

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Fuller Analyst: Jennifer Bettencourt Bill Number: AB 1935
 Related Bills: See Legislative History Telephone: 845-5163 Introduced Date: February 12, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: California Ovarian Cancer Research Fund

SUMMARY

This bill would add the California Ovarian Cancer Research Fund to the personal income tax (PIT) return as a voluntary contribution fund.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide a mechanism to make charitable contributions that would fund research for the cure, screening, and prevention of ovarian cancer.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2009, and, absent specific provisions to the contrary, would apply to tax returns for taxable year 2008 filed on or after January 1, 2009.

POSITION

Pending.

Summary of Suggested Amendments

Amendments 1 through 6 have been provided to resolve technical issues.

ANALYSIS

STATE LAW

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their PIT returns to any of the 11 voluntary contribution funds (VCFs) listed on the return.

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With the following exceptions, VCFs remain on the PIT return until they are either repealed or fail to meet their minimum contribution amount.

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Foundation Memorial Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens, the required minimum contribution amount is adjusted annually for inflation for each VCF.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount for the next calendar year for the VCF to remain on the PIT return for that calendar year, and
2. Whether estimated contributions to the VCF during the current calendar year will be less than the minimum contribution amount for that calendar year.

FTB is also required to notify certain specified funds in writing of the minimum contribution amount required for the next calendar year.

If FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed effective January 1 of that calendar year.

General voluntary contribution provisions specify the following for all VCF's:

- Any contribution amounts designated prior to a fund's repeal must continue to be transferred and disbursed to that voluntary contribution fund.
- If the designee is unspecified, the contribution amount is transferred to the General Fund after reimbursing costs incurred by the FTB.
- If an individual designates contributions to more than one fund, and the actual amount available is less than the total amount contributed, the contribution would be allocated on a pro rata basis to the designated funds.

The general provisions also provide a formal queuing process for adding new contingent¹ voluntary contribution funds to the tax return. Upon enactment, new contingent funds are added to the tax return when an existing fund is removed or when FTB determines space exists on the income tax return.

¹ A contingent voluntary contribution designation is a voluntary contribution fund that includes language that the fund may not be added to the personal income tax return until another voluntary contribution fund is removed.

THIS BILL

This bill would add the California Ovarian Cancer Research Fund (Fund) to the PIT return as a voluntary contribution fund. Taxpayers would be able to designate their own funds, not tax liability, for contribution to the Fund on their PIT returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable. A charitable contribution would be allowed for a contribution made pursuant to this bill that would be subject to the itemized deduction rules applicable to individuals.

This bill would specify that if the taxpayer's payments and credits reported on the PIT return fail to exceed the tax liability, the designation on the return would be treated as if no designation has been made.

This bill would require FTB to revise the tax return to include a designation space for the Fund and states legislative intent to include the Fund beginning with the 2008 tax return. (See discussion under Technical Considerations.)

Beginning with contributions made in 2010, this bill would require the Fund to meet a minimum contribution amount for each calendar year. The "minimum contribution amount for a calendar year" is defined as \$250,000 for contributions made in 2010 or an amount adjusted for inflation for contributions made in subsequent years. The law authorizing designations to this fund would be repealed if contributions made under this bill fail to meet the minimum contribution amount.

The Fund would remain on the PIT return until January 1, 2013, in this case, the 2012 PIT return, unless a later enacted statute deletes or extends that date.

This bill would require FTB to do the following by September 1, 2009, and by September 1 of each subsequent calendar year that the Fund appears on the tax return:

- Determine the minimum contribution amount required to be received during the next calendar year for the fund to remain on the return.
- Notify the University of California in writing of the minimum contribution amount required for the next calendar year.
- Determine if the amount of contributions estimated to be received during the current calendar year will equal or exceed the minimum contribution amount required for that calendar year.

This bill would require the State Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Ovarian Cancer Research Fund. Upon appropriation by the Legislature, the monies from this fund would be allocated as follows:

1. FTB and the Controller for reimbursement of costs incurred in administering the fund.
2. The University of California for the support of ovarian cancer research, in which up to 5% of the money allocated to it may be used for administering and promoting ovarian cancer research.

