

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Hertzberg & Baker Analyst: Funmi Obatolu Bill Number: SB 440
Related Bills: See Legislative History Telephone: 845-5845 Introduced Date: February 15, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: California Breast Cancer Research Voluntary Tax Contribution Fund/California Cancer Research Voluntary Tax Contribution Fund

SUMMARY

Under the Personal Income Tax Law (PITL), this bill would modify provisions of the California Breast Cancer Research Fund and California Cancer Research Fund voluntary contributions.

RECOMMENDATION - NO POSITION

REASON FOR THE BILL

The reason for this bill is to ensure that taxpayers are allowed to continue to contribute amounts in excess of their tax liability to support cancer research.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2018, and would allow the California Breast Cancer Research Voluntary Tax Contribution Fund and the California Cancer Research Voluntary Tax Contribution Fund, as renamed, to remain on the personal income tax returns filed for taxable years 2017 through 2025.

STATE LAW

Current state tax law allows taxpayers to make contributions of their own monies (not tax liability) on their tax returns to any of the 20 voluntary contribution funds listed on the 2016 state personal income tax return (return). Each fund provides for the reimbursement of the Franchise Tax Board's (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 return for the year in which the contribution is made. These contributions may satisfy the requirements under federal law for a charitable contribution deduction.

The FTB is required to make the following two determinations for each fund that is subject to a minimum contribution requirement, 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contributions to a fund will fail to meet or exceed the minimum contribution amount for a calendar year, that fund is repealed effective January 1 of that calendar year. Additionally, each fund's minimum contribution amount is adjusted annually for inflation based on the percentage change in the California Consumer Price Index.

Beginning on January 1, 2017, the following general requirements apply to new or extended voluntary contribution funds.¹

- 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 the process for awarding money, the amount of money spent on administration, and an itemization of how program funds were awarded by the agency, including, but not limited to, information regarding recipients of funds. An "administering agency" would mean the state agency or other governmental entity, other than the FTB and the Controller, to which funds are allocated to accomplish the purposes of the voluntary contribution designation.
- In order to continue appearing on the tax return, a voluntary contribution fund must receive a minimum contribution of \$250,000 for the second calendar year after it first appears on the personal income tax return, and each calendar year thereafter.
- The voluntary tax contribution shall remain in effect only until January 1 of the seventh calendar year following the first appearance of the contribution on the personal income tax return, and is repealed as of December 1 of that year.
- Contributions made to the voluntary contribution fund must be continuously appropriated from the fund to the administering agency to be used to accomplish the charitable purpose of the fund.

THIS BILL

This bill would change the name of: (1) the "California Breast Cancer Research Fund" to the "California Breast Cancer Research Voluntary Tax Contribution Fund," and (2) the "California Cancer Research Fund" to the "California Cancer Research Voluntary Tax Contribution Fund," and extend the sunset date for these funds from January 1, 2018, to January 1, 2025. In addition, this bill would reset to \$250,000, the minimum contributions requirement for these two funds and remove the annual inflation adjustment requirement.

This bill would provide for continuous appropriation and allocation, as specified, of amounts in the California Breast Cancer Research Voluntary Tax Contribution Fund and California Cancer Research Voluntary Tax Contribution Fund.

¹ Revenue and Taxation Code section 18873.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

SB 1476 (Senate Governance and Finance, Chapter 597, Statutes of 2016) added general requirements applicable to voluntary contribution funds added or extended on or after January 2, 2017.

AB 1286 (Skinner, Chapter 664, Statutes of 2013) suspended, for the 2014 and 2015 calendar years, the annual adjustment of the minimum contribution amount for the California Breast Cancer Research Fund and allowed the fund to remain on the return through the 2017 calendar year, subject to the fund continuing to meet the 2013 calendar year minimum contribution amount of \$371,724.

SB 1359 (Simitian, Chapter 456, Statutes of 2012) extended the repeal date of the California Breast Cancer Research Fund and the California Cancer Research Fund, from January 1, 2013, to January 1, 2018.

PROGRAM BACKGROUND

This chart reflects annual contributions to the California Breast Cancer Research Fund and the California Cancer Research Fund over the past four years:

California Breast Cancer Research Fund:

2013	2014	2015	2016
\$369,425	\$381,678	\$424,906	\$393,808

California Cancer Research Fund:

2013	2014	2015	2016
\$389,759	\$444,406	\$472,423	\$507,071

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.

New York allows taxpayers to designate personal funds to the Breast Cancer Research and Education Fund on the state personal income tax return.

Illinois allows for taxpayers to designate personal funds on the personal income tax returns; it also *requires* that Fund meet an annual minimum contribution amount of \$100,000 to remain on the return. However, it does not provide a voluntary contribution comparable to the one discussed in this bill.

Michigan allows for taxpayers to designate personal funds on the personal income tax returns; it also requires that so long as all check-offs meet an annual minimum contribution amount of \$50,000 in any tax year for two consecutive tax years the check-off will remain on the return. However, it does not provide a voluntary contribution comparable to the one discussed in this bill.

Massachusetts and Minnesota allow for taxpayer contribution designations on the personal income tax returns; however, neither of these states provide a voluntary contribution comparable to the one discussed in this bill.

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

FISCAL IMPACT

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

ECONOMIC IMPACT

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 440 As Introduced February 15, 2017 Assumed Enactment After June 30, 2017			
Fund Name	2017-18	2018-19	2019-20
California Breast Cancer Research Voluntary Tax Contribution Fund	\$0	- \$13,000	- \$13,000
California Cancer Research Voluntary Tax Contribution Fund	\$0	- \$17,000	- \$17,000

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

Revenue Discussion

This bill would extend the repeal date for the renamed California Breast Cancer Research Voluntary Tax Contribution Fund and the California Cancer Research Voluntary Tax Contribution Fund listed on the state's personal income tax return. The estimate assumes that the funds will meet the minimum contribution each year. In 2016, the minimum contribution amount for the California Breast Cancer Fund was \$393,808 and the California Cancer Fund was \$507,071.

Approximately 56 percent of taxpayers who contribute to voluntary contribution funds itemize their deductions. It is estimated the average tax rate for these taxpayers is six percent, resulting in an estimated revenue loss of approximately \$13,000 and \$17,000 annually, per fund, respectively.

Contributions would be made in 2018 when the 2017 return is filed. Subsequently, the deduction for such contributions would be claimed on the 2018 return filed by April 15, 2019; therefore, the revenue impact would not occur until fiscal year 2018-19.

SUPPORT/OPPOSITION

Support: University of California Office of the President (UCOP) and American Cancer Society Action Network.

Opposition: None provided.

ARGUMENTS

Proponents: Some may argue that extending the sunset date of the California Breast Cancer Research Voluntary Tax Contribution Fund and the California Cancer Research Voluntary Tax Contribution Fund, as renamed, and specifying a minimum contribution amount of \$250,000 would provide a stable source of funding for critical cancer research.

Opponents: Some may argue that taxpayers who are inclined to contribute to these causes would do so absent a tax incentive.

POLICY CONCERNS

This bill would eliminate the annual indexing of the renamed funds' minimum contribution. Historically indexing has been used as a mechanism to transition funds on and off the tax return.

LEGISLATIVE STAFF CONTACT

Funmi Obatolu
Legislative Analyst, FTB
(916) 845-5845
funmi.obatolu@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov