditures, and resulting in a reduction of the corporation's taxes under this part, but not less than the amounts allowable under that section for the taxable year and prior years.

(h) For amounts allowed as deductions under Sections 24356.2, 24356.3, and 24356.4.

(i) (1) To the extent provided in Section 179A(e)(6)(A) of the Internal Revenue Code, relating to basis reduction for clean-fuel vehicles and certain refueling property.

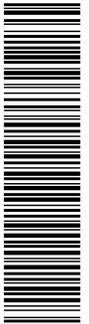
(2) This subdivision shall apply to property placed in service after June 30, 1993, without regard to taxable year.

(j) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13823(b) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 1016(a) of the Internal Revenue Code, relating to adjustments to basis, shall apply, except as otherwise provided.

(j)

(k) In the case of property the acquisition of which resulted under Section 1044 of the Internal Revenue Code, relating to rollover of publicly traded securities gain into specialized small business investment companies, in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in Section 1044(d) of the Internal Revenue Code, relating to basis adjustments.

SEC. 8. Section 24996 is added to the Revenue and Taxation Code, to read:
24996. (a) For taxable years beginning on or after January 1, 2019, the amendments made by Section 13823(a) of the Tax Cuts and Jobs Act (Public Law



115-97) to add Subchapter Z to Chapter 1 of Subtitle A of the Internal Revenue Code, relating to opportunity zones, shall apply, except as otherwise provided.

(b) (1) Section 1400Z-1 of the Internal Revenue Code, relating to designation, is modified by substituting “California qualified opportunity zone” for “qualified opportunity zone.”

(2) “California qualified opportunity zone” means a qualified opportunity zone under Section 1400Z-1 of the Internal Revenue Code, relating to designation, that is located within the State of California.

(c) Section 1400Z-2 of the Internal Revenue Code, relating to special rules for capital gains invested in opportunity zones, is modified as follows:

(1) (A) By substituting “California qualified opportunity zone business property” for “qualified opportunity zone business property.”

(B) “California qualified opportunity zone business property” means property, located in a California qualified opportunity zone, that meets either of the following conditions:

(i) It is a qualified low-to-moderate-income housing project. For purposes of this clause, a housing project is a “low-to-moderate-income housing project” if it meets all of the conditions of either subclause (I), subclause (II), or subclause (III).

(I) The project is a qualified low-to-moderate-income housing project if it meets all of the following conditions:

(ia) The project will be constructed to meet the requirements of Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code, relating to density bonuses, and any inclusionary requirements that the local agency that has jurisdiction over the project may apply.

(ib) The project owner and the city in which the project is located shall provide the Franchise Tax Board with the annual certification of compliance with all density bonus requirements, pursuant to Chapter 4.3 (commencing with Section 69515) of Division 1 of Title 7 of the Government Code. The certification shall also be sent to the Department of Housing and Community Development and shall be included in the annual report requirement of paragraph (2) of subdivision (f).

(ic) The project meets the definition of “qualified low-income housing project” provided in Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project, as amended by The Consolidated Appropriations Act, 2018 (Public Law 115-141), modified as follows:

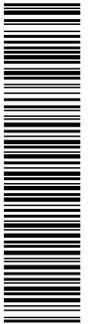
(Ia) Section 42(g)(1)(A) and Section 42(g)(2)(D)(ii) of the Internal Revenue Code are modified by substituting “15” for “20.”

(Ib) Section 42(g)(1)(A) and Section 42(g)(2)(D)(ii) of the Internal Revenue Code are modified by substituting “30” for “40.”

(II) The project is a qualified low-to-moderate-income housing project if it meets both of the following conditions:

(ia) The project meets the definition of “qualified low-income housing project” provided in Section 42(g) of the Internal Revenue Code, relating to qualified low-income housing project.

(ib) There is an agreement between the housing sponsor and the California Tax Credit Allocation Committee for the taxable year in which the investment in the California qualified opportunity zone is made that meets the conditions of an extended



low-income housing commitment as defined in Section 42(h)(6)(B) of the Internal Revenue Code, relating to extended low-income housing commitment.

