

Senate Bill No. 1076

CHAPTER 319

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.

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, 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This bill would provide that these voluntary contribution provisions are repealed on January 1 of the 5th taxable year following the taxable year the fund first appears on the tax return. The bill would further provide that these provisions are repealed for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on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.

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

SECTION 1. Article 19 (commencing with Section 18891) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 19. Arts Council Fund

18891. (a) An individual may designate on the tax return that a contribution in excess of tax liability, if any, be made to the Arts Council Fund established by Section 18892.

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

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

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

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the "Arts Council Fund" to allow for the designation permitted under subdivision (a). The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used by the Arts Council for the allocation of grants to individuals or organizations administering arts programs.

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

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

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

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

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

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

(2) Funds made available to the Arts Council shall not be used for any purpose other than to provide grants as prescribed by this subdivision. Funds made available pursuant to this subdivision shall not be used by the Arts Council for administrative purposes, to reimburse its costs associated with

administering grants, to further its programs, or for any purpose relating to its own operations.

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

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

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

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

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

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

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

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

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

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall continue to be

transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.