

AMENDED IN SENATE JUNE 4, 2012
AMENDED IN ASSEMBLY MARCH 14, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1677

Introduced by Assembly Member Nestande
(Coauthors: Assembly Members Garrick, Gordon, and Jeffries)
(Coauthor: Senator Harman)

February 14, 2012

An act to amend Section 23772 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1677, as amended, Nestande. ~~Corporate income~~ *Corporation* taxes: filing requirements: ~~tax-exempt~~ *tax-exempt* organizations.

Under the Corporation Tax Law, specific ~~tax-exempt~~ *tax-exempt* organizations are exempted from the requirement to file annual information returns, including those organizations the gross receipts of which in each taxable year are normally not more than \$25,000.

This bill would increase the gross receipts threshold for the application of the exemption from the annual filing requirement to \$50,000.

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 23772 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 23772. (a) For the purposes of this part—

1 (1) Except as provided in paragraph (2), every organization
 2 exempt from taxation under Section 23701 and every trust treated
 3 as a private foundation because of Section 4947(a)(1) of the
 4 Internal Revenue Code shall file an annual return, stating
 5 specifically the items of gross income, receipts, and disbursements,
 6 and any other information for the purpose of carrying out the laws
 7 under this part as the Franchise Tax Board may by rules or
 8 regulations prescribe, and shall keep any records, render under
 9 oath any statements, make any other returns, and comply with any
 10 rules and regulations as the Franchise Tax Board may from time
 11 to time prescribe. The return shall be filed on or before the 15th
 12 day of the fifth full calendar month following the close of the
 13 taxable year.

14 (2) Exceptions from filing—

15 (A) Mandatory exceptions—Paragraph (1) ~~does~~ shall not apply
 16 to—

17 (i) Churches, their integrated auxiliaries, and conventions or
 18 association of churches,

19 (ii) ~~Any~~ An organization (other than a private foundation as
 20 defined in Section 23709), the gross receipts of which in each
 21 taxable year are normally not more than fifty thousand dollars
 22 (\$50,000), or

23 (iii) The exclusively religious activities of any religious order.

24 (B) Discretionary exceptions—The Franchise Tax Board may
 25 permit the filing of a simplified return for organizations based on
 26 either gross receipts or total assets or both gross receipts and total
 27 assets, or may permit the filing of an information statement
 28 (without fee), or may permit the filing of a group return for
 29 incorporated or unincorporated branches of a state or national
 30 organization where it determines that an information return is not
 31 necessary to the efficient administration of this part.

32 (3) An organization that is required to file an annual information
 33 return shall pay a filing fee of ten dollars (\$10) on or before the
 34 due date for filing the annual information return (determined with
 35 regard to any extension of time for filing the return) required by
 36 this section. In case of failure to pay the fee on or before the due
 37 date, unless it is shown that the failure is due to reasonable cause,
 38 the filing fee shall be twenty-five dollars (\$25). All collection
 39 remedies provided in Article 5 (commencing with Section 18661)
 40 of Chapter 2 of Part 10.2 are applicable to collection of the filing

1 fee. However, the filing fee does not apply to the organization
2 described in paragraph (4).

3 (4) Paragraph (3) does not apply to: (A) a religious organization
4 exempt under Section 23701d; (B) an educational organization
5 exempt under Section 23701d, if that organization normally
6 maintains a regular faculty and curriculum and normally has a
7 regularly organized body of pupils or students in attendance at the
8 place where its educational activities are regularly carried on; (C)
9 a charitable organization, or an organization for the prevention of
10 cruelty to children or animals, exempt under Section 23701d, if
11 that organization is supported, in whole or in part, by funds
12 contributed by the United States or any state or political subdivision
13 thereof, or is primarily supported by contributions of the general
14 public; (D) an organization exempt under Section 23701d, if that
15 organization is operated, supervised, or controlled by or in
16 connection with a religious organization described in subparagraph
17 (A).

18 (b) Every organization described in Section 23701d that is
19 subject to the requirements of subdivision (a) is required to furnish
20 annually information, at the time and in the manner as the Franchise
21 Tax Board may by rules or regulations prescribe, setting forth all
22 of the following:

- 23 (1) Its gross income for the year.
- 24 (2) Its expenses attributable to gross income and incurred within
25 the year.
- 26 (3) Its disbursements within the year for the purposes for which
27 it is exempt.
- 28 (4) A balance sheet showing its assets, liabilities, and net worth
29 as of the beginning of that year.
- 30 (5) The total of the contributions and gifts received by it during
31 the year, and the names and addresses of all substantial
32 contributors.
- 33 (6) The names and addresses of its foundation manager (within
34 the meaning of Section 4946 of the Internal Revenue Code) and
35 highly compensated employees.
- 36 (7) The compensation and other payments made during the year
37 to each individual described in paragraph (6).
- 38 (8) In the case of an organization with respect to which an
39 election under Section 23704.5 is effective for the taxable year,
40 the following amounts for that organization for that taxable year:

- 1 (A) The lobbying expenditures (as defined in Section 4911(c)(1)
2 of the Internal Revenue Code).
- 3 (B) The lobbying nontaxable amount (as defined in Section
4 4911(c)(2) of the Internal Revenue Code).
- 5 (C) The grassroots expenditures (as defined in Section
6 4911(c)(3) of the Internal Revenue Code).
- 7 (D) The grassroots nontaxable amount (as defined in Section
8 4911(c)(4) of the Internal Revenue Code). For purposes of this
9 paragraph, if Section 23740 applies to the organization for the
10 taxable year, the organization shall furnish the amounts with respect
11 to the affiliated group as well as with respect to the organization.
- 12 (9) Other information with respect to direct or indirect transfers
13 to, and other direct or indirect transactions and relationships with,
14 other organizations described in Sections 23701a to 23701w,
15 inclusive (other than Sections 23701d, 23701k, and 23701t), as
16 the Franchise Tax Board may require to prevent either of the
17 following:
- 18 (A) Diversion of funds from the organization's exempt purpose.
19 (B) Misallocation of revenue or expense.
- 20 (10) Information with respect to qualified disaster relief
21 activities.
- 22 (11) Any other relevant information as the Franchise Tax Board
23 may prescribe.
- 24 (12) Each controlling organization, within the meaning of
25 Section 512(b)(13) of the Internal Revenue Code, which is subject
26 to the requirements of subdivision (a), shall include on the return
27 required under subdivision (a) all of the following information:
- 28 (A) Any interest, annuities, royalties, or rents received from
29 each controlled entity, within the meaning of Section 512(b)(13)
30 of the Internal Revenue Code.
- 31 (B) Any loans made to each controlled entity.
- 32 (C) Any transfers of funds between such controlling organization
33 and each such controlled entity.
- 34 (13) (A) Any organization, the gross receipts of which in any
35 taxable year result in the organization being referred to in clause
36 (ii) of subparagraph (A) of paragraph (2) of subdivision (a), or
37 subparagraph (B) of paragraph (2) of subdivision (a), shall do both
38 of the following:
- 39 (i) Furnish annually, in electronic form, and at the time and in
40 the manner as may be prescribed by the Franchise Tax Board, the

1 legal name of the organization, any name under which the
2 organization operates or does business, the organization's mailing
3 address and the Internet Web site address, if any, the organization's
4 taxpayer identification number, the name and address of a principal
5 officer, and evidence of the continuing basis for the organization's
6 exemption from the filing requirements under paragraph (1) of
7 subdivision (a).

8 (ii) Upon termination of the existence of the organization, shall
9 furnish notice of the termination.

10 (B) This paragraph shall apply to notices and returns with respect
11 to annual periods beginning on or after January 1, 2010.

12 (14) (A) If an organization described in paragraph (1) of
13 subdivision (a) or paragraph (13) of this subdivision fails to file
14 an annual return or notice required under either paragraph (1) of
15 subdivision (a) or paragraph (13) of this subdivision for three
16 consecutive years, that organization's status as an organization
17 exempt from tax under Section 23701 shall be considered revoked
18 on and after the date set by the Franchise Tax Board for the filing
19 of the third annual return or notice. The Franchise Tax Board shall
20 publish and maintain a list of any organization for which the
21 tax-exempt status is revoked.

22 (B) Any organization for which the tax-exempt status is revoked
23 under subparagraph (A) must apply for reinstatement of that status
24 regardless of whether that organization was originally required to
25 make an application for tax-exempt status.

26 (C) If, upon application for reinstatement of status as an
27 organization exempt from tax under Section 23701, an organization
28 described in subparagraph (A) can show to the satisfaction of the
29 Franchise Tax Board evidence of reasonable cause for the failure
30 described in that subparagraph, the organization's exempt status
31 may, in the discretion of the Franchise Tax Board, be reinstated
32 effective from the date of the revocation under that subparagraph.

33 (D) This paragraph shall apply to notices and returns with
34 respect to annual periods beginning on or after January 1, 2010.

35 (c) For the purposes of this part—

36 (1) In the case of a failure to file a return required under this
37 section on the date and in the manner prescribed therefor
38 (determined with regard to any extension of time for filing), unless
39 it is shown that the failure is due to reasonable cause, there shall
40 be paid (on notice and demand by the Franchise Tax Board and in

1 the same manner as tax) by the exempt organization or trust failing
2 so to file, five dollars (\$5) for each month or part thereof during
3 which the failure continues, but the total amount imposed hereunder
4 on any organization for failure to file any return may not exceed
5 forty dollars (\$40).

6 (2) The Franchise Tax Board may make written demand upon
7 a private foundation failing to file under paragraph (1) of this
8 subdivision specifying therein a reasonable future date by which
9 the filing shall be made, and if the filing is not made on or before
10 that date, and unless it is shown that failure so to file is due to
11 reasonable cause, there shall be paid (on notice and demand by
12 the Franchise Tax Board and in the same manner as tax) by the
13 person failing so to file, in addition to the penalty prescribed in
14 paragraph (1), a penalty of five dollars (\$5) each month or part
15 thereof after the expiration of the time specified in the written
16 demand during which the failure continues, but the total amount
17 imposed hereunder on all persons for the failure to file shall not
18 exceed twenty-five dollars (\$25). If more than one person is liable
19 under this paragraph for a failure to file, all of those persons shall
20 be jointly and severally liable with respect to the failure. The term
21 “person” as used herein means any officer, director, trustee,
22 employee, member, or other individual who is under a duty to
23 perform the act in respect of which the violation occurs.

24 (3) This subdivision shall not apply with respect to any notice
25 required under paragraph (13) of subdivision (b).

26 (d) The amendments made to this section by the act adding this
27 subdivision shall apply to taxable years beginning on or after
28 January 1, 2012.