

Assembly Bill No. 2893

CHAPTER 252

An act to amend Sections 23772 of, and to repeal and add Sections 23701b, 23701c, 23701e, 23701f, 23701g, 23701i, 23701j, 23701l, 23701n, 23701s, 23702, 23704, 23704.3, 23704.4, 23704.5, 23704.6, and 23740 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 25, 2000. Filed with
Secretary of State August 28, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2893, Committee on Revenue and Taxation. Bank and corporation taxes: exempt organizations: federal conformity.

The Bank and Corporation Tax Law provides for various types of organizations that are exempt for taxation. These provisions are substantially similar to federal income tax laws, with minor exceptions.

This bill would revise and recast those provisions to provide further conformity to those federal income tax laws.

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

SECTION 1. Section 23701b of the Revenue and Taxation Code is repealed.

SEC. 2. Section 23701b is added to the Revenue and Taxation Code, to read:

23701b. A fraternal order described in Section 501(c)(8) of the Internal Revenue Code.

SEC. 3. Section 23701c of the Revenue and Taxation Code is repealed.

SEC. 4. Section 23701c is added to the Revenue and Taxation Code, to read:

23701c. A cemetery company described in Section 501(c)(13) of the Internal Revenue Code.

SEC. 5. Section 23701e of the Revenue and Taxation Code is repealed.

SEC. 6. Section 23701e is added to the Revenue and Taxation Code, to read:

23701e. A business league, chamber of commerce, real estate board, or a board of trade described in Section 501(c)(6) of the Internal Revenue Code, except that the phrase "or professional football leagues (whether or not administering a pension fund for football players)" shall not apply.



SEC. 7. Section 23701f of the Revenue and Taxation Code is repealed.

SEC. 8. Section 23701f is added to the Revenue and Taxation Code, to read:

23701f. (a) A civic league, social welfare organization, or local organization of employees described in Section 501(c)(4) of the Internal Revenue Code, except as otherwise provided.

(b) An organization is not organized exclusively for exempt purposes under Section 501(c)(4) of the Internal Revenue Code unless its assets are irrevocably dedicated to one or more purposes listed in Section 501(c)(4) of the Internal Revenue Code.

SEC. 9. Section 23701g of the Revenue and Taxation Code is repealed.

SEC. 10. Section 23701g is added to the Revenue and Taxation Code, to read:

23701g. A social organization described in Section 501(c)(7) of the Internal Revenue Code.

SEC. 11. Section 23701i of the Revenue and Taxation Code is repealed.

SEC. 12. Section 23701i is added to the Revenue and Taxation Code, to read:

23701i. A voluntary employees' beneficiary association described in Section 501(c)(9) of the Internal Revenue Code.

SEC. 13. Section 23701j of the Revenue and Taxation Code is repealed.

SEC. 14. Section 23701j is added to the Revenue and Taxation Code, to read:

23701j. A teacher's retirement fund association described in Section 501(c)(11) of the Internal Revenue Code.

SEC. 15. Section 23701l of the Revenue and Taxation Code is repealed.

SEC. 16. Section 23701l is added to the Revenue and Taxation Code, to read:

23701l. (a) A domestic fraternal society described in Section 501(c)(10) of the Internal Revenue Code, except as otherwise provided.

(b) For purposes of this section, the term "domestic" means created or organized in the United States or under the law of the United States or of any state or territory therein.

SEC. 17. Section 23701n of the Revenue and Taxation Code is repealed.

SEC. 18. Section 23701n is added to the Revenue and Taxation Code, to read:

23701n. (a) A supplemental unemployment compensation trust described in Section 501(c)(17) of the Internal Revenue Code, except as otherwise provided.



(b) The following references in Section 501(c)(17)(E) of the Internal Revenue Code shall be modified as follows:

(1) The phrase “under Section 23701” shall be substituted for the phrase “under subsection (a).”

(2) The phrase “Section 23701i” shall be substituted for the phrase “paragraph (9) of this subsection.”

SEC. 19. Section 23701s of the Revenue and Taxation Code is repealed.

SEC. 20. Section 23701s is added to the Revenue and Taxation Code, to read:

23701s. (a) An employee-funded pension trust described in Section 501(c)(18) of the Internal Revenue Code, except as otherwise provided.

(b) The last sentence in Section 501(c)(18) of the Internal Revenue Code, relating to excess contributions under Section 4979, shall not apply.

SEC. 21. Section 23702 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 23702 is added to the Revenue and Taxation Code, to read:

23702. Section 502 of the Internal Revenue Code, relating to feeder organizations, shall apply, except as otherwise provided.

(a) Exemption shall not be allowed to any organization on the basis that all of its profits are payable to another organization exempt from taxation under either Section 501 of the Internal Revenue Code or this article, if that business activity is being conducted by a separate organization.