IMPLEMENTATION CONSIDERATIONS

There are four other bills currently in the legislative process that would add new voluntary contributions to the tax forms. Department staff has indicated that there is enough space on the existing tax forms to accommodate all of them, if necessary. As a result, while implementing this bill would require some changes to existing tax forms and instructions and information systems, these changes could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

This bill specifies legislative intent that the Fund appear on the 2009 tax return; however, the author has indicated the intent is to include the Fund on the 2008 tax return and for all other applicable dates to be revised accordingly. Amendments 1 and 3 through 6 have been provided to resolve this issue.

This bill states that, "There is in the State Treasury the California Ovarian Cancer Research Fund to receive contributions..." but fails to "establish" the fund within the State Treasury. Amendment 2 would establish the Fund and resolve this concern.

LEGISLATIVE HISTORY

AB 1812 (Arambula, 2008) would establish the Fire Safety Fund for taxpayers to designate a contribution on the PIT return. AB 1812 is currently scheduled for hearing with the Assembly Revenue and Taxation Committee.

AB 2291 (Mendoza, 2008) would add the Low Cost Spay-Neuter Fund for taxpayers to designate a contribution on the PIT return. AB 2291 is currently scheduled for hearing with the Assembly Revenue and Taxation Committee.

AB 2518 (Torrico, 2008) would add the Northern California Cancer Research Fund for taxpayers to designate a contribution on the PIT return. AB 2518 is currently scheduled for hearing with the Assembly Revenue and Taxation Committee.

SB 1502 (Steinberg, 2008) would add the Amyotrophic Lateral Sclerosis (ALS) Fund for taxpayers to designate a contribution on the PIT return. AB 1502 is currently with the Assembly Revenue and Taxation Committee.

SB 1249 (Alquist, Stats. 2006, Ch. 645) added general provisions for all existing VCF's by changing the application of the minimum contribution amounts for specified funds and the related requirements for FTB to calculate the required minimum contribution amounts and notify funds of such amounts.

PROGRAM BACKGROUND

Eleven voluntary contribution funds appeared on the 2007 California personal income tax return. Total contributions to these funds have varied from approximately \$3.4 million for the 1989 taxable year to approximately \$4.2 million² for the 2006 taxable year.

² Amount contributed through December 27, 2007.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and New York allow for taxpayers to designate charitable contributions on the PIT return.

Illinois provides voluntary contribution designations for Breast, Cervical, Lung, and Ovarian Cancer Research.

New York provides designations for Breast and Prostate Cancer Research.

Massachusetts, Michigan, and Minnesota do not allow for a Cancer Research voluntary contribution designation. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the revenue loss from this bill would be as follows:

Estimated Revenue Impact of AB 1935 Effective Taxable Years On or After January 1, 2009 Assumed Enactment Date After June 30, 2008			
Fiscal Year	2008/2009	2009/2010	2010/2011
Revenue Loss	N/A	<\$150,000	<\$150,000

Estimates assume the fund is officially designated for returns starting with the 2008 tax year and the minimum level of contribution (\$250,000) is achieved each year. This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would be determined by the amount of contributions to the California Ovarian Cancer Research Fund and the subsequent itemized deduction of such charitable contribution.

For this estimate, the following assumptions are made:

1. The fund would be added to the 2008 return,
2. The minimum contribution amount (\$250,000) would be achieved each year, and
3. An itemized deduction would be allowed and claimed for each contribution.

By applying an average marginal tax rate of 6%, the estimated revenue loss of this bill would be \$15,000 annually ($\$250,000 \times 6\% = \$15,000$). Because contributions reported on the 2008 tax return are actually made during the 2009 calendar year, the revenue impact would not occur until fiscal year 2009/2010.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1935
As Introduced February 12, 2008

AMENDMENT 1

Page 3, strike out lines 33 - 34, and insert:

(e) The California Ovarian Cancer Research Fund shall be on the tax return for the 2008 taxable year.

AMENDMENT 2

Page 3, line 38, after 'There is', insert:

hereby established

AMENDMENT 3

Page 4, lines 20, and 22 strikeout, '2014', insert:

2013

AMENDMENT 4

Page 4, line 23, strikeout, '2010, insert:

2009

AMENDMENT 5

Page 5, lines 8 - 10, after 'for', strikeout, 'the second calendar year after the first appearance of the California Ovarian Cancer Research Fund on the personal income tax return', insert:

contributions made in 2010

AMENDMENT 6

Page 5, line 12, after 'with', strikeout, 'the third calendar year after the first appearance of the California Ovarian Cancer Research Fund on the personal income tax return,', insert:

2011