

SENATE THIRD READING

SB 934 (Bates)

As Amended June 18, 2020

Majority vote

SUMMARY:

Eliminates, under the Corporation Tax Law (CTL), the \$25 filing fee to submit a tax-exempt application to the Franchise Tax Board (FTB) and the \$10 annual information return filing fee applicable to tax-exempt organizations.

COMMENTS:

Tax-exempt application filing fees: 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, but some nonprofits are allowed to use a simplified method by providing the FTB with a copy of the Internal Revenue Service's (IRS) determination that the organization is tax-exempt under certain provisions of the Internal Revenue Code (IRC).

California requires a \$25 filing fee to be submitted with the state tax-exempt application (FTB Form 3500) to reimburse the state's general fund for the FTB's processing costs. However, nonprofits organized under specified IRC Section 501(c) provisions may submit a different application (Form 3500A) to the FTB without the \$25 fee to obtain state tax-exempt status under the simplified method. All other nonprofit organizations organized under any other part in IRC Section 501(c) must file an application to receive state tax-exempt status with the \$25 filing fee.

Annual information return filing fee: After receiving state tax-exempt status, nonprofit organizations are required to file an annual information return (Form 199) and pay a \$10 filing fee, unless specifically exempted. Smaller organizations with normal annual gross receipts of less than \$50,000 can provide their information electronically; and, if they do so, no filing fee applies (Form 199N). No other entities, such as taxable corporations or individuals, are required to pay a fee to file a state income tax return with the FTB.

The Franchise Tax Board is sponsoring this bill to eliminate filing fees: This bill eliminates the \$25 filing fee to submit a tax-exempt application to the FTB and the \$10 annual information return filing fee applicable to tax-exempt organizations. According to the FTB, these fees are not captured in, or cost effective to add to, the FTB's automated accounting systems and must be manually tracked. Additionally, the FTB states that General Fund recovery fees require additional manual processing to credit the payments appropriately, which increases the department's costs to process the payments. Finally, the FTB notes that some organizations inadvertently fail to include these fees, requiring additional correspondence and further administrative costs. Eliminating these fees, in turn, allows the FTB to discontinue its manual processing and tracking of the payments for accounting purposes as well as provide equitable tax treatment for similarly-situated entities.

According to the Author:

SB 934 will help non-profits save money, reduce paperwork, and make more efficient use of state resources. According to the FTB, 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.

My legislation will enable the FTB to devote additional resources on more urgent matters, such as processing tax refunds for families. 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.

Arguments in Support:

The California Association of Nonprofits states "the current fee structure for filing annual information returns requires tax-exempt, but not other, organizations to pay a fee with the required return. As a result, current law creates disparate treatment between tax-exempt and other entities with regard to this filing fee. SB 934 will simplify, for nonprofits and the FTB, the tax-exemption application process, eliminate existing inequities in the fee structure for filing annual information returns, and help support a robust nonprofit sector in California."

Arguments in Opposition:

None on file.

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, annual General Fund (GF) revenue loss of approximately \$600,000 in 2020-21 and \$900,000 each year thereafter. FTB would not incur additional administrative costs and may gain administrative efficiencies.

VOTES:

SENATE FLOOR: 39-0-1

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Jones, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Stern

ASM REVENUE AND TAXATION: 9-0-1

YES: Burke, Chu, Levine, Mayes, Mullin, Petrie-Norris, Quirk, Luz Rivas, Megan Dahle

ABS, ABST OR NV: Gray

ASM APPROPRIATIONS: 18-0-0

YES: Gonzalez, Bigelow, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, Quirk, Robert Rivas, Voepel

UPDATED:

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