

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1399**

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**Introduced by Assembly Member Baker**

February 27, 2015

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~~An act to add and repeal Section 23692 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add and repeal Article 2 (commencing with Section 18711) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, as amended, Baker. ~~Corporation tax law: credits: domestic violence shelters. Income taxes: voluntary contributions: California Domestic Violence Fund.~~

*Existing law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified funds.*

*This bill would additionally allow an individual to designate on his or her tax return that a specified amount in excess of his or her tax liability be transferred to the California Domestic Violence Fund, which would be created by this bill. The bill would prohibit a voluntary contribution designation for the California Domestic Violence Fund from being added on the tax return until another voluntary contribution designation is removed or a space is available.*

*The bill would require moneys in the California Domestic Violence Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs, as provided, and the balance to the Office of Emergency Services for the distribution of grants to specified domestic violence programs.*

*The bill would provide that these provisions would remain in effect only until January 1 of the 5th taxable year following the first appearance of the California Domestic Violence Fund on the tax return, but would further provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during a calendar year will not equal or exceed the minimum contribution amount, as defined, for that calendar year, in which case these provisions would be repealed on December 1 of that year.*

~~The Corporation Tax Law allows various credits against the tax imposed by that law. Under existing law, the Office of Emergency Services is responsible for administering the Comprehensive Statewide Domestic Violence Program, which distributes grant awards to domestic violence shelter service providers and provides financial and technical assistance to local domestic violence centers in implementing specified services and requires priority for this assistance to be given to, among others, emergency shelters.~~

~~This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, allow a credit against the tax imposed under that law for 50% of monetary contributions to a domestic violence shelter service provider or emergency shelter, as defined, eligible to receive a grant award or financial and technical assistance pursuant to that program. The bill would provide that the credit would not exceed \$200,000 per taxpayer, that the credit would be awarded on a first-come-first-serve basis, and that the credit would have an aggregate cap of \$50,000,000 for each calendar year. The bill would require the Franchise Tax Board and the Office of Emergency Services to administer the credit, as specified.~~

~~This bill would take effect immediately as a tax levy.~~

~~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 2 (commencing with Section 18711) is*
- 2 *added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and*
- 3 *Taxation Code, to read:*

1  
2           *Article 2. California Domestic Violence Fund*  
3

4       18711. (a) *An individual may designate on the tax return that*  
5 *a contribution in excess of the tax liability, if any, be made to the*  
6 *California Domestic Violence Fund established by Section 18712.*  
7 *That designation is to be used as a voluntary contribution on the*  
8 *tax return.*

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

11       (c) *A designation under subdivision (a) shall be made for a*  
12 *taxable year on the original return for that taxable year, and once*  
13 *made shall be irrevocable. If payments and credits reported on*  
14 *the return, together with any other credits associated with the*  
15 *individual's account, do not exceed the individual's liability, the*  
16 *return shall be treated as though no designation has been made.*  
17 *If a designee is not specified, the contribution shall be transferred*  
18 *to the General Fund after reimbursement of the direct actual costs*  
19 *of the Franchise Tax Board for the collection and administration*  
20 *of funds under this article.*

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) *The Franchise Tax Board shall revise the form of the return*  
27 *to include a space labeled "California Domestic Violence Fund"*  
28 *to allow for the designation permitted under subdivision (a). The*  
29 *form shall also include in the instructions information that the*  
30 *contribution may be in the amount of one dollar (\$1) or more and*  
31 *that the contribution shall be used to further the services that*  
32 *California's domestic violence programs provide for victims of*  
33 *domestic violence.*

34       (f) *Notwithstanding any other law, a voluntary contribution*  
35 *designation for the California Domestic Violence Fund shall not*  
36 *be added on the tax return until another voluntary contribution*  
37 *designation is removed or space is available.*