(III) The project is a qualified low-to-moderate-income housing project if it meets both of the following conditions:

(ia) It meets the definition of “qualified residential rental project,” as defined in Section 142(d) of the Internal Revenue Code, relating to qualified residential rental projects.

(ib) It has an agreement between the housing sponsor and the municipal issuer of private activity bonds pursuant to Section 142(d) of the Internal Revenue Code, relating to qualified residential retail project, that enforces the tax exempt bond requirements imposed by the California Debt Limit Allocation Committee.

(ii) It is a qualified clean energy project. A “qualified clean energy project” shall be determined by the Franchise Tax Board, in consultation with the Department of Finance, in accordance with standards and guidelines provided by any state and local programs aimed at meeting the state’s greenhouse gas emissions targets. A qualified clean energy project may include, but is not limited to, a project that meets any of the following criteria:

(I) It is primarily engaged in those lines of business described in Codes 221111 to 221118, inclusive, or 221122, of the 2012 North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), only if engaged in making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

(II) It is a photovoltaic system that meets the prescriptive and performance standards set forth in subdivisions (b) and (c) of Section 150.1 of the 2019 Building Energy Efficiency Standards for Residential and Nonresidential Buildings.

(III) Is it a distributed energy storage system or an energy storage management system, as defined by Section 2838.2 of the Public Utilities Code, and approved by the Public Utilities Commission.

(IV) It is a distributed energy resource, as defined by subdivision (b) of Section 8370 of the Public Utilities Code, and determined to meet the requirements of that definition by the Public Utilities Commission and the State Air Resources Board.

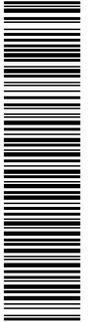
(V) It is a load modifying demand response resource, as established by the Public Utilities Commission in the implementation of subdivision (j) of Section 380 of the Public Utilities Code.

(VI) It achieves energy efficiency savings, as determined by the Public Utilities Commission in accordance with subdivisions (c) and (d) of Section 25310 of the Public Resources Code.

(VII) It is electric vehicle service equipment, as defined by Section 44268 of the Health and Safety Code and interpreted by the State Energy Resources Conservation and Development Commission in its administration of the Alternative and Renewable Fuel and Vehicle Technology Program (Article 2 (commencing with Section 44272) of Chapter 8.9 of Part 5 of Division 26 of the Health and Safety Code).

(VIII) It is an electric vehicle charging station, as defined by Section 65850.7 of the Government Code, and certified by a city or county government in California.

(2) (A) By substituting “California qualified opportunity fund” for “qualified opportunity fund.”



(B) “California qualified opportunity zone fund” means a fund that has registered with the Secretary of State, as applicable, and, at all times during the taxable year, holds at least 90 percent of its total assets in California qualified opportunity zone property and that, at all times during the taxable year, holds any remaining assets either in cash, liquid assets, or tangible property located in California.

(3) By substituting “California qualified opportunity zone property” for “qualified opportunity zone property.”

(4) By substituting “California qualified opportunity zone stock” for “qualified opportunity zone stock.”

(5) By substituting “California qualified opportunity zone partnership interest” for “qualified opportunity zone partnership interest.”

(6) By substituting “California qualified opportunity zone business” for “qualified opportunity zone business.”

(d) (1) The Franchise Tax Board shall make a California qualified opportunity zone investment allocation to a California qualified opportunity zone fund on a first-come-first-served basis, which shall be the maximum amount that a California qualified opportunity zone is allowed to raise as investment in the fund.

(A) The maximum amount that the Franchise Tax Board may allocate to a California qualified opportunity zone fund is one hundred million dollars (\$100,000,000).

(B) The Franchise Tax Board shall not consider requests for allocations received prior to 30 days after this section is enacted.