(b) The reference to Section 501 of the Internal Revenue Code, relating to exemption, shall be modified to refer to Section 23701.

(c) The reference to Sections 512 and 512(b)(3) of the Internal Revenue Code, relating to the exclusion of the deriving of rents from the definition of “trade or business,” shall be modified to refer to Section 23732.

SEC. 23. Section 23704 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 23704 is added to the Revenue and Taxation Code, to read:

23704. Section 501(e) of the Internal Revenue Code, relating to cooperative hospital service organizations, shall apply, except as otherwise provided.

(a) References to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(b) References to Section 501(a) of the Internal Revenue Code, relating to exemptions, shall be modified to refer to Section 23701.

(c) The services which may be provided under Section 501(e)(1) of the Internal Revenue Code shall include laundry services.



(d) Section 501(e)(1)(B)(iii) of the Internal Revenue Code is modified by substituting the phrase “owned and operated by the United States, the State, or a county or political subdivision thereof, or an agency or instrumentality of any of the foregoing” for the phrase “owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an agency or instrumentality of any of the foregoing.”

(e) References to Section 170(b)(1)(A)(iii) of the Internal Revenue Code, relating to the deductibility of contributions to hospitals, shall be modified to refer to subdivision (e) of Section 23736.

SEC. 25. Section 23704.3 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 23704.3 is added to the Revenue and Taxation Code, to read:

23704.3. Section 501(o) of the Internal Revenue Code, relating to treatment of hospitals participating in provider-sponsored organizations, shall apply, except that the reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

SEC. 27. Section 23704.4 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 23704.4 is added to the Revenue and Taxation Code, to read:

23704.4. Section 501(k) of the Internal Revenue Code, relating to the treatment of certain organizations providing care of children, shall apply, except as otherwise provided.

(a) The reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(b) The reference to Section 2522(a)(2) of the Internal Revenue Code, relating to the computation of taxable gifts or Internal Revenue Code Section 2055, relating to transfers for public, charitable, and religious uses, shall not apply.

SEC. 29. Section 23704.5 of the Revenue and Taxation Code is repealed.

SEC. 30. Section 23704.5 is added to the Revenue and Taxation Code, to read:

23704.5. Section 501(h) of the Internal Revenue Code, relating to expenditures by public charities engaged in activities to influence legislation, shall apply, except as otherwise provided.

(a) The reference to Section 501(a) of the Internal Revenue Code, relating to exemption from taxation, shall be modified to refer to Section 23701.

(b) The reference to Section 501(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.



SEC. 31. Section 23704.6 of the Revenue and Taxation Code is repealed.

SEC. 32. Section 23704.6 is added to the Revenue and Taxation Code, to read:

23704.6. Section 504 of the Internal Revenue Code, relating to status after organization ceases to qualify for exemption under Section 501(c)(3) because of substantial lobbying or because of political activities, shall apply, except as otherwise provided.

(a) The reference to Section 501(a) of the Internal Revenue Code, relating to exemption from taxation, shall be modified to refer to Section 23701.

(b) The reference to Section 501a(c)(3) of the Internal Revenue Code, relating to charitable organizations, shall be modified to refer to Section 23701d.

(c) The reference to Section 501(c)(4) of the Internal Revenue Code, relating to civic leagues, social welfare organizations, and local associations of employees, shall be modified to refer to Section 23701f.

SEC. 33. Section 23740 of the Revenue and Taxation Code is repealed.

SEC. 34. Section 23740 is added to the Revenue and Taxation Code, to read:

23740. Section 4911 of the Internal Revenue Code, relating to tax on excess expenditures to influence legislation, shall apply, except as otherwise provided.

(a) Section 4911(a)(1) of the Internal Revenue Code shall not apply.

(b) Section 4911(f)(4)(A) of the Internal Revenue Code shall include efforts to influence legislation with respect to acts, bills, resolutions, or similar items by the State Legislature.

SEC. 35. Section 23772 of the Revenue and Taxation Code is amended to read:

23772. (a) For the purposes of this part—

(1) Except as provided in paragraph (2) every organization exempt from taxation under Section 23701 and every trust treated as a private foundation because of Section 4947(a)(1) of the Internal Revenue Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the laws under this part as the Franchise Tax Board may by rules or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Franchise Tax Board may from time to time prescribe. The return shall be filed on or before the 15th day of the fifth full calendar month following the close of the income year.

