

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1076

Introduced by Senator Price

February 17, 2010

An act to add and repeal Article 19 (commencing with Section 18891) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Price. Income taxes: voluntary contributions: Arts Council.

The Personal Income Tax Law authorizes taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would authorize taxpayers to ~~contribute amounts~~ *designate on their tax returns that a specified amount* in excess of their tax liability ~~for the support of~~ *be transferred to the Arts Council, as prescribed* Fund, *which is created by this bill.*

This bill would require that all moneys contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement and to the Arts Council for grants, as prescribed.

This bill would provide that these voluntary contribution provisions are repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the tax return. The bill would further provide that these provisions are repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000, or an adjusted amount for subsequent taxable years.

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. Article 19 (commencing with Section 18891) is
2 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and
3 Taxation Code, to read:

4
5 Article 19. Arts Council
6

7 18891. (a) An individual may designate on the tax return that
8 a contribution in excess of tax liability, if any, be made to the Arts
9 Council, established pursuant to Section 8751 of the Government
10 Code.

11 (b) A contribution shall be in a full dollar amount and may be
12 made individually by each signatory on a joint return.

13 (c) A designation made under subdivision (a) shall be made for
14 any taxable year on the initial return for that taxable year, and once
15 made shall be irrevocable. In the event that payments and credits
16 reported on the return, together with any other credits associated
17 with the taxpayer’s account do not exceed the tax liability, if any,
18 shown thereupon, the return shall be treated as though no
19 designation had been made. In the event that no designee is
20 specified, the contribution shall, after reimbursement of the direct
21 actual costs of the Franchise Tax Board for the collection and
22 administration of funds under the article, be transferred to the
23 General Fund.

24 (d) If an individual designates a contribution to more than one
25 account, and the amount available is insufficient to satisfy the total
26 amount designated, the contribution shall be allocated among the
27 designated accounts on a pro rata basis.

28 (e) The Franchise Tax Board shall revise the form of the return
29 to include a space labeled the “Arts Council” to allow for the
30 designation permitted under subdivision (a). The form shall also
31 include in the instructions information that the contribution may
32 be in the amount of one dollar (\$1) or more and that the
33 contribution shall be used to fund the Arts Council.

1 (f) Notwithstanding any other provision, a voluntary contribution
2 designation for the Arts Council shall not be added on the tax
3 return until another voluntary contribution designation is removed.

4 (g) A deduction shall be allowed under Article 6 (commencing
5 with Section 17201) of Chapter 3 of Part 10 for any contribution
6 made pursuant to subdivision (a).

7 18892. There is hereby established in the State Treasury the
8 Arts Council Fund to receive contributions made pursuant to
9 Section 18891. The Franchise Tax Board shall notify the Controller
10 of both the amount of money paid by taxpayers in excess of their
11 tax liability and the amount of refund money that taxpayers have
12 designated pursuant to Section 18891 to be transferred to the Arts
13 Council Fund. The Controller shall transfer from the Personal
14 Income Tax Fund to the Arts Council Fund an amount not in excess
15 of the sum of the amounts designated by individuals pursuant to
16 Section 18891 for payment into that fund.

17 18893. All money transferred to the ~~Art~~ Arts Council Fund,
18 upon appropriation by the Legislature, shall be allocated ~~to~~ as
19 follows:

20 (a) To the Franchise Tax Board and the Controller only for
21 reimbursement of all costs incurred by the Franchise Tax Board
22 and the Controller in connection with their duties under this article.

23 (b) (1) *To the Arts Council, for allocation of grants to*
24 *individuals or organizations administering arts programs pursuant*
25 *to subdivision (o) of Section 8753 of the Government Code.*

26 (2) *Funds made available to the Arts Council shall not be used*
27 *for any purpose other than to provide grants as prescribed by this*
28 *subdivision. Funds made available pursuant to this subdivision*
29 *shall not be used by the Arts Council for administrative purposes,*
30 *to reimburse their costs associated with administering grants, to*
31 *further their programs, or for any purpose relating to their own*
32 *operations.*

33 18894. (a) Except as otherwise provided in subdivision (b),
34 this article shall remain in effect only until January 1 of the fifth
35 taxable year following the first appearance of the Arts Council
36 Fund on the personal income tax return, and as of that date is
37 repealed, unless a later enacted statute, that is enacted before the
38 applicable date, deletes or extends that date.

39 (b) (1) By September 1 of the second calendar year and each
40 subsequent calendar year that the Arts Council Fund appears on

1 the tax return, the Franchise Tax Board shall do all of the
2 following:

3 (A) Determine the minimum contribution amount required to
4 be received during the next calendar year for the fund to appear
5 on the tax return for the taxable year that includes that next calendar
6 year.

7 (B) Determine whether the amount of contributions estimated
8 to be received during the calendar year will equal or exceed the
9 minimum contribution amount determined by the Franchise Tax
10 Board for the calendar year pursuant to subparagraph (A). The
11 Franchise Tax Board shall estimate the amount of contribution to
12 be received by using the actual amounts received and an estimate
13 of the contributions that will be received by the end of that calendar
14 year.

15 (2) If the Franchise Tax Board determines that the amount of
16 the contributions estimated to be received during a calendar year
17 will not at least equal the minimum contribution amount for the
18 calendar year, this article is repealed with respect to taxable years
19 beginning on or after January 1 of that calendar year.

20 (3) For purposes of this section, the minimum contribution
21 amount for a calendar year means two hundred fifty thousand
22 dollars (\$250,000) for the second calendar year after the first
23 appearance of the Arts Council Fund on the personal income tax
24 return or the adjusted minimum contribution amount adjusted
25 pursuant to subdivision (c).

26 (c) For each calendar year, beginning with the third calendar
27 year after the first appearance of the Arts Council Fund on the
28 personal income tax return, the Franchise Tax Board shall adjust,
29 on or before September 1 of that calendar year, the minimum
30 contribution amount specified in subdivision (b) as follows:

31 (1) The minimum estimated contribution amount for the calendar
32 year shall be an amount equal to the product of the minimum
33 contribution amount for the calendar year multiplied by the
34 inflation factor adjustment as specified in subparagraph (A) of
35 paragraph (2) of subdivision (h) of Section 17041, rounded off to
36 the nearest dollar.

37 (2) The inflation factor adjustment used for the calendar year
38 shall be based on the figures for the percentage change in the
39 California Consumer Price Index for all items received on or before

1 August 1 of the calendar year pursuant to paragraph (1) of
2 subdivision (h) of Section 17041.
3 (d) Notwithstanding the repeal of this article, any contribution
4 amounts designated pursuant to this article prior to its repeal shall
5 continue to be transferred and disbursed in accordance with this
6 article as in effect immediately prior to that repeal.

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