



## **Bill Analysis**

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Bill Number: AB 2096

**Subject:** Organ and Tissue Donor Registry Voluntary Tax Contribution Fund

### **Summary**

This bill would allow a taxpayer to make a voluntary contribution to the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund on the state personal income tax return.

### **Reason for the Bill**

The reason for this bill is to establish a source of funds for its ongoing activities 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 as of that date. The Organ and Tissue Donor Registry 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Generally, funds remain on the return until they are either repealed by operation of law or fail to meet a minimum contribution amount.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that contributions to a fund will fail to meet the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year.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 Organ and Tissue Donor Registry Voluntary Tax Contribution 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 original return for the taxable year and, once made, are irrevocable. In addition, this bill would do the following:

- Require the FTB to revise the return to include a designation space for the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund after another voluntary contribution fund is removed or as soon as space is available, whichever is earlier. 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.
- 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.
- Allow a charitable contribution deduction on the state income tax return for the year in which a contribution is made.
- Allow the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund designation to remain on the tax return for up to seven calendar years, subject to the annual estimated contribution meeting or exceeding the minimum contribution amount of \$250,000.
- Require the FTB, to estimate by September 1 of each calendar year beginning with the second calendar year the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund appears on the return whether contributions made under this bill would be less than \$250,000.

The law authorizing designations for the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund would become inoperative as of January 1 of that calendar year and repealed as of December 1 of that year if the estimated contributions are less than \$250,000.

The FTB would be required to notify the Controller of the amount to be transferred to the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund. Amounts transferred to the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund would be continuously appropriated and allocated in the following order:

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

The Registrar would be required to report information on the use of funding received via voluntary contributions on its Internet Web site pursuant to Revenue and Taxation Code section 18873.

Assuming contributions continue to meet the minimum requirement, the provisions of this bill would remain in effect until January 1 of the seventh calendar year following the first appearance of the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund on the personal income tax return and would be repealed by its own terms as of December 1 of that year.

### **Legislative History**

AB 2400 (Kalra, 2017/2018) would extend the repeal date for the California Alzheimer's Disease and Related Dementia Research Voluntary Tax Contribution Fund. AB 2400 has been enrolled.

AB 2944 (Jones-Sawyer, 2017/2018) would create the Schools Not Prisons Voluntary Tax Contribution Fund. AB 2944 has been enrolled.

SB 1363 (Moorlach, 2017/2018) would create the National Alliance on Mental Illness California Voluntary Contribution Fund. SB 1363 has been enrolled.

### **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  
Assumed Enactment after June 30, 2018

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 Organ and Tissue Donor Registry 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.

Approximately 56 percent of taxpayers who contribute to voluntary contribution funds itemize their deductions. It is estimated that the average tax rate for these taxpayers is six percent, resulting in an estimated revenue loss of approximately \$8,000 annually.

Contributions would be made in 2019 when the 2018 return is filed. Subsequently, the deduction for the contribution would be claimed on the 2019 return filed by April 15, 2020; therefore, the revenue impact would not occur until fiscal year 2019-2020.

The tax-year estimates are converted to fiscal-year estimates and rounded to arrive at the amounts reflected in the above table.

## Appointments

None.

**Support/Opposition<sup>1</sup>**

Support: Donate Life California (Sponsor); State Board of Equalization Member George Runner; and three individuals.

Opposition: None provided.

**Votes**

Location	Date	Yes Votes	No Votes
Concurrence	August 20, 2018	80	0
Senate Floor	August 13, 2018	37	0
Assembly Floor	May 10, 2018	73	0

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<sup>1</sup> As noted in the Assembly Revenue and Taxation Committee analysis dated April 16, 2018.