

Assembly Bill No. 897

Passed the Assembly September 4, 2007

Chief Clerk of the Assembly

Passed the Senate August 30, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 897, 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.

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

SECTION 1. Section 23701d of the Revenue and Taxation Code is amended to read:

23701d. (a) A corporation, community chest or trust, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involved the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise

attempting to influence legislation, (except as otherwise provided in Section 23704.5), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section. Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section or Section 501(c)(3) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board; that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. The irrevocable dedication requirement shall not be a sole basis for revocation of an exempt determination made by the Franchise Tax Board prior to the effective date of this amendment.

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

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

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

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

(c) (1) Notwithstanding subdivisions (a), (b), and (c) of Section 23701, an organization organized and operated for nonprofit purposes in accordance with this section shall be exempt from

taxes imposed by this part, except as provided in this article or in Article 2 (commencing with Section 23731), upon its submission 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. The effective date of an organization's tax-exempt status for state income tax purposes pursuant to this subdivision shall be no later than the effective date of the organization's tax-exempt status, under Section 501(c)(3) of the Internal Revenue Code, for federal income tax purposes.

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

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

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

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

SEC. 3. The Legislature finds and declares that the enactment of this act and the retroactive application provided by Section 1 of this act are necessary for the public purpose of providing relief under California law to certain nonprofit organizations that qualify as tax-exempt for federal income tax purposes and are seeking to obtain tax-exempt status in California by eliminating the requirement to file a separate application with the Franchise Tax Board for those organizations that have received a federal determination letter, and thus, streamlining the process of obtaining the tax-exempt status for state income tax purposes, and ensuring that every eligible organization qualifies for this new process

regardless of whether the organization receives a federal determination letter before or after January 1, 2008.

Approved _____, 2007

Governor