

Assembly Bill No. 1399

CHAPTER 289

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.

[Approved by Governor September 12, 2016. Filed with
Secretary of State September 12, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1399, Baker. Income taxes: voluntary contributions: California Domestic Violence Victims Fund.

Existing law authorizes an individual to contribute amounts in excess of his or her tax liability for the support of specified funds. Existing law also has administrative provisions applicable to voluntary contributions.

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 Victims Fund, which would be created by this bill. The bill would prohibit a voluntary contribution designation for the California Domestic Violence Victims 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 Victims Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller for reimbursement of costs and the balance to the Office of Emergency Services (OES) for the distribution of funds to active grant recipients under the Comprehensive Statewide Domestic Violence Program within OES, as provided.

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 Victims 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 at least equal the minimum contribution amount, as defined, for that calendar year, in which case these provisions would be repealed on December 1 of that year.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 people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 18711) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 2. California Domestic Violence Victims Fund

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

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

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

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

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

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

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

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

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

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

(b) To the Office of Emergency Services for the distribution of funds to domestic violence programs in California that are in active status, as reflected on the Business Search page of the Secretary of State's Internet Web site, and are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code, and are active grant recipients under the Comprehensive Statewide Domestic Violence Program within the Office of Emergency Services as described in Section 13823.15 of the Penal Code. The Office of Emergency Services shall award the funds and be responsible for overseeing the grant program.

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

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

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

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

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

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

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

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

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for

the second calendar year after the first appearance of the California Domestic Violence Victims Fund on the personal income tax return or the minimum contribution amount as adjusted pursuant to subdivision (c).

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

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

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index for all items received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.