

AMENDED IN SENATE AUGUST 19, 2008

AMENDED IN SENATE AUGUST 11, 2008

AMENDED IN SENATE JUNE 24, 2008

AMENDED IN ASSEMBLY APRIL 17, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2781

Introduced by Assembly Members Jeffries and Sharon Runner
(Principal coauthor: Senator Battin)

February 22, 2008

An act to add *and repeal* Sections 17204.5 and 24359.5 ~~to~~ of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2781, as amended, Jeffries. Charitable contributions for aid to community heroes.

The Personal Income Tax Law and the Corporation Tax Law authorize various deductions in computing income subject to taxes, including a deduction for charitable contributions, as defined.

This bill would allow specified types of charitable organizations to collect and disburse deductible charitable contributions for certain individuals who are injured or killed in an effort to protect life or property, as provided.

This bill would make these provisions operative until January 1, 2012, and would repeal these provisions on that date.

This bill would take effect immediately as a tax levy.

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 17204.5 is added to the Revenue and
2 Taxation Code, to read:
3 17204.5. (a) For purposes of this part, Section 170 of the
4 Internal Revenue Code (relating to charitable, etc., contributions
5 and gifts) is amended as follows *modified to additionally provide:*
6 (1) Any payment made by an organization described in
7 ~~subdivision (a) of paragraph (1) or (2) of Section 509~~ *Section*
8 *509(a)(1) or Section 509(a)(2)* of the Internal Revenue Code to
9 an eligible individual or to a member of that individual’s family
10 shall be treated as related to the purpose or function constituting
11 the basis for the organization’s exemption under Section 501 of
12 the Internal Revenue Code *or Section 23701* if the requirements
13 of paragraphs (3), (4), and (5) are met.
14 (2) For purposes of this section, “eligible individual” means
15 any individual who is injured or killed in an effort to protect life
16 or property if that individual is injured or killed while on duty as
17 a federal, state, or local government employee, or as a member of
18 a qualified volunteer emergency response organization, as defined
19 ~~in subdivision (c) of paragraph (3) of Section 139B~~ *Section*
20 *139B(c)(3)* of the Internal Revenue Code.
21 (3) The requirements of this paragraph are met if all of the
22 following apply:
23 (A) The organization referred to in paragraph (1) does not
24 engage in any effort to solicit contributions for distribution under
25 this section.
26 (B) The organization accepts contributions with respect to any
27 death or injury only during the one-year period beginning on the
28 last day of the event which resulted in the death or injury.
29 (C) At least 50 donors contribute to the organization with respect
30 to that event.
31 (D) More than 95 percent of the funds are contributed by persons
32 who are unrelated to any individual who is entitled to any
33 distribution from the contributions.
34 (4) The requirements of this paragraph are met if the entire
35 amount contributed, and any earnings thereon, is distributed to an

1 ~~eligible individual or members of his or her family~~ *eligible*
2 *individuals or members of their families.*

3 (5) (A) The requirements of this paragraph are met with respect
4 to an event if both of the following apply:

5 (i) All distributions are made within 180 days after the close of
6 the one-year period referred to in subparagraph (B) of paragraph
7 (3).

8 (ii) Of the aggregate amount to be distributed, one-half is
9 distributed in equal amounts to each eligible individual with respect
10 to that event, and one-half is distributed in accordance with
11 subparagraph (B).

12 (B) The amount required to be distributed under this paragraph
13 shall be distributed as follows, with shares being equal amounts:

14 (i) Each eligible individual shall receive one share.

15 (ii) Each spouse of an eligible individual shall receive one share.

16 (iii) Each qualifying child of an eligible individual or an
17 individual's spouse shall receive a one-half share.

18 (6) For purposes of this section:

19 (A) The members of the family of an eligible individual are the
20 spouse and qualifying children of that individual.

21 (B) The determination of whether an individual is a spouse or
22 qualifying child of an eligible individual shall be made as of the
23 date of the death or injury of that individual, whichever is earlier.

24 (C) "Qualifying child" means, *with respect to an eligible*
25 *individual*, any individual who bears a relationship to the eligible
26 individual or the eligible individual's spouse that is described in
27 ~~subdivision (e) of paragraph (2) of Section 152~~ *Section 152(c)(2)*
28 *of the Internal Revenue Code*, who meets the age requirements of
29 ~~subdivision (e) of paragraph (3) of Section 152~~ *Section 152(c)(3)*
30 *of the Internal Revenue Code*, and over half of whose support is
31 provided by the eligible individual.

32 (7) In the case of an eligible individual who died as a result of
33 the event to which this section applies, references to that individual
34 shall be treated as references to the estate of that individual.

35 (8) If any organization receives contributions with respect to
36 more than one event, this section shall be applied separately with
37 respect to each event.