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

1 18712. *There is hereby established in the State Treasury the*  
 2 *California Domestic Violence Fund to receive contributions made*  
 3 *pursuant to Section 18711. The Franchise Tax Board shall notify*  
 4 *the Controller of both the amount of money paid by taxpayers in*  
 5 *excess of their tax liability and the amount of refund money that*  
 6 *taxpayers have designated pursuant to Section 18711 to be*  
 7 *transferred to the California Domestic Violence Fund. The*  
 8 *Controller shall transfer from the Personal Income Tax Fund to*  
 9 *the California Domestic Violence Fund an amount not in excess*  
 10 *of the sum of the amounts designated by individuals pursuant to*  
 11 *Section 18711 for payment into that fund.*

12 18713. *All moneys transferred to the California Domestic*  
 13 *Violence Fund, upon appropriation by the Legislature, shall be*  
 14 *allocated as follows:*

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

18 (b) *To the Office of Emergency Services for the distribution of*  
 19 *grants to domestic violence programs in California that are in*  
 20 *active status, as reflected on the Business Search page of the*  
 21 *Secretary of State’s Internet Web site, and that are exempt from*  
 22 *federal income taxation as an organization described in Section*  
 23 *501(c)(3) of the Internal Revenue Code. The Office of Emergency*  
 24 *Services shall award grants and be responsible for overseeing the*  
 25 *grant program.*

26 (1) *A domestic violence program shall not use grant moneys*  
 27 *awarded pursuant to this section for its administrative costs.*

28 (2) *The Office of Emergency Services shall not use fund moneys*  
 29 *for its administrative costs.*

30 18714. (a) *Except as otherwise provided in subdivision (b),*  
 31 *this article shall remain in effect only until January 1 of the fifth*  
 32 *taxable year following the first appearance of the California*  
 33 *Domestic Violence Fund on the personal income tax return, and*  
 34 *is repealed as of December 1 of that year.*

35 (b) (1) *By September 1 of the second calendar year and each*  
 36 *subsequent calendar year that the California Domestic Violence*  
 37 *Fund appears on the tax return, the Franchise Tax Board shall do*  
 38 *all of the following:*

39 (A) *Determine the minimum contribution amount required to*  
 40 *be received during the next calendar year for the fund to appear*

1 on the tax return for the taxable year that includes that next  
2 calendar year.

3 (B) Provide written notification to the Office of Emergency  
4 Services of the amount determined in subparagraph (A).

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

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

19 (3) For purposes of this section, the minimum contribution  
20 amount for a calendar year means two hundred fifty thousand  
21 dollars (\$250,000) for the second calendar year after the first  
22 appearance of the California Domestic Violence Fund on the  
23 personal income tax return or the minimum contribution amount  
24 as adjusted pursuant to subdivision (c).

25 (c) For each calendar year, beginning with the third calendar  
26 year after the first appearance of the California Domestic Violence  
27 Fund on the personal income tax return, the Franchise Tax Board  
28 shall adjust, on or before September 1 of that calendar year, the  
29 minimum contribution amount specified in subdivision (b) as  
30 follows:

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

37 (2) The inflation factor adjustment used for the calendar year  
38 shall be based on the figures for the percentage change in the  
39 California Consumer Price Index for all items received on or

1 before August 1 of the calendar year pursuant to paragraph (1)  
2 of subdivision (h) of Section 17041.

3 (d) Notwithstanding the repeal of this article, any contribution  
4 amounts designated pursuant to this article prior to its repeal shall  
5 continue to be transferred and disbursed in accordance with this  
6 article as in effect immediately prior to that repeal.