(2) Exceptions from filing—

(A) Mandatory exceptions—Paragraph (1) shall not apply to—



(i) Churches, their integrated auxiliaries, and conventions or association of churches,

(ii) Any organization (other than a private foundation as defined in Section 23709), the gross receipts of which in each taxable year are normally not more than twenty-five thousand dollars (\$25,000), or

(iii) The exclusively religious activities of any religious order,

(B) Discretionary exceptions—The Franchise Tax Board may permit the filing of a simplified return for organizations based on either gross receipts or total assets or both gross receipts and total assets, or may permit the filing of an information statement (without fee), or may permit the filing of a group return for incorporated or unincorporated branches of a state or national organization where it determines that an information return is not necessary to the efficient administration of this part.

(3) An organization that is required to file an annual information return shall pay a filing fee of ten dollars (\$10) on or before the due date for filing the annual information return (determined with regard to any extension of time for filing the return) required by this section. In case of failure to pay the fee on or before such due date unless it is shown that such failure is due to reasonable cause, the filing fee shall be twenty-five dollars (\$25). All collection remedies provided in Article 5 (commencing with Section 18661) of Chapter 2 of Part 10.2 shall be applicable to collection of the filing fee. However, the filing fee shall not apply to the organization described in paragraph (4).

(4) Paragraph (3) shall not apply to: (A) a religious organization exempt under Section 23701d; (B) an educational organization exempt under Section 23701d, if such organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; (C) a charitable organization, or an organization for the prevention of cruelty to children or animals, exempt under Section 23701d, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported by contributions of the general public; (D) an organization exempt under Section 23701d, if such organization is operated, supervised, or controlled by or in connection with a religious organization described in subparagraph (A).

(b) Every organization described in Section 23701d which is subject to the requirements of subdivision (a) shall furnish annually information, at such time and in such manner as the Franchise Tax Board may by rules or regulations prescribe, setting forth—

(1) Its gross income for the year,

(2) Its expenses attributable to such income and incurred within the year,



(3) Its disbursements within the year for the purposes for which it is exempt,

(4) A balance sheet showing its assets, liabilities, and net worth as of the beginning of such year,

(5) The total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors,

(6) The names and addresses of its foundation manager (within the meaning of Section 4946 of the Internal Revenue Code) and highly compensated employees,

(7) The compensation and other payments made during the year to each individual described in paragraph (6),

(8) In the case of an organization with respect to which an election under Section 23704.5 is effective for the taxable year, the following amounts for such organization for such taxable year:

(A) The lobbying expenditures (as defined in Section 4911(c)(1) of the Internal Revenue Code).

(B) The lobbying nontaxable amount (as defined in Section 4911(c)(2) of the Internal Revenue Code).

(C) The grassroots expenditures (as defined in Section 4911(c)(3) of the Internal Revenue Code).

(D) The grassroots nontaxable amount (as defined in Section 4911(c)(4) of the Internal Revenue Code). For purposes of this paragraph, if Section 23740(f) applies to the organization for the taxable year, the organization shall furnish the amounts with respect to the affiliated group as well as with respect to the organization.

(9) Such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in Sections 23701a to 23701w, inclusive (other than Sections 23701d, 23701k, and 23701t), as the Franchise Tax Board may require to prevent either of the following:

(A) Diversion of funds from the organization's exempt purpose.

(B) Misallocation of revenue or expense, and

(10) Any other relevant information as the Franchise Tax Board may prescribe.

(c) In addition to the above annual return any organization which is required to file an annual report under Section 6056 of the Internal Revenue Code will furnish a copy of the report to the Franchise Tax Board at the time the annual return is due.

(d) For the purposes of this part—

(1) In the case of a failure to file a return required under this section on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the exempt organization or trust failing so to file, five dollars (\$5) for each month or part thereof during which



such failure continues, but the total amount imposed hereunder on any organization for failure to file any return shall not exceed forty dollars (\$40).

(2) The Franchise Tax Board may make written demand upon a private foundation failing to file under paragraph (1) of this subdivision or subdivision (c) specifying therein a reasonable future date by which such filing shall be made, and if such filing is not made on or before such date, and unless it is shown that failure so to file is due to reasonable cause, there shall be paid (on notice and demand by the Franchise Tax Board and in the same manner as tax) by the person failing so to file, in addition to the penalty prescribed in paragraph (1), a penalty of five dollars (\$5) each month or part thereof after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed hereunder on all persons for such failure to file shall not exceed twenty-five dollars (\$25). If more than one person is liable under this paragraph for a failure to file, all such persons shall be jointly and severally liable with respect to such failure. The term "person" as used herein means any officer, director, trustee, employee, member, or other individual who is under a duty to perform the act in respect of which the violation occurs.

(e) The reporting requirements and penalties shall be applicable for income years beginning after December 31, 1970, except that the provisions of subparagraph (B) of paragraph (2) of subdivision (a) shall apply to income years ending after December 31, 1970.

