

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2497

Introduced by Assembly Member Wagner

February 19, 2016

An act to amend Section ~~23701~~ of 18729 of, and to add and repeal Article 3.6 (commencing with Section 18730) of Chapter 3 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2497, as amended, Wagner. ~~Corporation Tax Law. Voluntary contributions: California Senior Legislature Fund: California Senior Citizen Advocacy Fund.~~

Under existing law, taxpayers are allowed to contribute amounts in excess of their personal income tax liability for the support of the California Senior Legislature Fund until the year in which the minimum contribution is not received, or January 1, 2019, whichever occurs first. Existing law also contains administrative provisions that are generally applicable to voluntary contributions.

This bill would repeal these provisions regarding contributions for the support of the California Senior Legislature Fund and would instead allow a taxpayer, for taxable years beginning on or after January 1, 2016, to designate an amount in excess of personal income tax liability to be deposited to the California Senior Citizen Advocacy Fund, which the bill would create. This bill would require moneys transferred to the California Senior Citizen Advocacy Fund, upon appropriation by the Legislature, to be allocated to the Franchise Tax Board and the Controller, as provided, and to the California Senior Legislature for

the purpose of funding the activities of the California Senior Legislature, as provided.

This bill would repeal these voluntary contribution provisions by a specified date or, if contributions made on returns would be less than a specified amount, by an earlier date as provided.

~~The Corporation Tax Law exempts various types of organizations from taxes imposed by that law. Existing law establishes a method by which an organization that has obtained a ruling or determination from the Internal Revenue Service that it is exempt from federal income taxes as an organization described in Section 501(c)(3), (c)(4), (c)(5), (c)(6), or (c)(7) of the Internal Revenue Code may obtain exemption from state taxes, as provided.~~

~~This bill would make nonsubstantive changes to that provision.~~

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

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

1 SECTION 1. Section 18729 of the Revenue and Taxation Code
2 is amended to read:

3 18729. (a) ~~Except as otherwise provided in subdivision (b),~~
4 ~~this~~-This article shall remain in effect only for taxable years
5 beginning before January 1, ~~2019, 2016,~~ and as of ~~December 1,~~
6 ~~2019, January 1, 2017,~~ is repealed.

7 ~~(b) (1) By September 1, 2015, and by September 1 of each~~
8 ~~subsequent calendar year that the California Senior Legislature~~
9 ~~Fund appears on the tax return, the Franchise Tax Board shall do~~
10 ~~all of the following:~~

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

15 ~~(B) Provide written notification to the California Senior~~
16 ~~Legislature of the amount determined in subparagraph (A).~~

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

1 of the contributions that will be received by the end of that calendar
2 year.

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

9 ~~(3) For purposes of this section, the minimum contribution~~
10 ~~amount for a calendar year means two hundred fifty thousand~~
11 ~~dollars (\$250,000) for the second calendar year after the first~~
12 ~~appearance of the California Senior Legislature Fund on the~~
13 ~~personal income tax return or the minimum contribution amount~~
14 ~~as adjusted pursuant to subdivision (c).~~

15 ~~(e) For each calendar year, beginning with the third calendar~~
16 ~~year after the first appearance of the California Senior Legislature~~
17 ~~Fund on the personal income tax return, the Franchise Tax Board~~
18 ~~shall adjust, on or before September 1 of that calendar year, the~~
19 ~~minimum contribution amount specified in subdivision (b) as~~
20 ~~follows:~~

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

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

32 ~~(d)~~

33 ~~(b) Notwithstanding the repeal of this article, any contribution~~
34 ~~amounts designated pursuant to this article prior to its repeal shall~~
35 ~~continue to be transferred and disbursed in accordance with this~~
36 ~~article as in effect immediately prior to that repeal.~~

37 *SEC. 2. Article 3.6 (commencing with Section 18730) is added*
38 *to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation*
39 *Code, to read:*

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Article 3.6. California Senior Citizen Advocacy Fund

18730. (a) For taxable years beginning on or after January 1, 2016, any individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Senior Citizen Advocacy Fund established by Section 18731 to be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

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

(c) A designation under subdivision (a) shall be made for any taxable year on the initial 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 tax liability, the return shall be treated as though no designation has been made.