(2) (A) The maximum aggregate amount of California qualified opportunity zone investment that the Franchise Tax Board may allocate pursuant to this section and Section 18190 is five billion dollars (\$5,000,000,000) for all taxable years.

(B) The Franchise Tax Board shall reduce the California qualified opportunity zone investment amount allocated to any California qualified opportunity fund to the total amount of capital raised, as reported in the second six-month report described in subdivision (f), and shall add the reduction to the available balance to allocate in the taxable year that the reduction occurs.

(3) The Franchise Tax Board shall develop an application process for qualified opportunity zone investment allocations pursuant to this subdivision.

(4) The determination of the Franchise Tax Board pursuant to this subdivision with respect to an allocation may not be reviewed in any administrative or judicial proceeding.

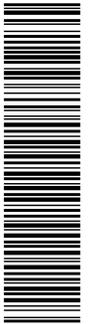
(e) Notwithstanding Part 11 (commencing with Section 23001), capital gains invested in California qualified opportunity funds shall retain their character as gains from tangible or intangible property for purposes of this section.

(f) (1) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to the Franchise Tax Board every six months information including, but not limited to, the following items:

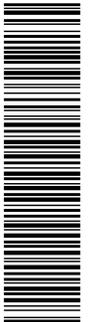
(A) The investment purpose of the fund.

(B) A description of the project or projects for which the fund investment is made.

(C) The location of the business or properties for which the investment is to be made.



- (D) The total amount of capital raised.
- (E) The total amount of capital invested in California qualified opportunity zone business property.
- (F) The total amount of capital invested in California qualified opportunity stock.
- (G) The total amount of capital invested in California qualified opportunity zone partnership interest.
- (H) The names of each investor and their applicable investment in the fund.
- (I) The date the investment or investments are made.
- (2) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to the Franchise Tax Board no later than 120 days after the close of their taxable year, in a form and manner specified by the Franchise Tax Board. The items included on the report may include, but are not limited to:
 - (A) A description of each project that received an allocation during the taxable year.
 - (B) The local agency and the census tracts where the investment was made.
 - (C) The number of low-income housing units created as a result of the investment, if applicable.
 - (D) The number jobs created as a result of the investment and the average wage paid for those jobs.
 - (E) The alternative electricity production capacity created as a result of the investment, if applicable.
- (3) (A) The Franchise Tax Board shall post on its internet website the total amount of California qualified opportunity zone investment allocated as of the end of each month.
 - (B) The Franchise Tax Board shall report to the Legislature, on no less than a yearly basis, in consultation with the Department of Finance, the Department of Housing and Community Development, and the Governor's Office of Business and Economic Development, on the effectiveness of the program. The information provided in the report shall include information reported to the Franchise Tax Board by the California opportunity zone funds. A report submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795 of the Government Code.
- (4) (A) Each California qualified opportunity zone fund that receives an allocation from the Franchise Tax Board pursuant to subdivision (d) shall report to each investor, no later than January 31, the amounts provided in subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (f) for the prior calendar year.
 - (B) A California qualified opportunity zone fund whose allocation is revoked shall report that revocation to each investor within 30 days of the revocation.
 - (g) (1) Except as otherwise provided in this section, Section 1400Z-2(b)(2)(B) of the Internal Revenue Code, relating to determination of basis, shall apply, and the date that the investment is held begins the date that the qualified California opportunity zone fund makes the investment.
 - (2) A taxpayer with gain excluded under Section 1400Z-2(a)(1)(A) of the Internal Revenue Code must include capital gains excluded in prior years on their return in the current taxable year if any of the following applies:
 - (A) The California qualified opportunity fund allocation is revoked pursuant to paragraph (6) of subdivision (a) of Section 19183.5.



(B) The taxpayer sells or exchanges the California qualified opportunity zone property.

(C) The taxable year includes December 31, 2026.

