

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Hayashi Analyst: Matthew Cooling Bill Number: AB 658

Related Bills: See Legislative History Telephone: 845-5983 Amended Date: January 4, 2010

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Voluntary Contribution Fund Designation/California Police Activities League Fund

SUMMARY

This bill would allow taxpayers to make voluntary contributions to the California Police Activities League (CALPAL) Fund on their state personal income tax returns.

SUMMARY OF AMENDMENTS

Amendment 1 has been provided to clarify the role of the Franchise Tax Board (FTB) regarding estimates and notification of the fund totals and required minimum contribution amounts.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill would be to provide a funding source for local CALPAL chapters to better assist the communities in which they serve.

EFFECTIVE/OPERATIVE DATE

Assuming enactment in 2010, this bill would be effective on January 1, 2011, and operative as of that date. As such, this fund would first appear on the 2010 personal income tax return filed in 2011.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Current federal tax law provides a true check off to direct \$3 of a taxpayer's tax liability to the Presidential Campaign 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 personal income tax returns to any of the 15 voluntary contribution funds (VCF) listed on the 2009 state personal income tax return (return).

Board Position:

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Department Director

Date

Lisa Garrison

1/7/10

for Selvi Stanislaus

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount: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 Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund for Senior Citizens and the California Military Family Relief Fund, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

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

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

Current state law provides that if the number of contingent voluntary contribution designations¹ that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations may be queued and added to the return in order of the date of enactment.

THIS BILL

This bill would establish the CALPAL Fund and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their personal income tax 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.

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. The FTB would be required to estimate 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 for inflation beginning the third calendar year). The law authorizing designations for this fund would be repealed if contributions made under this bill would be less than the minimum contribution amount.

¹ A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

This bill would require the CALPAL Fund designation to be added to a queue as a contingent VCF designation, as specified in current state law. This bill would allow the voluntary contribution designation to remain on the personal income tax return for five years 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 FTB to provide a formula used to allocate the moneys collected to the various local area chapters of the CALPAL based on the contributions from taxpayers in those local chapter areas. As a result, the FTB would be required to track the location of a taxpayer that made contributions to the CALPAL Fund on the personal income tax return.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Police Activities League Fund.

IMPLEMENTATION CONSIDERATIONS

This bill would require the FTB to provide a separate report to the CALPAL that would list the contributions by city and county of the taxpayer that made the contribution. This would create an additional workload for the department. The author's office has suggested amending the bill to address the Implementation and Fiscal Concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

TECHNICAL CONSIDERATIONS

Amendment 1 has been provided to revise the provision related to FTB's responsibility to estimate that the minimum contribution amount is met and to provide written notification to the fund sponsor regarding the fund designation status.

LEGISLATIVE HISTORY

AB 292 (Yamada, Stats. 2009, Ch. 232) extended the expiration date of the Alzheimer's Disease and Related Disorders Research Fund from January 1, 2010, to January 1, 2015.

AB 563 (Cook, Stats. 2009, Ch. 451) made changes to the California Military Family Relief Fund related to the allocation of the funds and revised the minimum contribution amount required during calendar year 2009 to remain on the personal income tax return.

AB 1049 (Torrico, 2009/2010) would have created a VCF designation on the personal income tax return for taxpayers to contribute to the Safely Surrender Babies Fund. This bill was vetoed on October 12, 2009, by Governor Arnold Schwarzenegger. Please see Appendix A for the veto message.

AB 1088 (Fletcher, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Morale, Welfare, and Recreation Fund for each of the veterans' homes, as provided. This bill will be heard in the Assembly Revenue and Taxation Committee on January 11, 2010.

SB 91 (Correa/Alquist, Stats. 2009, Ch. 29) extended the expiration date of the California Fund for Senior Citizens from January 1, 2010, to January 1, 2015.

SB 516 (DeSaulnier, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute personal funds to the California Fund for Youth. This bill is currently in the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *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 allows taxpayers to make a voluntary contribution to the Illinois Veterans' Home Fund on the state tax return.

Massachusetts, Michigan, Minnesota, and New York allow for taxpayer contribution designations on the personal income tax returns; however, none of these states provide a voluntary contribution comparable to the one proposed by this bill.

FISCAL IMPACT

This bill would require the FTB to generate a report listing contributions from each area within California serviced by a local CALPAL chapter based on the taxpayers' city and/or county. As a result, this bill would have a significant impact on the department's printing, processing, storage costs, and systems design and testing. The additional costs have not been determined at this time. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

If this bill is amended to resolve the implementation considerations addressed in this analysis, the bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of AB 658 Effective On or After January 1, 2011 Enactment Assumed After June 30, 2010		
2009-10	2010-11	2011-12
No Impact	No Impact	-\$15,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

If an itemized deduction is claimed for every dollar contributed to the fund and affected taxpayers have an average marginal tax rate of 6 percent, the estimated revenue loss of this bill would be approximately \$15,000 annually (\$250,000 x 6%).

LEGISLATIVE STAFF CONTACT

Legislative Analyst
Matthew Cooling
(916) 845-5983

matthew.cooling@ftb.ca.gov

Revenue Director
Jay Chamberlain
(916) 845-3375

jay.chamberlain@ftb.ca.gov

Asst Legislative Director
Patrice Gau-Johnson
(916) 845-5521

patrice.gau-johnson@ftb.ca.gov

Analyst	Matthew Cooling
Telephone #	845-5983
Attorney	Patrick Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 658
AS AMENDED JANUARY 4, 2010

AMENDMENT 1

On page 4, strike out lines 26 to 37, inclusive, and insert:

(b) (1) By September 1 of the second calendar year, and by September 1 of each subsequent calendar year that the CALPAL Fund appears on a tax return, the Franchise Tax Board shall do all of the following:

(A) Determine the minimum contribution amount required to be received during the next calendar year for the fund to appear on the tax return for the taxable year that includes that next calendar year.

(B) Provide written notification to the CALPAL of the amount determined in subparagraph (A).

(C) Determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year pursuant to subparagraph (A). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the CALPAL Fund on the personal income tax return or the adjusted minimum contribution amount adjusted pursuant to subdivision (c).

Appendix A

BILL NUMBER: AB 1049
VETOED DATE: 10/12/2009

To the Members of the California State Assembly:

I am returning Assembly Bill 1049 without my signature.

I have reviewed the merits of this bill. After careful and deliberative consideration, I do not believe it is necessary to sign this bill at this time.

Sincerely,

Arnold Schwarzenegger