

AMENDED IN SENATE AUGUST 1, 2007

AMENDED IN SENATE JULY 3, 2007

AMENDED IN ASSEMBLY MAY 3, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 897**

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**Introduced by Assembly Member Houston**

February 22, 2007

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An act to amend Section 23701d of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 897, as amended, Houston. Taxation: tax-exempt organizations: administration.

The Corporation Tax Law, in modified conformity to federal income tax laws, exempts various types of organizations from the taxes imposed by that law, provided that those organizations satisfy certain specified requirements, including a requirement to apply for tax-exempt status with, and be approved by, the Franchise Tax Board and to pay a filing fee, as provided.

This bill would delete that requirement as it applies to certain specified organizations, and instead, would provide that an organization, as defined, shall be exempt from state taxes, as provided, upon its submission, *on or after January 1, 2008*, to the Franchise Tax Board of a copy of the notification issued by the Internal Revenue Service approving the organization's tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, as specified.

*This bill would make a legislative finding and declaration relating to the public purpose served by specified provisions of the bill.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23701d of the Revenue and Taxation  
2 Code is amended to read:  
3 23701d. (a) A corporation, community chest or trust, organized  
4 and operated exclusively for religious, charitable, scientific, testing  
5 for public safety, literary, or educational purposes, or to foster  
6 national or international amateur sports competition (but only if  
7 no part of its activities involved the provision of athletic facilities  
8 or equipment), or for the prevention of cruelty to children or  
9 animals, no part of the net earnings of which inures to the benefit  
10 of any private shareholder or individual, no substantial part of the  
11 activities of which is carrying on propaganda or otherwise  
12 attempting to influence legislation, (except as otherwise provided  
13 in Section 23704.5), and which does not participate in, or intervene  
14 in (including the publishing or distribution of statements), any  
15 political campaign on behalf of (or in opposition to) any candidate  
16 for public office. An organization is not organized exclusively for  
17 exempt purposes listed above unless its assets are irrevocably  
18 dedicated to one or more purposes listed in this section. Dedication  
19 of assets requires that in the event of dissolution of an organization  
20 or the impossibility of performing the specific organizational  
21 purposes the assets would continue to be devoted to exempt  
22 purposes. Assets shall be deemed irrevocably dedicated to exempt  
23 purposes if the articles of organization provide that upon  
24 dissolution the assets will be distributed to an organization which  
25 is exempt under this section or Section 501(c)(3) of the Internal  
26 Revenue Code or to the federal government, or to a state or local  
27 government for public purposes; or by a provision in the articles  
28 of organization, satisfactory to the Franchise Tax Board; that the  
29 property will be distributed in trust for exempt purposes; or by  
30 establishing that the assets are irrevocably dedicated to exempt  
31 purposes by operation of law. The irrevocable dedication  
32 requirement shall not be a sole basis for revocation of an exempt

1 determination made by the Franchise Tax Board prior to the  
2 effective date of this amendment.

3 (b) (1) In the case of a qualified amateur sports organization—

4 (A) The requirement of subdivision (a) that no part of its  
5 activities ~~involve~~ *involves* the provision of athletic facilities or  
6 equipment shall not apply.

7 (B) That organization shall not fail to meet the requirements of  
8 subdivision (a) merely because its membership is local or regional  
9 in nature.

10 (2) For purposes of this subdivision, “qualified amateur sports  
11 organization” means any organization organized and operated  
12 exclusively to foster national or international amateur sports  
13 competition if that organization is also organized and operated  
14 primarily to conduct national or international competition in sports  
15 or to support and develop amateur athletes for national or  
16 international competition in sports.

17 (c) (1) Notwithstanding subdivisions (a), (b), and (c) of Section  
18 23701, an organization organized and operated for nonprofit  
19 purposes in accordance with this section shall be exempt from  
20 taxes imposed by this part, except as provided in this article or in  
21 Article 2 (commencing with Section 23731), upon its submission  
22 to the Franchise Tax Board of a copy of the notification issued by  
23 the Internal Revenue Service approving the organization’s  
24 tax-exempt status pursuant to Section 501(c)(3) of the Internal  
25 Revenue Code. *The effective date of an organization’s tax-exempt*  
26 *status for state income tax purposes pursuant to this subdivision*  
27 *shall be no later than the effective date of the organization’s*  
28 *tax-exempt status, under Section 501(c)(3) of the Internal Revenue*  
29 *Code, for federal income tax purposes.*

30 (2) If, for federal income tax purposes, an organization’s  
31 tax-exempt status under Section 501(c)(3) of the Internal Revenue  
32 Code is *suspended or* revoked, the organization shall notify the  
33 Franchise Tax Board of the *suspension or* revocation, in the form  
34 and manner prescribed by the Franchise Tax Board. Upon  
35 notification, the board shall ~~revoke the organization’s tax-exempt~~  
36 ~~status for state income tax purposes.~~ *suspend or revoke, whichever*  
37 *is applicable, for state income tax purposes, an organization’s*  
38 *tax-exempt status granted pursuant to paragraph (1) of this*  
39 *subdivision.*

1 (3) This subdivision shall not be construed to prevent the  
2 Franchise Tax Board from revoking the exemption of an  
3 organization that is not organized or operated in accordance with  
4 this chapter or Section 501(c)(3) of the Internal Revenue Code.

5 ~~(4) The Franchise Tax Board may prescribe rules and regulations~~  
6 ~~to implement this subdivision.~~

7 *(d) The Franchise Tax Board may prescribe rules and*  
8 *regulations to implement this section.*

9 *SEC. 2. This act shall apply to requests for tax-exempt status*  
10 *in California filed by organizations with the Franchise Tax Board*  
11 *on or after January 1, 2008.*

12 *SEC. 3. The Legislature finds and declares that the enactment*  
13 *of this act and the retroactive application provided by Section 1*  
14 *of this act are necessary for the public purpose of providing relief*  
15 *under California law to certain nonprofit organizations that qualify*  
16 *as tax-exempt for federal income tax purposes and are seeking to*  
17 *obtain tax-exempt status in California by eliminating the*  
18 *requirement to file a separate application with the Franchise Tax*  
19 *Board for those organizations that have received a federal*  
20 *determination letter, and thus, streamlining the process of*  
21 *obtaining the tax-exempt status for state income tax purposes, and*  
22 *ensuring that every eligible organization qualifies for this new*  
23 *process regardless of whether the organization receives a federal*  
24 *determination letter before or after January 1, 2008.*