

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: La Malfa Analyst: William Koch Bill Number: SB 1526

Related Bills: See Legislative History Telephone: 845-4372 Amended Date: April 18, 2012

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Exempt Organization Annual Filing Requirement

## SUMMARY

This bill would increase the general filing-requirement threshold of the California exempt organization annual information return from \$25,000 of average annual gross receipts to \$50,000 of such receipts.

## RECOMMENDATION

No position.

## Summary of Amendments

The April 18, 2012, amendments deleted spot bill language in the bill and added the provisions discussed in this analysis.

## REASON FOR THE BILL

It appears the reason for this bill is to relieve small exempt organizations from the requirement to annually file two-page information returns.

## EFFECTIVE/OPERATIVE DATE

If enacted during the 2012 legislative session, this bill would be effective on January 1, 2013, and would be specifically operative for taxable years beginning on or after January 1, 2012.

## ANALYSIS

### BACKGROUND

#### Exempt Organizations

An organization may be exempt from income and franchise tax if it is organized and operated for one or more exempt purposes and it complies with qualification and reporting requirements. Activities that generally qualify as exempt-purpose activities include religious services, educational programs, medical care, fundraising, sports programs, governmental and political activities, and care for the poor, disabled or disadvantaged.

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## **ANALYSIS**

### **FEDERAL/STATE LAW**

#### **Federal Law**

Federal law generally requires exempt organizations to file an annual information return<sup>1</sup> unless their gross receipts for the taxable year are normally not more than \$50,000.

An exempt organization that is not required to file an annual information return by virtue of its gross receipts being under the \$50,000 filing threshold is instead generally required to electronically submit limited basic information on a federal *e-Postcard*.<sup>2</sup>

These requirements do not generally apply to churches, their integrated auxiliaries, conventions or associations of churches, the exclusive religious activity of any religious order, and certain governmental and political organizations.<sup>3</sup>

#### **California Law**

California law generally requires exempt organizations to file a two-page annual information return<sup>4</sup> and pay a ten-dollar filing fee unless their gross receipts for the taxable year are normally not more than \$25,000.

An exempt organization that is not required to file an annual information return by virtue of its gross receipts being under the \$25,000 filing threshold is instead generally required to electronically submit, at no cost, limited basic information on a California *e-Postcard*.<sup>5</sup>

Similar to federal law, these requirements do not generally apply to churches, their integrated auxiliaries, conventions or associations of churches, the exclusive religious activity of any religious order, and certain governmental and political organizations.<sup>6</sup>

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<sup>1</sup> The general annual information return is the twelve-page [Federal Form 990, Return of Organization Exempt from Tax](#); however, if an organization's gross receipts for the year are less than \$200,000 and its total assets at the end of the year are less than \$500,000, it may file the four-page [federal Form 990-EZ, Short Form Return of Organization Exempt from Tax](#).

<sup>2</sup> The federal *e-Postcard* is Form 990-N, Annual Electronic Filing Requirement for Small Exempt Organizations. Organizations eligible to file Form 990-N may choose to file a Form 990.

<sup>3</sup> For additional information see [federal Publication 557, Tax-Exempt Status for Your Organization](#).

<sup>4</sup> [Form 199, California Exempt Organization Annual Information Return](#).

<sup>5</sup> The California *e-Postcard* is FTB 199-N, Annual Electronic Filing Requirement for Small Tax-Exempt Organizations. Organizations eligible to file form FTB 199-N may choose to file a Form 199. And, an exempt organization that has unrelated business taxable income of more than \$1,000 for the year is generally required to file Form 199, regardless of the amount of its annual gross receipts.

<sup>6</sup> For additional information, see [FTB Publication 1068, Exempt Organizations – Filing Requirements and Filing Fees](#).

## THIS BILL

This bill would increase the gross-receipts filing threshold for the exempt-organization two-page annual information return and ten-dollar fee from normally not more than \$25,000 of gross receipts to normally not more than \$50,000 of gross receipts. (This change would make the general California exempt-organization filing threshold the same as the current federal threshold.)

An exempt organization that would not be required to file an annual information return by virtue of its gross receipts being under the \$50,000 filing threshold would instead generally be required to electronically submit, at no cost, limited basic information on a California *e-Postcard*.<sup>7</sup>

This bill would not make any change to the filing-requirement exception that generally applies to churches, their integrated auxiliaries, conventions or associations of churches, the exclusive religious activity of any religious order, and certain governmental and political organizations.

This bill is estimated to annually impact approximately 10,000 exempt organizations.

## IMPLEMENTATION CONSIDERATIONS

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

## **LEGISLATIVE HISTORY**

AB 1677 (Nestande, 2011/2012) would also increase the general filing-requirement threshold of the California exempt organization annual information return from \$25,000 of average annual gross receipts to \$50,000 of such receipts. AB 1677 is currently referred to the Assembly Appropriations Committee.

## **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. A review of the laws of these states found that *Florida, Illinois, Massachusetts* and *Michigan* require exempt organizations to apply for tax exempt status, but do not require annual returns unless organizations have unrelated business taxable income (UBTI).

*Minnesota* requires exempt organizations to apply for tax exempt status and file annual returns only if such organizations have UBTI. If an organization has no tax liability, the organization is required to file a copy of the federal exempt organization annual return, federal Form 990, Return of Organization Exempt from Tax.

*New York* requires exempt organizations to apply for tax exempt status, but does not require annual returns unless organizations have UBTI of more than \$1,000.

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<sup>7</sup> An exempt organization that has unrelated business taxable income of more than \$1,000 for the year would be required to file Form 199, regardless of the amount of its annual gross receipts.

## **FISCAL IMPACT**

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

## **ECONOMIC IMPACT**

### Revenue Impact

| Estimated Revenue Impact of SB 1526 As Amended<br>April 18, 2012,<br>For Taxable Years Beginning On or After January 1, 2012,<br>Assumed Enactment After June 30, 2012. |            |            |
|---|------------|------------|
| 2012-13   | 2013-14    | 2014-15    |
| -\$90,000   | -\$100,000 | -\$100,000 |

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

## **SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some may argue that this bill would provide appropriate relief to small exempt organizations that are currently required to annually file the two-page California exempt organization annual information return.

Opponents: Some may argue that any organization that is exempt from income and franchise tax should be required to file the two-page California exempt organization annual information return.

## **LEGISLATIVE STAFF CONTACT**

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