Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Steinorth	Analyst:	Narinder Dosanjh	Bill Number:	AB 976
Related Bills:	See Legislative History	Telephone:	845-5275	Introduced Date:	February 26, 2015
		Attorney:	Bruce Langston	Sponsor	

SUBJECT:	Pet Adoption Costs Deduction/Pet Adoption Costs Voluntary Contribution Fund

SUMMARY

Under the Personal Income Tax Law, this bill would do the following:

Provision 1:

- Allow a miscellaneous itemized deduction for the costs paid or incurred for the adoption of a pet from a qualified animal rescue organization, and

Provision 2:

- Allow a taxpayer to make a voluntary contribution to the Pet Adoption Costs Fund (Pet Adoption Fund) on the state personal income tax return.

These provisions are discussed separately in this analysis.

This analysis only addresses the provisions of the bill that impact the department's programs and operations and not those provisions relating to the grant program administered by the Department of Food and Agriculture.

Summary Table of Economic Impact

Estimated Revenue Impact of AB 976 Enactment Assumed After June 30, 2015			
Description	2014-15	2015-16	2016-17
Provision 1 Pet Adoption Cost Deduction	- $600,000	- $600,000	- $600,000
Provision 2** Pet Adoption Fund	- $9,000	- $9,000	- $9,000

****Reimbursement to the General Fund, a Non-Tax Item**:

Beginning for 2017, $240,000 of the estimated $250,000 collected annually by the fund would be transferred to the General Fund for reimbursement of all revenue losses in connection with providing the Pet Adoption Cost Deduction. This amount is net of the Franchise Tax Board's (FTB's) and the Controller's cost of administering the program that is approximately $10,000, annually.

Board Position:			Executive Officer	Date
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RECOMMENDATION

No position.

Summary of Suggested Amendments

Amendments have been suggested to make minor technical corrections.

REASON FOR THE BILL

The reason for this bill is to provide tax incentives to encourage adoption of shelter or rescue animals to reduce animal overpopulation.

Provision 1: Pet Adoption Deduction

EFFECTIVE/OPERATIVE DATE

This provision would be effective January 1, 2016, and specifically operative for taxable years beginning on or after January 1, 2016, and before January 1, 2021.

FEDERAL/STATE LAW

Existing federal and state laws allow individuals to deduct certain expenses, such as medical expenses, charitable contributions, interest, and taxes, as itemized deductions. Certain other expenses for the production of income and certain employee business expenses are considered miscellaneous itemized deductions and the portion of these deductions that exceed 2 percent of adjusted gross income may be deducted. Neither federal or state law allows a deduction similar to the one this provision would allow.

THIS PROVISION

This provision would allow a deduction equal to the qualified costs paid or incurred during the taxable year by a taxpayer for the adoption of a pet from a qualified animal rescue organization. The deduction would be claimed as a miscellaneous itemized deduction and would be limited to $100 per taxable year.

This provision would define the following terms and phrases:

- “Pet” means an animal adopted from a qualified animal rescue organization that is not used by the taxpayer in a trade or business or for the production of income.
- “Qualified animal rescue organization” means a public animal control agency or shelter, a humane society shelter, or rescue group.
- “Qualified costs” means amounts paid or incurred to a qualified animal rescue organization to adopt a pet, not to exceed one hundred dollars ($100).
- “Rescue group” means an organization exempt from federal income taxation under Internal Revenue Code (IRC) section 501(c)(3) whose primary purpose is to place dogs, cats, or other animals removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society, or that have been surrendered or relinquished to the rescue group by the previous owner.

This provision would be repealed by its own terms as of December 1, 2021.

IMPLEMENTATION CONSIDERATIONS

Implementing this provision would require some changes to existing tax forms, instructions, and information systems, which could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

Amendments 1 and 2 are suggested to make minor grammatical corrections.

LEGISLATIVE HISTORY

AB 2326 (Dickinson, 2013/2014), similar to this provision, would have allowed taxpayers a miscellaneous itemized deduction, up to $100 per taxable year, for the qualified costs paid or incurred for the adoption of pets from a qualified animal rescue organization. AB 2326 failed passage from the Assembly Appropriations Committee.

