

ASSEMBLY BILL

No. 2295

Introduced by Assembly Member Fletcher

February 24, 2012

An act to amend Sections 17201 and 24357 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2295, as introduced, Fletcher. Income taxes: deduction: charitable contributions.

The Personal Income Tax Law and the Corporation Tax Law, in specified conformity to federal income tax laws, allow a deduction for charitable contributions, as defined, made during the taxable year.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 17201 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 17201. (a) Part VI of Subchapter B of Chapter 1 of Subtitle
- 4 A of the Internal Revenue Code, relating to itemized deductions
- 5 for individuals and corporations, shall apply, except as ~~otherwise~~
- 6 provided.
- 7 (b) Part VII of Subchapter B of Chapter 1 of Subtitle A of the
- 8 Internal Revenue Code, relating to additional itemized deductions
- 9 for individuals, shall apply, except as ~~otherwise~~ provided.

1 (c) Part IX of Subchapter B of Chapter 1 of Subtitle A of the
2 Internal Revenue Code, relating to items not deductible, shall
3 apply, except as otherwise provided.

4 SEC. 2. Section 24357 of the Revenue and Taxation Code is
5 amended to read:

6 24357. (a) There shall be allowed as a deduction any charitable
7 contribution ~~(as, as defined in Section 24359)~~ 24359, payment of
8 which is made within the taxable year. A charitable contribution
9 shall be allowable as a deduction only if verified under regulations
10 prescribed by the Franchise Tax Board.

11 (b) (1) In the case of a corporation reporting its income on the
12 accrual basis, the corporation may elect to treat the contribution
13 as paid during that taxable year if both of the following occur:

14 (A) The board of directors authorizes a charitable contribution
15 during the taxable year.

16 (B) Payment of the contribution is made after the close of that
17 taxable year and on or before the 15th day of the third month
18 following the close of the taxable year.

19 (2) The election allowed by paragraph (1) may be made only
20 at the time of the filing of the return for the taxable year, and shall
21 be signified in the manner as the Franchise Tax Board shall by
22 regulations prescribe.

23 (c) For purposes of this section, payment of a charitable
24 contribution that consists of a future interest in tangible personal
25 property shall be treated as made only when all intervening interests
26 in, and rights to the actual possession or enjoyment of, the property
27 have expired or are held by persons other than the taxpayer or
28 those standing in a relationship to the taxpayer described in Section
29 24428. For purposes of the preceding sentence, a fixture which is
30 intended to be severed from the real property shall be treated as
31 tangible personal property.

32 (d) No deduction shall be allowed under this section for traveling
33 expenses (including amounts expended for meals and lodging)
34 while away from home, whether paid directly or by reimbursement,
35 unless there is no significant element of personal pleasure,
36 recreation, or vacation in that travel.

37 (e) (1) Section 170(f)(8) of the Internal Revenue Code, relating
38 to substantiation requirement for certain contributions, shall apply,
39 except as otherwise provided.

1 (2) No deduction shall be denied under Section 170(f)(8) of the
2 Internal Revenue Code, relating to substantiation requirement for
3 certain contributions, upon a showing that the requirements in
4 Section 170(f)(8) of the Internal Revenue Code have been met
5 with respect to that contribution for federal purposes.

6 (f) Section 170(f)(9) of the Internal Revenue Code, relating to
7 denial of deduction where contribution for lobbying activities,
8 shall apply, except as otherwise provided.

9 (g) (1) Notwithstanding any other provision of law to the
10 contrary, for purposes of this section and Section 24341, Section
11 170 of the Internal Revenue Code, relating to charitable, etc.,
12 contributions and gifts, shall be applied to allow a taxpayer to elect
13 to treat any contribution described in paragraph (2) made in January
14 2005, as if that contribution was made on December 31, 2004, and
15 not in January 2005.

16 (2) A contribution is described in this paragraph if that
17 contribution is a cash contribution made for the relief of victims
18 in areas affected by the December 26, 2004, Indian Ocean tsunami
19 for which a charitable contribution deduction is allowable under
20 this section.

21 (h) (1) Section 170(f)(11)(E) of the Internal Revenue Code,
22 relating to qualified appraisal and appraiser, shall apply, except as
23 otherwise provided.

24 (2) This subdivision shall apply to appraisals prepared with
25 respect to returns or submissions filed on or after January 1, 2010.

26 (i) (1) Section 170(f)(16) of the Internal Revenue Code, relating
27 to contributions of clothing and household items, shall apply,
28 except as otherwise provided.

29 (2) This subdivision shall apply to contributions made on or
30 after January 1, 2010.

31 (j) (1) Section 170(f)(17) of the Internal Revenue Code, relating
32 to recordkeeping, shall apply, except as otherwise provided.

33 (2) This subdivision shall apply to contributions made on or
34 after January 1, 2010.

35 (k) (1) Section 170(o) of the Internal Revenue Code, relating
36 to special rules for fractional gifts, shall apply, except as otherwise
37 provided.

1 (2) This subdivision shall apply to contributions made on or
2 after January 1, 2010.

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