

ASSEMBLY THIRD READING  
AB 2084 (Bauer-Kahan)  
As Amended April 20, 2026  
Majority vote. Taxy Levy

## SUMMARY

Provides the Franchise Tax Board (FTB) with discretion to maintain the tax-exempt status for state tax purposes of an organization that was tax-exempt pursuant to Internal Revenue Code (IRC) Section 501(c)(3) but had that status revoked or suspended for reasons other than those provided in existing law and regulations.

### Major Provisions

- 1) Authorizes the FTB, in its discretion, to retain tax-exempt status for state income tax purposes if it determines that the suspension or revocation of its tax-exempt status for federal tax purposes is not related to any of the following:
  - a) Fraud or intentional misrepresentation;
  - b) Misuse or diversion of organizational funds;
  - c) Failure to file necessary returns or reports; or,
  - d) Other significant breaches of organizational reporting or governance requirements.
- 2) Authorizes the FTB to prescribe any regulations or procedures necessary to implement the evaluation process described above.
- 3) Takes immediate effect as a tax levy.

## COMMENTS

- 1) *What problem does this bill seek to solve?* The author and sponsor of this bill argue that this bill is necessary to protect California tax-exempt nonprofit organizations that may have their federal tax-exempt status suspended or revoked for politically motivated or other reasons that lack basis in existing federal law and regulation. This bill is focused on the subset of nonprofit organizations that qualified for tax-exempt status for state tax purposes in an expedited fashion based on their federal determination by the IRS. Under existing law, if the IRS suspends or revokes the tax-exempt status of a nonprofit organization and the organization received California tax-exempt status based on that federal determination, its state-level, tax-exempt status will also be revoked or suspended automatically by the FTB. While this bill does not change this requirement, it would allow the FTB to, in its discretion, maintain the 501(c)(3) organization's tax-exempt status only if the suspension or revocation is not related to any of the following:
  - a) Fraud or intentional misrepresentation;
  - b) Misuse or diversion of organizational funds;
  - c) Failure to file required returns or reports; or,

- d) Other significant breaches of organizational reporting or governance requirements.
- e) *Tax-exempt nonprofits*: Nonprofit organizations are generally organized and operated as both nonprofit and tax-exempt entities. "Nonprofit" status refers to incorporation status under state corporation law; "tax-exempt" status refers to federal income tax exemption under the IRC and, if applicable, state tax law. The vast majority of tax-exempt entities qualify under IRC Section 501(c)(3) and, accordingly, must be organized and operated exclusively for religious, charitable, scientific, literary, educational, testing for public safety, preventing cruelty to children or animals, or fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment).<sup>1</sup> In addition to serving one of these public purposes, no part of the organization's net earnings can inure to the benefit of private shareholders or individuals, such as the creator's family members, board members, or persons controlled directly or indirectly by private interests. Further, organizations exempt under 501(c)(3) cannot, as a substantial part of their activities, attempt to influence legislation (subject to limited exceptions) or participate in political campaigns for or against any candidate for public office.

Organizations must apply to the IRS for tax-exempt status by completing the requisite form and provide copies of its organizing documents (e.g., articles of incorporation, constitution, trust document, etc.), bylaws (if adopted), and supplemental responses, if applicable, to demonstrate compliance with the above requirements.<sup>1</sup>

- f) *Under threat*: Following a series of executive orders (EOs) by President Donald Trump in early 2025, nonprofit organizations engaging in diversity, equity, inclusion and environmental justice (EJ) work may now face significant legal and financial risks. Two major EOs—"Ending Illegal Discrimination and Restoring Merit-Based Opportunity" and "Ending Radical Wasteful Government DEI Programs and Preferencing"—aim to eliminate federal support for DEI and EJ programs. These directives not only target public-sector efforts, but also extend to private nonprofits, foundations, and associations, requiring them to certify compliance with federal anti-discrimination laws and potentially subjecting them to federal scrutiny. Additionally, another EO issued on March 7, 2025, ordered the U.S. Secretary of Education to propose regulations that exclude from the Public Service Loan Forgiveness (PSLF) program nonprofit organizations that the administration believes do not qualify for 501(c)(3) tax-exempt status due to having a "substantial illegal purpose." The EO defined activities with a "substantial illegal purpose" to include those that aid or abet violations of federal immigration laws, support terrorism, aid or abet illegal discrimination, or violate state tort laws (including those against trespassing, disorderly conduct, or public nuisance), among others.

