

AMENDED IN SENATE JULY 5, 2011
AMENDED IN ASSEMBLY MAY 27, 2011
AMENDED IN ASSEMBLY APRIL 12, 2011
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 764

**Introduced by Assembly Member Swanson
(Coauthor: Assembly Member Donnelly)**

February 17, 2011

An act to add and repeal Article 10 (commencing with Section 18809) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 764, as amended, Swanson. Personal income taxes: voluntary contributions: Child Victims of Human Trafficking Fund.

Existing law relating to the administration of personal income taxes authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would allow an individual taxpayer to designate on the tax return, that a specified amount in excess of the tax liability be transferred to the Child Victims of Human Trafficking Fund established in the State Treasury.

This bill would provide that all moneys contributed to the fund, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and to the California Emergency Management Agency, which would administer the funds granted to community-based organizations that serve minor victims of human trafficking, as provided.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the 5th taxable year following the taxable year the fund first appears on the personal income tax return or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount, as specified, 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 10 (commencing with Section 18809) 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 10. Child Victims of Human Trafficking Fund
6

7 18809. (a) Any individual may designate on the tax return that
8 a contribution in excess of the tax liability, if any, be made to the
9 Child Victims of Human Trafficking Fund established by Section
10 18809.1. That designation is to be used as a voluntary contribution
11 on the tax return.

12 (b) The contributions shall be in full dollar amounts and may
13 be made individually by each signatory on a joint return.

14 (c) A designation under subdivision (a) shall be made for any
15 taxable year on the original return for that taxable year, and once
16 made, shall be irrevocable. In the event that payments and credits
17 reported on the return, together with any other credits associated
18 with the individual’s account, do not exceed the individual’s tax
19 liability, the return shall be treated as though no designation has
20 been made.

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

26 (e) When another voluntary contribution designation is removed
27 from the tax return *or as soon as space is available*, the Franchise
28 Tax Board shall revise the form of the return to include a space
29 labeled “Child Victims of Human Trafficking Fund” to allow for

1 the designation permitted under subdivision (a). The form shall
2 also include in the instructions information that the contribution
3 may be in the amount of one dollar (\$1) or more and that the
4 contribution shall be used to fund community-based organizations
5 that serve minor victims of human trafficking that meet the
6 standards described in Section 13837 of the Penal Code and that
7 agree to use the funds to provide services to minors, who are
8 victims of human trafficking.

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

12 18809.1. There is in the State Treasury the Child Victims of
13 Human Trafficking Fund to receive contributions made pursuant
14 to Section 18809. The Franchise Tax Board shall notify the
15 Controller of both the amount of money paid by taxpayers in excess
16 of their tax liability and the amount of refund money that taxpayers
17 have designated pursuant to Section 18809 to be transferred to the
18 Child Victims of Human Trafficking Fund. The Controller shall
19 transfer from the Personal Income Tax Fund to the ~~Victim-Witness~~
20 ~~Assistance Fund~~ *Child Victims of Human Trafficking Fund* an
21 amount not in excess of the sum of the amounts designated by
22 individuals pursuant to Section 18809 for payment into that fund.

23 18809.2. All money transferred to the Child Victims of Human
24 Trafficking Fund, upon appropriation by the Legislature, shall be
25 allocated as follows:

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

29 (b) To the California Emergency Management Agency, which
30 will administer the funds granted to the community-based
31 organizations that meet the standards described in Section 13837
32 of the Penal Code and that agree to use the funds to provide
33 services to minors, who are victims of human trafficking.

34 18809.3. (a) Except as otherwise provided in subdivision (b),
35 this article shall remain in effect only until January 1 of the fifth
36 taxable year following the first appearance of the Child Victims
37 of Human Trafficking Fund on the personal income tax return,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before the applicable date, deletes or extends that date.

1 (b) (1) By September 1 of the second calendar year and each
2 subsequent calendar year that the Child Victims of Human
3 Trafficking Fund appears on the tax return, the Franchise Tax
4 Board shall do both of the following:

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

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

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

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

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

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