7 SECTION 1. ~~Section 23692 is added to the Revenue and~~  
8 ~~Taxation Code, to read:~~

9 23692. (a) ~~For each taxable year beginning on or after January~~  
10 ~~1, 2016, and before January 1, 2021, there shall be allowed as a~~  
11 ~~credit against the “tax,” as defined in Section 23036, an amount~~  
12 ~~equal to 50 percent of a monetary contribution made by a taxpayer~~  
13 ~~to a domestic violence shelter service provider or emergency~~  
14 ~~shelter.~~

15 (b) ~~For the purposes of this section, the following definitions~~  
16 ~~shall apply:~~

17 (1) ~~“Domestic violence shelter service provider” shall have the~~  
18 ~~same meaning as in Section 13823.15 of the Penal Code and~~  
19 ~~eligible to receive a grant award pursuant to the program.~~

20 (2) ~~“Emergency shelter” shall have the same meaning as in~~  
21 ~~Section 13823.15 of the Penal Code and eligible for financial or~~  
22 ~~technical assistance pursuant to the program.~~

23 (3) ~~“Program” means the Comprehensive Statewide Domestic~~  
24 ~~Violence Program described in Section 13823.15 of the Penal~~  
25 ~~Code.~~

26 (c) ~~The amount of the credit shall not exceed two hundred~~  
27 ~~thousand dollars (\$200,000) per taxpayer, per taxable year.~~

28 (d) ~~Upon application by the taxpayer to the Franchise Tax Board,~~  
29 ~~the Franchise Tax Board shall certify a contribution meeting the~~  
30 ~~requirements of this section pursuant to paragraph (1) of~~  
31 ~~subdivision (i).~~

32 (e) ~~In the case where the credit allowed by this section exceeds~~  
33 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~  
34 ~~the following year, and succeeding five years, if necessary, until~~  
35 ~~the credit is exhausted.~~

36 (f) ~~This credit shall be in lieu of any other credit or deduction~~  
37 ~~that the taxpayer may otherwise claim pursuant to this part with~~  
38 ~~respect to a contribution described in subdivision (a).~~

39 (g) ~~This credit shall be claimed on a timely filed original return.~~

1 ~~(h) (1) The aggregate amount of credits allowed under this~~  
2 ~~section shall not exceed fifty million dollars (\$50,000,000) for~~  
3 ~~each calendar year.~~

4 ~~(2) The allocation of credits shall be on a first-come-first-served~~  
5 ~~basis.~~

6 ~~(i) The Franchise Tax Board and the Office of Emergency~~  
7 ~~Services shall administer this credit.~~

8 ~~(1) The Franchise Tax Board shall perform all of the following:~~

9 ~~(A) Adopt rules and regulations as necessary or appropriate to~~  
10 ~~implement this credit.~~

11 ~~(B) Establish application forms and procedures.~~

12 ~~(C) Track credits claimed.~~

13 ~~(D) Post aggregate totals of the credits claimed on the Internet~~  
14 ~~Web site of the Franchise Tax Board.~~

15 ~~(E) Determine when the aggregate total of credits reaches fifty~~  
16 ~~million dollars (\$50,000,000) for a calendar year.~~

17 ~~(F) Based on the list provided by the Office of Emergency~~  
18 ~~Services pursuant to paragraph (2), certify that a contribution meets~~  
19 ~~the requirements of this section.~~

20 ~~(2) The Office of Emergency Services shall annually submit to~~  
21 ~~the Franchise Tax Board a list of those domestic violence shelter~~  
22 ~~service providers and emergency shelters eligible for a grant award~~  
23 ~~or technical and financial assistance pursuant to the Comprehensive~~  
24 ~~Statewide Domestic Violence Program described in Section~~  
25 ~~13823.15 of the Penal Code.~~

26 ~~(j) The Administrative Procedure Act (Chapter 3.5 (commencing~~  
27 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~  
28 ~~Government Code) shall not apply to the rules or regulations~~  
29 ~~adopted pursuant to this section.~~

30 ~~(k) This section shall remain in effect only until December 1,~~  
31 ~~2021, and as of that date is repealed.~~

32 ~~SEC. 2. It is the intent of the Legislature to make the findings~~  
33 ~~required by Section 41 of the Revenue and Taxation Code.~~

34 ~~SEC. 3. This act provides for a tax levy within the meaning of~~  
35 ~~Article IV of the Constitution and shall go into immediate effect.~~