

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Cohn Analyst: Rachel Coco Bill Number: AB 1283
Related Bills: See Legislative History Telephone: 845-4328 Introduced Date: February 21, 2003
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: California Arts Council Fund

SUMMARY

This bill would establish the California Arts Council Fund for taxpayer contribution designations on personal income tax returns.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to create an additional funding source for arts and multicultural programs.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2004, and would apply to returns filed for taxable years beginning with the first year that another fund designation is removed and a designation for this fund is added.

POSITION

Pending.

Summary of Suggested Amendments

An amendment is provided to address the department's technical concern.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a true checkoff to direct \$3 of a taxpayer's tax liability to the presidential election fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their tax returns to the 11 voluntary contribution funds listed on the state tax return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Board Position:

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Department Director
Gerald H. Goldberg

Date
03/26/03

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. Attachment I shows the specific sunset dates for each voluntary contribution fund and indicates that all funds, except the California Seniors Special Fund must meet a minimum contribution test (as indexed, if required) to remain on the return. Attachment II is a chart indicating the number and dollar amount of contributions to the funds for multiple fiscal years.

THIS BILL

This bill would establish the California Arts Council Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contribution individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

This bill would require FTB to revise the tax return to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund is removed.

For the second taxable year the fund is on the return, this bill would require the fund to meet the \$250,000 minimum contribution test. If FTB estimates by September 1 of any calendar year after the first taxable year the fund appears on tax returns that contributions made under this bill will be less than \$250,000 (as indexed), the law authorizing designations for this fund on a tax return and establishing the fund would be repealed.

If not repealed earlier, the authority for this voluntary contribution designation would remain in effect until January 1 of the fifth taxable year following the first appearance of this fund on the tax return, unless a later enacted statute deletes or extends that date.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return shall be treated as if no designation has been made. If no designee is specified, a designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Arts Council Fund. Upon appropriation by the Legislature, the moneys from this fund must be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund, and 2) the California Arts Council for the purpose of arts and multicultural program grants in local communities.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

The attached technical amendment is provided to include additional taxpayer designation language.

PROGRAM BACKGROUND

Eleven voluntary contribution funds appeared on the 2002 California personal income tax returns. Total contributions to these funds have varied from approximately \$3.4 million in 1989/1990 to approximately \$3.9 in 2001/2002. The number of individuals contributing (first tabulated in 1993) remains fairly constant at approximately 140,000, or slightly less than 1% of all taxpayers.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Illinois, Massachusetts, Michigan, Minnesota, and New York allow for taxpayer contribution designations on the personal income tax returns.

Florida does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

None of these states provides a voluntary contribution comparable to the one proposed by this bill.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

The net revenue impact of this bill would be negligible (gain or loss) since the addition of the California Arts Council Fund to the tax return requires the removal of an existing voluntary contribution designation.

Any possible changes in employment, personal income, or gross state product that might result from this measure are not taken into account.

Revenue Discussion

According to departmental data, the total amount of existing voluntary contributions to all funds was nearly \$4 million for fiscal year 2001/02 with an average of \$280,000 per individual designated fund.

Assuming contributions equal or exceed the minimum \$250,000 required to remain on the tax return and all contributors itemize deductions, the annual revenue loss would be on the order of \$15,000 by applying an average marginal tax rate of 6%. This revenue loss would occur the year following this fund designation being placed on the tax return and would be partially or wholly offset by revenue savings from the elimination of an existing check-off.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1283
As Introduced February 21, 2003

AMENDMENT 1

On page 3, line 9, before "the" insert:

the amount of money paid by taxpayers in excess of their tax liability and