(3) If the California qualified opportunity fund is determined to be out of compliance as specified in subparagraph (B) of paragraph (2) of subdivision (c) or an investor in the California qualified opportunity zone fund makes a transfer of an intangible asset to a business owned by that California qualified opportunity zone fund:

(A) The gain excluded under Section 1400Z-2(a)(1)(A) of the Internal Revenue Code shall be taxable in the current taxable year and the taxpayer's basis of the investment shall be reduced to zero.

(B) Section 1400Z-2(b)(2)(B)(ii), (iii), and (iv) and Section 1400Z-2(c) of the Internal Revenue Code, relating to determination of basis, shall not apply.

(h) Notwithstanding Section 19542, the Franchise Tax Board may disclose information reported pursuant to subdivision (f) for the purpose of reporting on the effectiveness of this section.

(i) The Franchise Tax Board may disclose to the Governor's Office of Business and Economic Development, the Department of Housing and Community Development, the Energy Commission, the Public Utilities Commission, the State Air Resources Board, and other state and local agencies, for purposes of administering this section, individual income tax return information and other information related to the income tax return in the records of the Franchise Tax Board, through information-sharing agreements or data interfaces, for purposes of administering this section.

(j) The Franchise Tax Board may, in consultation with the Governor's Office of Economic Development, adopt regulations that are necessary and appropriate to implement this part.

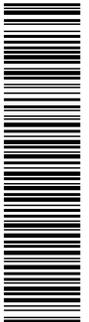
(k) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board pursuant to this part.

SEC. 9. (a) The amendments made to Section 1028 of the Code of Civil Procedure by this act, and the addition of Section 1028.1 to the Code of Civil Procedure by this act, shall be applied to court proceedings filed on or after the effective date of this act.

(b) It is the intent of the Legislature that no inference be drawn from the amendments made to Section 1028 of the Code of Civil Procedure by this act, and the addition of Section 1028.1 to the Code of Civil Procedure by this act, to court proceedings filed before the effective date of this act.

SEC. 10. Except for the repeal of Section 18036.5 of the Revenue and Taxation Code by this act, the provisions of this act are not severable. If any provision of this act or its application is held invalid, except for the repeal of Section 18036.5 of the Revenue and Taxation Code by this act, that invalidity shall apply to the other provisions or applications of this act.

SEC. 11. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



LEGISLATIVE COUNSEL'S DIGEST

Bill No. _____,
as introduced, _____.
General Subject: Taxation: administration: attorney's fees: gross income exclusions:
opportunity zones.

(1) The Personal Income Tax Law and the Corporation Tax Law impose taxes upon taxable income, as specified. Additionally, various provisions of the Personal Income Tax Law and the Corporation Tax law conform, or conform as modified, to provisions of the Internal Revenue Code.

This bill would conform, with modifications, the Personal Income Tax Law and the Corporation Tax Law to provisions of the Internal Revenue Code that allow for specified tax treatment for income derived from activities within a California qualified opportunity zone, as defined, including the deferral of recognition of a capital gain. The bill would additionally require the Franchise Tax Board to make qualified opportunity zone investment allocations to California qualified opportunity zone funds, not to exceed an aggregate amount of \$5,000,000,000, which shall be equal to the maximum amount the fund may raise as investments.

This bill would require the project owner and a city, for specified projects to be eligible as a "qualified low-to-moderate-income housing project" under these provisions, to provide the Franchise Tax Board and the Department of Housing and Community Development with a specified annual certification. By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(2) Existing law provides that a prevailing party in a court action may be awarded attorney's fees under specified circumstances, and laws governing the administration of franchise and income tax laws provide that a prevailing party may be awarded a judgment for reasonable litigation costs incurred, in the case of any civil proceeding brought by or against the State of California in a court of record of this state, in connection with the determination, collection, or refund of any tax, interest, or penalty under the Personal Income Tax Law and the Corporation Tax Law, as specified.

This bill would make the provision of law governing the administration of franchise and income tax laws the exclusive means to award attorney's fees in any civil proceeding relating to tax provisions regarding opportunity zones described above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