On July 10, 2020, President Trump posted on Twitter: "Too many Universities and School Systems are about Radical Left Indoctrination, not Education. Therefore, I am telling the Treasury Department to re-examine their Tax-Exempt Status...." Since re-taking office in January of 2025, President Trump has repeated similar remarks and explicitly called for the revocation of Harvard University's tax-exempt status on multiple occasions, culminating in officials at the Treasury Department sending the request

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<sup>1</sup> *Publication 557 Tax-Exempt Status for Your Organization*, Internal Revenue Service (Rev. January 2025), <https://www.irs.gov/pub/irs-pdf/p557.pdf>.

targeting Harvard to the IRS's top lawyer at the time, Andrew De Mello.<sup>2</sup> Last year, President Trump suggested that Citizens for Responsibility and Ethics in Washington (CREW), a nonprofit watchdog group that has litigated against his executive actions and conducted investigations into what it alleges are conflicts of interest, should have its tax-exempt status scrutinized because, "The only charity they had is going after Donald Trump." In April 2025, Ed Martin, the former interim U.S. Attorney in Washington D.C., sent a letter to Wikimedia Foundation in April, alleging that it was "engaging in a series of activities that could violate its obligations" as a tax-exempt nonprofit.<sup>3</sup> After the killing of Charlie Kirk, President Trump and other top officials threatened to use tools such as stripping groups of tax-exempt status and opening criminal racketeering probes to target these groups.<sup>4</sup>

### According to the Author

Nonprofit organizations play a vital role in serving communities and advancing charitable, educational, and public-interest missions. Recent federal rhetoric and actions have raised serious concerns about the potential for abrupt challenges to nonprofit tax-exempt status when organizations are perceived by the federal administration to be acting outside their exempt purposes rather than genuine compliance issues.

AB 2084 authorizes the California Franchise Tax Board to preserve a nonprofit's state income-tax exempt status when a federal revocation occurs for reasons unrelated to legal eligibility for revocation. AB 2084 ensures that legitimate organizations are not immediately stripped of their status due to administrative issues or evolving federal interpretations. AB 2084 promotes fairness and stability for nonprofits while preserving the state's ability to enforce compliance with tax-exempt requirements.

### Arguments in Support

This bill is sponsored by the California Association of Nonprofits, which notes, in part:

Since it became available in 2008, the FTB Form 3500A has enabled many California nonprofits to pursue their state tax-exempt status based on their existing federal 501(c)(3) determination. This welcome efficiency creates what has become a precarious dependency: if the federal government revokes an organization's 501(c)(3) status, potentially as a targeting tactic against programmatic work deemed politically unfavorable, California is statutorily required to revoke that organization's state exemption as well. The FTB currently lacks the authority to delay this action, which can trigger immediate tax liabilities, loss of grant

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<sup>2</sup> Brian Schwartz and Douglas Belkin, *Trump Administration Asks IRS to Start Process to Revoke Harvard's Tax-Exempt Status*, The Wall Street Journal (April 16, 2025), <https://www.wsj.com/us-news/education/trump-administration-asks-irs-to-start-process-to-revoke-harvards-tax-exempt-status-2a1c93cf>.

<sup>3</sup> Oremus and Mark, *U.S. attorney for D.C. accuses Wikipedia of 'propaganda,' threatens nonprofit status*, Washington Post (April 25, 2025), <https://www.washingtonpost.com/technology/2025/04/25/wikipedia-nonprofit-ed-martin-letter/>.

<sup>4</sup> Foxman, Reilly, and Korte, *Trump Readies Tax Audits, Criminal Probes of Liberal Groups*, Bloomberg Tax (September 18, 2025), <https://news.bloombergtax.com/daily-tax-report/trump-readies-tax-audits-criminal-probes-of-liberal-groups>.

eligibility, and halt essential community services. FTB has indicated that 22% of California charities' tax-exempt status was granted through the Form 3500A process.

While CalNonprofits has and continues to urge these nonprofits to initiate the Form 3500 process with FTB to shore up their state tax-exempt status, this process can take up to eleven months. AB 2084 provides a pragmatic solution by amending Revenue and Taxation Code Section 23701b to allow the FTB to review and exercise discretion in these cases. It also gives nonprofits the time to seek independent state review.

### Arguments in Opposition

None on file.

## FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) General Fund (GF) revenue loss of an unknown amount by allowing certain entities to remain exempt from state taxation that would otherwise become subject to tax. FTB estimates that for every \$1 million of income that would be subject to state taxation absent this bill, the revenue increase would be approximately \$90,000. Thus, this bill would result in foregone revenue loss of \$90,000 for every \$1 million that would remain exempt from state taxation pursuant to this bill.

By reducing GF revenue, this bill also likely decreases Proposition 98 GF spending by approximately 40% of the revenue loss (the exact amount depends on the operative test of the annual Proposition 98 guarantee).

- 2) Costs of an unknown amount to the FTB to adopt regulations to modify the FTB's existing processes regarding the suspension or revocation of a tax-exempt organization's status and implement a new evaluation process.

The Legislative Analyst's Office recently warned of GF structural deficits of around \$35 billion per year in the 2027-28 fiscal year and ongoing.

## VOTES

### ASM REVENUE AND TAXATION: 5-2-0

**YES:** Gipson, Carrillo, McKinnor, Quirk-Silva, Michelle Rodriguez

**NO:** Sanchez, DeMaio

### ASM APPROPRIATIONS: 11-3-1

**YES:** Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

**NO:** Hoover, Dixon, Tangipa

**ABS, ABST OR NV:** Ta

## UPDATED

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