



Bill Analysis

Author: Irwin

Sponsor:

Bill Number: AB 1268

Related Bills: See Legislative
History

Introduced: February 16, 2023,
and Amended March 27, 2023

SUBJECT

Organ Donor Election on Tax Return

SUMMARY

This bill, under the Administration of Franchise and Income Tax Law (AFITL), would require the Franchise Tax Board (FTB) to create a new checkbox for an individual taxpayer to consent to be an organ donor and for FTB to provide specific taxpayer information to Donate Life California (DLC).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 27, 2023, amendments replaced the provisions introduced on February 16th with the provisions discussed in this analysis.

This is the FTB's first analysis of this bill and only discusses the provisions that impact FTB.

REASON FOR THE BILL

The reason for the bill is to increase the number of registered organ donors in California.

ANALYSIS

This bill, under the AFITL, for taxable years beginning on or after January 1, 2025, would require the FTB to include a checkbox for an individual taxpayer to provide written consent for the following:

- For DLC to enroll the taxpayer in the Donate Life California Organ and Tissue Donor Registry (The Registry).
- For the FTB to share the taxpayer's information with DLC.

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The taxpayer's written consent for FTB to share information with DLC would be valid for one year.

This bill would require the FTB enter into a memorandum of understanding with The Registry to mutually agree on the language to be used on the returns.

Beginning January 1, 2026, for each taxpayer that provides consent to be added to The Registry and to share their information with the DLC, this bill would require the FTB to provide annually to DLC the individual's name, address, date of birth, and last four digits of the individual's social security number.

This bill would require the FTB and DLC enter into a data sharing agreement by January 1, 2025.

Effective/Operative Date

This bill would be effective and operative on January 1, 2024. The checkbox could first appear on the 2025 tax return.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

Current state tax law provides that information collected from income tax returns is considered confidential and, unless specifically available for other uses, must be used only to administer the income tax laws. The FTB may disclose taxpayer information only in limited circumstances and only to specific agencies as authorized by law. Improper disclosure of federal tax information is punishable as a felony, and improper disclosure of state tax information is punishable as a misdemeanor.

Implementation Considerations

The department has identified the following implementation considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill does not specify how taxpayers that file a joint return would each provide consent. To ensure that the department can implement the checkbox option for taxpayers that file a joint return, it is recommended that the author consider a checkbox option for each taxpayer.

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Current law generally allows the department to be reimbursed for costs incurred in providing information to a state official, department, bureau, or agency. This bill does not include a provision allowing the FTB to be reimbursed by DLC, a nonprofit, for department costs incurred. The author should amend the bill to allow for reimbursement of costs.

Technical Considerations

None noted.

Policy Considerations

This bill does not identify the length of time the written consent to be included on The Registry would be valid, but the FTB would be limited to sharing information for only one year after the written consent is provided. The author may want to clarify the length of time the organ donation consent is considered valid.

LEGISLATIVE HISTORY

None noted.

PROGRAM BACKGROUND

Information received, generated, and maintained by the FTB is generally considered confidential unless specifically provided otherwise by statute. The FTB currently collects and shares information with departments to assist with program administration, and to name a few, FTB provides voter registration information to the Secretary of State, individual requests for health care coverage information to the California Health Benefit Exchange, and Business Entity information for the State Controller's Office unclaimed property program.

FISCAL IMPACT

This bill would impact the department's systems, resulting in programming and processing revisions, and form revisions as well as the need for taxpayer outreach, however the department's costs to implement this bill have yet to be determined. As the bill continues to move through the legislative process, costs will be determined.

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ECONOMIC IMPACT

Revenue Estimate

This bill as introduced on March 27, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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