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AB-94 Corporation Tax Law: exemption: veteran's organizations. (2017-2018)

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Assembly Bill No. 94

CHAPTER 104

An act to amend Section 23701 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 24, 2017. Filed with Secretary of State July 24, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 94, Rodriguez. Corporation Tax Law: exemption: veteran's organizations.

The Corporation Tax Law exempts the income of various types of nonprofit organizations from taxes imposed by that law, except as provided. Under existing law, there is a method by which a nonprofit organization that has obtained a ruling, determination, or specified letter 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 is authorized to obtain exemption from state taxes, as provided.

This bill would additionally authorize an organization described in Section 501(c)(19), which is a veteran's organization, to use that method to obtain such an exemption.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

- (a) An application for exemption is submitted in the form prescribed by the Franchise Tax Board; and
- (b) A filing fee of twenty-five dollars (\$25) is paid with each application for exemption filed with the Franchise Tax Board after December 31, 1969; and
- (c) The Franchise Tax Board issues a determination exempting the organization from tax.
- (d) (1) Notwithstanding subdivisions (a), (b), and (c), an organization organized and operated for nonprofit purposes in accordance with Section 23701a, 23701d, 23701e, 23701f, 23701g, or 23701w shall be exempt from taxes imposed by this part, except as provided in this article or in Article 2 (commencing with Section 23731), upon its submission to the Franchise Tax Board of one of the following:

(A) A copy of the determination letter or ruling issued by the Internal Revenue Service recognizing the organization's exemption from federal income tax under Section 501(a) of the Internal Revenue Code, as an organization described in Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code.

(B) A copy of the group exemption letter issued by the Internal Revenue Service that states that both the central organization and all of its subordinates are tax-exempt under Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code and substantiation that the organization is included in the federal group exemption letter as a subordinate organization.

(2) (A) Upon receipt of the documents required in subparagraph (A) or (B) of paragraph (1), the Franchise Tax Board shall issue an acknowledgment that the organization is exempt from taxes imposed by this part, except as provided in this article or in Article 2 (commencing with Section 23731). The acknowledgment may refer to the organization's recognition by the Internal Revenue Service of exemption from federal income tax as an organization described in Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code and, if applicable, the organization's subordinate organization status under a federal group exemption letter. The effective date of an organization's exemption from state income tax pursuant to this subdivision shall be no later than the effective date of the organization's recognition of exemption from federal income tax as an organization described in Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code, or its status as a subordinate organization under a federal group exemption letter, as applicable.

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

(3) If, for federal income tax purposes, an organization's exemption from tax as an organization described in Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code is suspended or revoked, the organization shall notify the Franchise Tax Board of the suspension or revocation, in the form and manner prescribed by the Franchise Tax Board. Upon notification, the board shall suspend or revoke, whichever is applicable, for state income tax purposes, the organization's exemption under paragraph (1).

(4) This subdivision shall not be construed to prevent the Franchise Tax Board from revoking the exemption of an organization that is not organized or operated in accordance with California law, this chapter, or Section 501(c)(3), (c)(4), (c)(5), (c)(6), (c)(7), or (c)(19) of the Internal Revenue Code.

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

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

(f) The Franchise Tax Board may prescribe rules and regulations to implement the provisions of this article.