

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1076

Introduced by Senator Price

(Principal coauthor: Assembly Member Portantino)

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 *Fund*.

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 designate on their tax returns that a specified amount in excess of their tax liability be transferred to the Arts Council 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This bill would provide that these voluntary contribution provisions are repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the tax return. The bill would further provide that these provisions are repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on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 *Fund*
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. *Council Fund established by Section 18892.*

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

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

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

1 that the contribution shall be used ~~to fund the Arts Council~~ *by the*
2 *Arts Council for the allocation of grants to individuals or*
3 *organizations administering arts programs.*

4 (f) Notwithstanding any other provision, a voluntary contribution
5 designation for the Arts Council *Fund* shall not be added on the
6 tax return until another voluntary contribution designation is
7 removed.

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

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

21 18893. All money transferred to the Arts Council Fund, upon
22 appropriation by the Legislature, shall be allocated as follows:

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

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

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

37 18894. (a) Except as otherwise provided in subdivision (b),
38 this article shall remain in effect only until January 1 of the fifth
39 taxable year following the first appearance of the Arts Council
40 Fund on the personal income tax return, and as of that date is

1 repealed, unless a later enacted statute, that is enacted before the
2 applicable date, deletes or extends that date.

3 (b) (1) By September 1 of the second calendar year and each
4 subsequent calendar year that the Arts Council Fund appears on
5 the tax return, the Franchise Tax Board shall do all of the
6 following:

7 (A) Determine the minimum contribution amount required to
8 be received during the next calendar year for the fund to appear
9 on the tax return for the taxable year that includes that next calendar
10 year.

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

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

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

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

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

1 (2) The inflation factor adjustment used for the calendar year
2 shall be based on the figures for the percentage change in the
3 California Consumer Price Index for all items received on or before
4 August 1 of the calendar year pursuant to paragraph (1) of
5 subdivision (h) of Section 17041.

6 (d) Notwithstanding the repeal of this article, any contribution
7 amounts designated pursuant to this article prior to its repeal shall
8 continue to be transferred and disbursed in accordance with this
9 article as in effect immediately prior to that repeal.

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