



Analysis of Amended Bill

Author: Frazier	Sponsor:	Bill Number: AB 2096
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Subject: Donate Life California Voluntary Tax Contribution Fund

Summary

This bill would allow a taxpayer to make a voluntary contribution to the Donate Life California Voluntary Tax Contribution Fund on the state personal income tax return.

Recommendation – No position.

Summary of Amendments

The March 20, 2018, amendments removed provisions related to the general rules for voluntary contributions and added the provisions discussed in this analysis.

This is the department's first analysis of the bill.

Reason for the Bill

The reason for this bill is to maintain the Donate Life California Organ and Tissue Donor Registry.

Effective/Operative Date

This bill would be effective on January 1, 2019, and operative for taxable years beginning on and after January 1, 2018. The Donate Life California Voluntary Tax Contribution Fund could first appear on the 2018 return filed on or after January 1, 2019.

State Law

Current state tax law allows taxpayers to make monetary contributions to any of the 24 voluntary contribution funds listed on the 2017 state personal income tax return.

Taxpayers contributing to any of the funds are specifically allowed to deduct those contributions on their state income tax return for the year in which the contribution is made.

Generally, funds remain on the return until they are either repealed by operation of law or fail to meet a minimum contribution amount.

The Franchise Tax Board (FTB) is required to make the following determinations for each fund by September 1 of each calendar year beginning on the second calendar year the fund appears on the tax return:

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that contributions to a fund will fail to meet the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year.

The following general requirements apply to new or extended voluntary contribution funds:

- The words “voluntary tax contribution” must be included as part of the name of the fund.
- The administering agency’s Internet Web site shall report specific data related to the usage of the amounts received via voluntary contribution.
- A voluntary contribution fund must receive a minimum contribution of \$250,000 for the second calendar year after it first appears on the tax return, and each calendar year thereafter to remain on the tax return.

A voluntary tax contribution would remain in effect only until January 1 of the seventh calendar year following the first appearance of the contribution on the tax return, and be repealed as of December 1 of that year.

This Bill

This bill would establish the Donate Life California Voluntary Tax Contribution Fund and would allow taxpayers to designate 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 contribution individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

In addition, this bill would do the following:

- Specify that if payments and credits reported on the return do not exceed the taxpayer’s liability, the taxpayer’s return would be treated as if no designation had been made.
- Require the FTB to revise the return to include a designation space for the Donate Life California Voluntary Tax Contribution Fund. In addition, this bill would require the return’s instructions to include information that the contribution may be in the amount of \$1 or more and that the contribution would be used to maintain the Donate Life California Organ and Tissue Donor Registry.
- Allow a charitable contribution deduction on the state income tax return for the year in which a contribution is made.

The FTB would be required to notify the Controller of the amount to be transferred to the Donate Life California Voluntary Tax Contribution Fund. Amounts transferred to the Donate Life California Voluntary Tax Contribution Fund would be continuously appropriated and allocated as follows:

- To the FTB and the Controller for reimbursement of associated administrative costs, and
- To the California Organ and Tissue Registrar, for its ongoing activities to maintain the Donate Life California Organ and Tissue Donor Registry.

Implementation Considerations

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

This bill lacks provisions regarding the administering agency's reporting requirements, the funds minimum contribution amount, and the fund's sunset date as required under Revenue and Taxation Code (R&TC) section 18873. For consistency and internal harmony among the voluntary contribution provisions, this bill should be amended.

Legislative History

AB 2400 (Kalra, 2017/2018) would extend the repeal date for the California Alzheimer's Disease & Related Dementia Research Voluntary Tax Contribution Fund. AB 2400 has been referred to the Assembly Revenue and Taxation Committee.

AB 2924 (Jones-Sawyer, 2017/2018) would create the Schools Not Prisons Voluntary Tax Contribution Fund. AB 2924 has been referred to the Assembly Revenue and Taxation Committee.

SB 1363 (Moorlach, 2017/2018) would create the National Alliance on Mental Illness California Voluntary Contribution Fund. SB 1363 has been referred to the Senate Governance and Finance 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 returns; however, none of these states provide 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

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2096 as Amended March 20, 2018
For Taxable Years Beginning On or After January 1, 2018
Assumed Enactment after June 30, 2018

(\$ in Dollars)

Fiscal Year	Revenue
2018-2019	- \$0
2019-2020	- \$8,000
2020-2021	- \$8,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

This bill would add the Donate Life California Voluntary Tax Contribution Fund to the voluntary contribution funds listed on the state's personal income tax return. The estimate assumes that the fund would receive \$250,000 in contributions each year.

Support/Opposition

Support: None provided.

Opposition: None provided.

Arguments

Proponents: Some may argue that adding this voluntary contribution designation to the tax return would provide much needed funding to maintain the Donate Life California Organ and Tissue Donor Registry.

Opponents: Some may argue that taxpayers who are inclined to contribute to this cause can do so through other voluntary methods.

Policy Concerns

This bill lacks the \$250,000 minimum contribution requirement for the Donate Life California Tax Voluntary Contribution Fund. Generally, each voluntary contribution fund in its second year on the tax return must meet an initial minimum contribution requirement of \$250,000. Eliminating the minimum contribution requirement causes inequity between this fund and other recently-enacted funds, and dilutes the efficacy of the minimum contribution requirement. In addition, this bill lacks provisions regarding fund's sunset date as required under R&TC section 18873.

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