AB 233 (Smyth, et al., 2009/2010), similar to this provision, would have allowed taxpayers a miscellaneous itemized deduction, up to $100 per taxable year, for the qualified costs paid or incurred during the taxable year for the adoption of pets from a qualified animal rescue organization. AB 233 failed passage from the Assembly Appropriations Committee.

OTHER STATES' INFORMATION

Review of *Illinois, Massachusetts, Michigan, Minnesota*, and *New York* laws found no comparable deduction for pet adoption. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida lacks a comparable deduction for personal income taxpayers because *Florida* has no state personal income tax.

FISCAL IMPACT

This provision would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate:

This provision would result in the following revenue loss:

Estimated Revenue Impact of AB 976 Provision 1: Pet Adoption Cost Deduction As Introduced February 26, 2015 Assumed Enactment After June 30, 2015		
2016-2017	2017-2018	2018-2019
- $600,000	- $600,000	- $600,000

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

Revenue Discussion:

Based on animal adoption data from the California Department of Public Health and the Humane Society, it is estimated that 520,000 pets would be adopted in 2016. This estimate assumes that 60 percent of adopters would itemize their deductions and that 30 percent of itemizers would exceed the 2 percent floor for miscellaneous deductions, so approximately 95,000 taxpayers would take the proposed deduction. Multiplying the population by the maximum pet adoption deduction and applying a marginal tax rate of 6 percent, results in a net revenue loss of $600,000. The tax year estimates are converted to fiscal year revenue estimates and rounded as reflected in the above table.

Provision 2: Pet Adoption Fund

EFFECTIVE/OPERATIVE DATE

This provision would be effective and operative on January 1, 2016, and would allow the Pet Adoption Fund to remain on the personal income tax returns filed for taxable years 2015 through 2020, subject to contributions meeting the annual minimum contribution amount.

FEDERAL/STATE LAW

Current federal tax law provides a 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 monies (not tax liability) on their tax returns to any of the 18 voluntary contribution funds listed on the 2014 state personal income tax return (return). Each fund provides for the reimbursement of the FTB's and the Controller’s actual costs to administer the fund.

Taxpayers contributing to the funds are specifically allowed to deduct those contributions on their state income tax return for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

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

- The California Seniors Special Fund has no sunset date.
- The California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund have no annual minimum contribution amount.

Additionally, with the exception of the three funds listed above, each fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index. The California Breast Cancer Research Fund's annual adjustment is suspended for calendar years 2014 and 2015.[1]

The FTB is required to make the following two determinations for each fund by September 1 of each calendar year:

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

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

Current state law provides that if the number of contingent voluntary contribution designations[2] that are eligible to be added to the 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. If the FTB determines that space is available on the return to accommodate additional voluntary contribution designations, the FTB may add one or more voluntary contribution designations to the return, regardless of the number of designations removed.

THIS PROVISION

This provision would establish a new voluntary contribution designation for the Pet Adoption 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.

This provision would require the FTB to revise the return to include a designation space for the Pet Adoption Fund after another voluntary contribution fund is removed. This designation could be added to the 2015 tax return filed on or after January 1, 2016.

For the second taxable year the Pet Adoption Fund is on the return, this provision 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 whether the contributions made

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[1] AB 1286 (Skinner, Chaptered 664, Statutes of 2013).
[2] 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.

under this provision would be less than $250,000 (as indexed for inflation). The law authorizing designations for this fund would be inoperative as of January 1 of that calendar year and repealed as of December 1st of that year if the estimated contributions are less than the minimum contribution amount.

Beginning with the third calendar year after the fund appears on the return, the FTB would adjust the minimum contribution amount by September 1, of that year. If the Pet Adoption Fund continues to meet the minimum contribution amount, it would remain on the return for the fifth taxable year after its first appearance on of the Pet Adoption Fund on the return and is repealed by its own terms as of December 1st of that year.

