An act to amend Sections 6361 and 23701d of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST


The Sales and Use Tax Law exempts from the taxes imposed by that law the sales of food products, nonalcoholic beverages, and other tangible personal property made or produced by an organization, as defined, but only if sold on an irregular or intermittent basis and the organization’s profits from the sales are used exclusively in furtherance of the purposes of the organization. The Corporation Tax Law, in modified conformity with federal income tax laws, exempts the income of various types of organizations from taxes imposed by that law.

This bill would revise the Sales and Use Tax Law exemption for those organizations, as provided. This bill would also provide that an organization that is a public charity youth organization that discriminates on the basis of gender identity, race, sexual orientation, nationality, religion, or religious affiliation is not exempt from the taxes imposed by that law.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article
XIII A of the California Constitution, and thus would require for passage the approval of \( \frac{2}{3} \) of the membership of each house of the Legislature. This bill would take effect immediately as a tax levy.

Vote: \( \frac{2}{3} \). Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. (a) Any organization listed or described in subdivision (b) is a consumer and shall not be considered a retailer within the provisions of this part, of food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization provided, however, that the organization’s sales are made on an irregular or intermittent basis, and that the organization’s profits from those sales are used exclusively in furtherance of the purposes of the organization.

(b) For purposes of this section, “organization” includes any of the following:

(1) Any nonprofit organization which meets all of the following conditions:

(A) The organization qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code.

(B) The organization’s primary purpose is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth.

(C) The organization does not discriminate on the basis of gender identity, race, sex, sexual orientation, nationality, or religion, or religious affiliation.

(2) (A) Any youth group sponsored by or affiliated with a qualified educational institution, including, but not limited to, any student activity club, athletic group, or musical group.

(B) For purposes of this section, “qualified educational institution” means any of the following:

(i) Any public elementary, secondary, or vocational-technical school providing education for kindergarten, grades 1 to 12, inclusive, and college undergraduate programs, or any part thereof, operated by state or local government.
(ii) Any nonprofit private educational institution providing
education for kindergarten, grades 1 to 12, inclusive, and college
undergraduate programs, or any part thereof, that meets the
requirements of the State Department of Education for a school.
“Private educational institution” means any entity providing
education which satisfies the requirements of state and local laws
pertaining to private educational institutions in effect on January
1, 1990, and which does not discriminate on the basis of gender
identity, race, sex, sexual orientation, nationality, or religion, or
religious affiliation.

(3) (A) Little League, Bobby Sox, Boy Scouts, Cub Scouts,
Girl Scouts, Campfire, Inc., Young Men’s Christian Association,
Young Women’s Christian Association, Future Farmers of
America, Future Homemakers of America, 4-H Clubs, Distributive
Education Clubs of America, Future Business Leaders of America,
Vocational Industrial Clubs of America, Collegiate Young Farmers,
Boys’ Clubs, Girls’ Clubs, Special Olympics, Inc., American Youth
Soccer Organization, California Youth Soccer Association, North,
California Youth Soccer Association, South, and Pop Warner
football.

(B) An organization listed above shall not discriminate on the
basis of gender identity, race, sexual orientation, nationality,
religion, or religious affiliation.

(c) For purposes of this section, “irregular or intermittent” means
associated directly with a particular event, such as fairs, galas,
parades, scout-a-ramas, games, and similar activities. That term
includes refreshment stands or booths that are utilized at scheduled
events of organized leagues, but does not include storefront or
mobile retail outlets which ordinarily require local business
licenses.

SEC. 2. Section 23701d of the Revenue and Taxation Code is
amended to read:

23701d. (a) A corporation, community chest or trust, organized
and operated exclusively for religious, charitable, scientific, testing
for public safety, literary, or educational purposes, or to foster
national or international amateur sports competition (but only if
no part of its activities involved the provision of athletic facilities
or equipment), or for the prevention of cruelty to children or
animals, no part of the net earnings of which inures to the benefit
of any private shareholder or individual, no substantial part of the
activities of which is carrying on propaganda or otherwise attempting to influence legislation, (except as otherwise provided in Section 23704.5), and which does not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. An organization is not organized exclusively for exempt purposes listed above unless its assets are irrevocably dedicated to one or more purposes listed in this section. Dedication of assets requires that in the event of dissolution of an organization or the impossibility of performing the specific organizational purposes the assets would continue to be devoted to exempt purposes. Assets shall be deemed irrevocably dedicated to exempt purposes if the articles of organization provide that upon dissolution the assets will be distributed to an organization which is exempt under this section or Section 501(c)(3) of the Internal Revenue Code or to the federal government, or to a state or local government for public purposes; or by a provision in the articles of organization, satisfactory to the Franchise Tax Board; that the property will be distributed in trust for exempt purposes; or by establishing that the assets are irrevocably dedicated to exempt purposes by operation of law. The irrevocable dedication requirement shall not be a sole basis for revocation of an exempt determination made by the Franchise Tax Board prior to the effective date of this amendment.

(b) (1) In the case of a qualified amateur sports organization—
(A) The requirement of subdivision (a) that no part of its activities involves the provision of athletic facilities or equipment shall not apply.
(B) That organization shall not fail to meet the requirements of subdivision (a) merely because its membership is local or regional in nature.

(2) For purposes of this subdivision, “qualified amateur sports organization” means any organization organized and operated exclusively to foster national or international amateur sports competition if that organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports.

(c) (1) Notwithstanding subdivisions (a), (b), and (c) of Section 23701, an organization organized and operated for nonprofit
purposes in accordance with this section shall be exempt from taxes imposed by this part, except as provided in this article or in Article 2 (commencing with Section 23731), upon its submission to the Franchise Tax Board of one of the following:

(A) A copy of the determination letter or ruling issued by the Internal Revenue Service recognizing the organization’s exemption from federal income tax under Section 501(a) of the Internal Revenue Code, as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(B) A copy of the group exemption letter issued by the Internal Revenue Service that states that both the central organization and all of its subordinates are tax-exempt under Section 501(c)(3) of the Internal Revenue Code and substantiation that the organization is included in the federal group exemption letter as a subordinate organization.

(2) Upon receipt of the documents required in subparagraph (A) or (B) of paragraph (1), the Franchise Tax Board shall issue an acknowledgment that the organization is exempt from taxes imposed by this part, except as provided in this article or in Article 2 (commencing with Section 23731). The acknowledgment may refer to the organization’s recognition by the Internal Revenue Service of exemption from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code and, if applicable, the organization’s subordinate organization status under a federal group exemption letter. The effective date of an organization’s exemption from state income tax pursuant to this subdivision shall be no later than the effective date of the organization’s recognition of exemption from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code, or its status as a subordinate organization under a federal group exemption letter, as applicable.

(3) If, for federal income tax purposes, an organization’s exemption from tax as an organization described in Section 501(c)(3) of the Internal Revenue Code is suspended or revoked, the organization shall notify the Franchise Tax Board of the suspension or revocation, in the form and manner prescribed by the Franchise Tax Board. Upon notification, the board shall suspend or revoke, whichever is applicable, for state income tax purposes, the organization’s exemption under paragraph (1) of this subdivision.
(4) This subdivision shall not be construed to prevent the Franchise Tax Board from revoking the exemption of an organization that is not organized or operated in accordance with this chapter or Section 501(c)(3) of the Internal Revenue Code.

(5) If the Franchise Tax Board suspends or revokes the exemption of an organization pursuant to paragraph (3) or (4), the exemption shall be reinstated only upon compliance with Section 23701, regardless of whether the organization can establish exemption under paragraph (1).

(d) (1) Notwithstanding any other law, an organization organized and operated exclusively as a public charity youth organization that discriminates on the basis of gender identity, race, sexual orientation, nationality, religion, or religious affiliation shall not be exempt from taxes imposed by this part.

(2) For purposes of this subdivision, a “public charity youth organization” includes, but is not limited to, those organizations listed in subparagraph (A) of paragraph (3) of subdivision (b) of Section 6361.

(e) The Franchise Tax Board may prescribe rules and regulations to implement this section.

SEC. 3. This bill would take effect immediately as a tax levy.