(d) The Franchise Tax Board shall revise the form of the return to include a space labeled “California Senior Citizen Advocacy 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 conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

(e) 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).

18731. (a) There is hereby established in the State Treasury the California Senior Citizen Advocacy Fund to receive contributions made pursuant to Section 18730. 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 18730 to be transferred to the California Senior Citizen Advocacy Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Senior Citizen Advocacy Fund an amount not in

1 *excess of the sum of the amounts designated by individuals*
2 *pursuant to Section 18730 for payment into that fund.*

3 *(b) The California Senior Citizen Advocacy Fund is the*
4 *successor fund of the California Senior Legislature Fund. All*
5 *assets, liabilities, revenues, and expenditures of the California*
6 *Senior Legislature Fund shall be transferred to, and become a*
7 *part of, the California Senior Citizen Advocacy Fund, as provided*
8 *in Section 16346 of the Government Code. Any references in state*
9 *law to the California Senior Legislature Fund shall be construed*
10 *to refer to the California Senior Citizen Advocacy Fund.*

11 *18732. (a) All moneys transferred to the California Senior*
12 *Citizen Advocacy Fund pursuant to Section 18731, upon*
13 *appropriation by the Legislature, shall be allocated as follows:*

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

17 *(2) The balance to the California Senior Legislature, for its*
18 *ongoing activities on behalf of older persons.*

19 *(b) All moneys allocated pursuant to paragraph (2) of*
20 *subdivision (a) may be carried over from the year in which they*
21 *were received and encumbered in any following year.*

22 *(c) The funds allocated to the California Senior Legislature for*
23 *the purpose of funding the activities of the California Senior*
24 *Legislature shall be spent pursuant to the purview of the Joint*
25 *Rules Committee of the California Senior Legislature in a manner*
26 *consistent with the bylaws of the California Senior Legislature,*
27 *established through a majority vote of the California Senior*
28 *Legislature.*

29 *18733. (a) Except as otherwise provided in subdivision (b),*
30 *this article shall remain in effect only for taxable years beginning*
31 *before January 1, 2021, and as of December 1, 2021, is repealed.*

32 *(b) (1) By September 1, 2017, and by September 1 of each*
33 *subsequent calendar year that the California Senior Citizen*
34 *Advocacy Fund appears on the tax return, the Franchise Tax Board*
35 *shall do all of the following:*

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

1 (B) Provide written notification to the California Senior
2 Legislature of the amount determined in subparagraph (A).

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

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

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

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

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

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

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

5 SECTION 1. Section 23701 of the Revenue and Taxation Code
6 is amended to read:

7 23701. (a) Organizations that are organized and operated for
8 nonprofit purposes within the provisions of a specific section of
9 this article, or are defined in Section 23701h, relating to certain
10 title-holding companies, or Section 23701x, relating to certain
11 title-holding companies, are exempt from taxes imposed under
12 this part, except as provided in this article or in Article 2
13 (commencing with Section 23731) of this chapter, if all of the
14 following occur:

15 (1) An application for exemption is submitted in the form
16 prescribed by the Franchise Tax Board.

17 (2) A filing fee of twenty-five dollars (\$25) is paid with each
18 application for exemption filed with the Franchise Tax Board after
19 December 31, 1969.

20 (3) The Franchise Tax Board issues a determination exempting
21 the organization from tax.