This provision would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return would be treated as if no designation had been made. Also, this provision would require all money transferred to the Pet Adoption Fund to be allocated upon appropriation by the Legislature in the following order:

- To the FTB and the State Controller for reimbursement of costs incurred in administering the Pet Adoption Fund.
- To the General Fund for reimbursement of the loss attributable to the Pet Adoption Deduction.
- To the Department of Food and Agriculture for disbursement in the form of grants to eligible municipal shelters to provide food and shelter to abandoned and impounded animals.

IMPLEMENTATION CONSIDERATIONS

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

TECHNICAL CONSIDERATIONS

Amendments 3, 4, 5, and 6 would remove language that is unnecessary since existing state law provides these general rules.

Amendments 7, 8, and 9 are provided to renumber the subdivisions.

LEGISLATIVE HISTORY

AB 233 (Smyth, et al., 2009/2010), similar to this provision, would have established the Pet Adoption Fund as a Voluntary Contribution Fund. AB 233 failed passage from 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.

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

Illinois, *Massachusetts*, *Michigan*, *Minnesota* and *New York* allow for taxpayer contribution designations on the personal income tax return; however, none of these states provide a voluntary contribution comparable to the one discussed in this provision.

FISCAL IMPACT

This provision would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This provision would result in the following revenue loss:

Estimated Revenue Impact of AB 976 Provision 2: Pet Adoption Fund** As Introduced February 26, 2015 Assumed Enactment After June 30, 2015		
2016-2017	2017-2018	2018-2019
- $9,000	- $9,000	- $9,000

****Reimbursement to the General Fund, a Non-Tax Item**:

Beginning for 2017, $240,000 of the estimated $250,000 collected annually by the fund would be transferred to the General Fund for reimbursement of all revenue losses in connection with providing the Pet Adoption Cost Deduction. This amount is net of the FTB's and Controller's cost of administering the program that is approximately $10,000, annually.

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

Revenue Discussion:

Approximately 56 percent of taxpayers who contribute to voluntary contribution funds itemize their deductions. Assuming the annual minimum contribution of $250,000 is met and the average tax rate for these taxpayers is six percent, the estimated revenue loss would be approximately $9,000 annually.

Contributions would be made in 2016 when the 2015 return is filed and the deduction for these contributions would be claimed on the 2016 return filed by April 15, 2017; therefore, the revenue impact would not occur until fiscal year 2016-17.

The tax year estimates are converted to fiscal year revenue estimates and rounded as reflected in the above table.

As noted in the table above, the amount of the annual contributions to the Pet Adoption Fund, net of the administrative cost of the program, would be reimbursed to the General Fund beginning in 2017.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some may say that this bill could encourage individuals and families to donate to adopt pets from local shelters, thereby helping to relieve the pressure on these facilities.

Opponents: Some may argue that taxpayers who are inclined to adopt pets or contribute to a pet adoption cause would do so absent a tax incentive and the consistent addition of new funds on the tax return makes the return a cumbersome document.

POLICY CONCERNS

This bill would establish a deduction for which federal law has no counterpart, thus creating a difference between federal and California tax law, thereby increasing the complexity of California tax return preparation.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 976
AS INTRODUCED February 26, 2015

AMENDMENT 1

On page 3, line 5, strikeout the ",".

AMENDMENT 2

On page 3, line 6, strikeout the ",".

AMENDMENT 3

On page 3, strikeout line 35 inclusive, and insert:

made.

AMENDMENT 4

On page 3, strikeout lines 36 to 39 inclusive.

AMENDMENT 5

On page 4, strikeout lines 1 to 5 inclusive.

AMENDMENT 6

On page 7, strikeout lines 20 to 23 inclusive.

AMENDMENT 7

On page 4, line 6, strikeout “(e)” and insert:

(d)

AMENDMENT 8

On page 4, line 18, strikeout “(f)” and insert:

(e)

AMENDMENT 9

On page 4, line 22, strikeout “(g)” and insert:

(f)