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THIRD READING

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Bill No: SB 934  
Author: Bates (R), et al.  
Amended: 6/18/20  
Vote: 21

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SENATE GOVERNANCE & FIN. COMMITTEE: 7-0, 5/21/20  
AYES: McGuire, Moorlach, Beall, Hertzberg, Hurtado, Nielsen, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 6/18/20  
AYES: Portantino, Bates, Bradford, Hill, Jones, Leyva, Wieckowski

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**SUBJECT:** Corporate taxes: exempt organizations: filing fees

**SOURCE:** Franchise Tax Board

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**DIGEST:** This bill eliminates the \$25 filing fee for the application for tax-exempt status and the annual information return filing fee of \$10 for exempt organizations.

**ANALYSIS:**

Existing law:

- 1) Permits corporations organized for charitable purposes to apply for an exemption from the corporation tax, often known as “tax-exempt status.”
- 2) Sets forth qualifications for various types of tax-exempt organizations, mostly in conformity with federal law.
- 3) Directs some types of organizations that apply for tax-exempt status to include a \$25 fee with their application for tax-exempt status to the Franchise Tax Board (FTB). However, other types of organizations are not subject to the fee.
- 4) Requires certain tax-exempt organizations to pay a \$10 fee when filing their annual information return (Form 199) with FTB, unless specifically exempted.

This bill:

- 1) Deletes the current \$25 fee imposed on any organization when applying for tax-exempt status.
- 2) Repeals the \$10 fee required when any tax-exempt organization files its annual informational return.

## **Background**

*Nonprofits.* In California, nonprofit corporations are not necessarily tax-exempt ones, regardless of federal tax-exempt status. All nonprofits must apply to the FTB for tax-exempt status, or provide FTB with a copy of the Internal Revenue Service's determination that the organization is tax-exempt under the Internal Revenue Code (AB 897, Houston, Chapter 238, Statutes of 2007). After FTB's determination or acknowledgement, all non-church charities must annually file a simple form with FTB, known as the E-Postcard (Form 199N) with basic information about the organization. Tax-exempt organizations with average gross receipts over \$50,000 per year must file a more comprehensive annual return (Form 199). Churches do not have to complete either form. Nonprofits that do not obtain approval from FTB for their tax-exempt application are subject to tax. Corporations incorporated, registered or doing business in California must pay the \$800 minimum franchise tax, or the measured franchise tax of 8.84% of apportioned net income, if the measured tax exceeds \$800.

*State Fees.* The FTB currently imposes a \$25 fee on entities filing a tax-exempt application. However, this fee is not applicable to organizations that are organized under IRC 501(c)(3), (4), (5), (6), (7), or (19) and attach their federal determination letter to their application to the FTB. However, those organized under any other part in IRC 501(c) are subject to the \$25 fee.

Additionally, tax-exempt organizations must pay a \$10 fee when filing their annual information return (Form 199) with FTB, unless specifically exempted. State law exempts entities with normal annual gross receipts of \$50,000 or less that are not a private foundation or a charitable trust. Currently, the FTB does not charge a fee on other entities, such as taxable corporations or individuals to file a return.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the FTB estimates that this bill would result in annual General Fund revenue losses of \$600,000 in 2020-21,

and \$900,000 in the two subsequent years. This estimate includes both the impact from (1) eliminating the \$25 filing fee submitted with form FTB 3500, and (2) the \$10 fee submitted with FTB Form 199. The department indicates that administrative costs resulting from this bill would be minor and absorbable.

**SUPPORT:** (Verified 6/16/20)

Franchise Tax Board (source)  
California Association of Nonprofits  
Howard Jarvis Taxpayer Association

**OPPOSITION:** (Verified 6/16/20)

None received

**ARGUMENTS IN SUPPORT:** According to the author, “it costs more for them to collect these fees from nonprofit organizations than the amount of revenue they bring in to the state. Due to their small cost, application filing fees for state tax exemptions are not captured in, or cost effective to be added to, FTB automated accounting systems and must be manually tracked, thereby increasing the department’s costs. These fees are both insignificant to the general fund and unnecessarily time-consuming for the FTB. Elimination of the annual information return Form 199 filing fee would result in equitable and fair tax administration for exempt organizations and be consistent with federal and other state tax laws. We must ensure that our tax-dollars are being used equitably and efficiently, and this bill provides a simple way to do just that.”

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6/23/20 17:13:40

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