22 (b) (1) Notwithstanding subdivision (a), an organization
23 organized and operated for nonprofit purposes in accordance with
24 Section 23701a, 23701d, 23701e, 23701f, or 23701g shall be
25 exempt from taxes imposed by this part, except as provided in this
26 article or in Article 2 (commencing with Section 23731), upon its
27 submission to the Franchise Tax Board of one of the following:

28 (A) A copy of the determination letter or ruling issued by the
29 Internal Revenue Service recognizing the organization's exemption
30 from federal income tax under Section 501(a) of the Internal
31 Revenue Code, as an organization described in Section 501(c)(3),
32 (c)(4), (c)(5), (c)(6), or (c)(7) of the Internal Revenue Code.

33 (B) A copy of the group exemption letter issued by the Internal
34 Revenue Service that states that both the central organization and
35 all of its subordinates are tax-exempt under Section 501(e)(3),
36 (e)(4), (e)(5), (e)(6), or (e)(7) of the Internal Revenue Code and
37 substantiation that the organization is included in the federal group
38 exemption letter as a subordinate organization.

39 (2) (A) Upon receipt of the documents required in subparagraph
40 (A) or (B) of paragraph (1), the Franchise Tax Board shall issue

1 an acknowledgment that the organization is exempt from taxes
2 imposed by this part, except as provided in this article or in Article
3 2 (commencing with Section 23731). The acknowledgment may
4 refer to the organization's recognition by the Internal Revenue
5 Service of exemption from federal income tax as an organization
6 described in Section 501(e)(3), (e)(4), (e)(5), (e)(6), or (e)(7) of
7 the Internal Revenue Code and, if applicable, the organization's
8 subordinate organization status under a federal group exemption
9 letter. The effective date of an organization's exemption from state
10 income tax pursuant to this subdivision shall be no later than the
11 effective date of the organization's recognition of exemption from
12 federal income tax as an organization described in Section
13 501(e)(3), (e)(4), (e)(5), (e)(6), or (e)(7) of the Internal Revenue
14 Code, or its status as a subordinate organization under a federal
15 group exemption letter, as applicable.

16 (B) Notwithstanding any other provision of this subdivision, an
17 organization formed as a California corporation or qualified to do
18 business in California that, as of the date of receipt by the Franchise
19 Tax Board of the documents required under paragraph (1), is listed
20 by the Secretary of the State or Franchise Tax Board as
21 "suspended" or "forfeited" may not establish its exemption under
22 paragraph (1) and shall not receive an acknowledgment referred
23 to under subparagraph (A) from the Franchise Tax Board until that
24 corporation is listed by the Secretary of State and the Franchise
25 Tax Board as an "active" corporation.

26 (3) If, for federal income tax purposes, an organization's
27 exemption from tax as an organization described in Section
28 501(e)(3), (e)(4), (e)(5), (e)(6), or (e)(7) of the Internal Revenue
29 Code is suspended or revoked, the organization shall notify the
30 Franchise Tax Board of the suspension or revocation, in the form
31 and manner prescribed by the Franchise Tax Board. Upon
32 notification, the board shall suspend or revoke, whichever is
33 applicable, for state income tax purposes, the organization's
34 exemption under paragraph (1).

35 (4) This subdivision shall not be construed to prevent the
36 Franchise Tax Board from revoking the exemption of an
37 organization that is not organized or operated in accordance with
38 California law, this chapter, or Section 501(e)(3), (e)(4), (e)(5),
39 (e)(6), or (e)(7) of the Internal Revenue Code.

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

6 ~~(e) This section shall not prevent a determination from having~~
7 ~~retroactive effect and does not prevent the issuance of a~~
8 ~~determination with respect to a domestic organization which was~~
9 ~~in existence prior to January 1, 1970, and exempt under prior law~~
10 ~~without the submission of a formal application or payment of a~~
11 ~~filing fee. For the purpose of this section, the term “domestic”~~
12 ~~means created or organized under the laws of this state.~~

13 ~~(d) The Franchise Tax Board may prescribe rules and regulations~~
14 ~~to implement the provisions of this article.~~