38 ~~(b) This section shall apply only with respect to those eligible~~
39 ~~individuals approved by the Governor.~~

1 (b) *This section shall be operative for contributions received*
2 *by organizations after the effective date of the act adding this*
3 *section but only for taxable years for which substantially similar*
4 *provisions apply for federal income tax purposes.*

5 (c) *This section shall be operative until January 1, 2012, and*
6 *as of that date is repealed, unless a later enacted statute that is*
7 *enacted on or before January 1, 2012, deletes or extends that date.*

8 SEC. 2. Section 24359.5 is added to the Revenue and Taxation
9 Code, to read:

10 24359.5. (a) For purposes of this part, Section 170 of the
11 Internal Revenue Code (relating to charitable, etc., contributions
12 and gifts) is ~~amended as follows~~ *modified to additionally provide:*

13 (1) Any payment made by an organization described in
14 ~~subdivision (a) of paragraph (1) or (2) of Section 509~~ *Section*
15 *509(a)(1) or Section 509(a)(2)* of the Internal Revenue Code to
16 an eligible individual or to a member of that individual's family
17 shall be treated as related to the purpose or function constituting
18 the basis for the organization's exemption under Section 501 of
19 the Internal Revenue Code *or Section 23701* if the requirements
20 of paragraphs (3), (4), and (5) are met.

21 (2) For purposes of this section, "eligible individual" means
22 any individual who is injured or killed in an effort to protect life
23 or property if that individual is injured or killed while on duty as
24 a federal, state, or local government employee, or as a member of
25 a qualified volunteer emergency response organization, as defined
26 ~~in subdivision (e) of paragraph (3) of Section 139B~~ *Section*
27 *139B(c)(3)* of the Internal Revenue Code.

28 (3) The requirements of this paragraph are met if all of the
29 following apply:

30 (A) The organization referred to in paragraph (1) does not
31 engage in any effort to solicit contributions for distribution under
32 this section.

33 (B) The organization accepts contributions with respect to any
34 death or injury only during the one-year period beginning on the
35 last day of the event which resulted in the death or injury.

36 (C) At least 50 donors contribute to the organization with respect
37 to that event.

38 (D) More than 95 percent of the funds are contributed by persons
39 who are unrelated to any individual who is entitled to any
40 distribution from the contributions.

1 (4) The requirements of this paragraph are met if the entire
2 amount contributed, and any earnings thereon, is distributed to an
3 ~~eligible individual or members of his or her family.~~ *eligible*
4 *individuals or members of their families.*

5 (5) (A) The requirements of this paragraph are met with respect
6 to an event if both of the following apply:

7 (i) All distributions are made within 180 days after the close of
8 the one-year period referred to in subparagraph (B) of paragraph
9 (3).

10 (ii) Of the aggregate amount to be distributed, one-half is
11 distributed in equal amounts to each eligible individual with respect
12 to that event, and one-half is distributed in accordance with
13 subparagraph (B).

14 (B) The amount required to be distributed under this paragraph
15 shall be distributed as follows, with shares being equal amounts:

16 (i) Each eligible individual shall receive one share.

17 (ii) Each spouse of an eligible individual shall receive one share.

18 (iii) Each qualifying child of an eligible individual or an
19 individual's spouse shall receive a one-half share.

20 (6) For purposes of this section:

21 (A) The members of the family of an eligible individual are the
22 spouse and qualifying children of that individual.

23 (B) The determination of whether an individual is a spouse or
24 qualifying child of an eligible individual shall be made as of the
25 date of the death or injury of that individual, whichever is earlier.

26 (C) "Qualifying child" means, *with respect to an eligible*
27 *individual*, any individual who bears a relationship to the eligible
28 individual or the eligible individual's spouse that is described in
29 ~~subdivision (e) of paragraph (2) of Section 152~~ *Section 152(c)(2)*
30 *of the Internal Revenue Code*, who meets the age requirements of
31 ~~subdivision (e) of paragraph (3) of Section 152~~ *Section 152(c)(3)*
32 *of the Internal Revenue Code*, and over half of whose support is
33 provided by the eligible individual.

34 (7) In the case of an eligible individual who died as a result of
35 the event to which this section applies, references to that individual
36 shall be treated as references to the estate of that individual.

37 (8) If any organization receives contributions with respect to
38 more than one event, this section shall be applied separately with
39 respect to each event.

1 ~~(b) This section shall apply only with respect to those eligible~~
2 ~~individuals approved by the Governor.~~
3 *(b) This section shall be operative for contributions received*
4 *by organizations after the effective date of the act adding this*
5 *section but only for taxable years for which substantially similar*
6 *provisions apply for federal income tax purposes.*
7 *(c) This section shall be operative until January 1, 2012, and*
8 *as of that date is repealed, unless a later enacted statute that is*
9 *enacted on or before January 1, 2012, deletes or extends that date.*
10 SEC. 3. This act provides for a tax levy within the meaning of
11 Article IV of the Constitution and shall go into immediate effect.