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AB-149 Personal income taxes: Habitat for Humanity Voluntary Tax Contribution Fund. (2017-2018)

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Assembly Bill No. 149

CHAPTER 398

An act to add and repeal Article 22 (commencing with Section 18900.40) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor October 02, 2017. Filed with Secretary of State October 02, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 149, Jones-Sawyer. Personal income taxes: Habitat for Humanity Voluntary Tax Contribution Fund.

Existing law authorizes an individual to contribute amounts in excess of his or her personal income tax liability for the support of specified funds. Under existing law, there are general administrative provisions applicable to these voluntary contributions, which, among other things, provide for the disbursement of contributions following repeal of the fund provisions and require undesignated funds to be transferred to the General Fund.

Existing law also provides that when establishing or extending these voluntary tax contribution funds the words "voluntary tax contribution" be included in the name of the fund, that the administering agency comply with specified Internet Web site reporting requirements, that the fund provisions remain in effect only until January 1 of the 7th calendar year following the first appearance of the voluntary tax contribution on the personal income tax return, that the required calendar year minimum contribution amount for the fund to continue appearing on the return is \$250,000, and that the contributions be continuously appropriated from the fund to the administering entity.

This bill would allow an individual to designate on his or her personal income tax return that a specified amount in excess of his or her tax liability be transferred to the Habitat for Humanity Voluntary Tax Contribution Fund, which would be created by this bill. The bill would require the fund to meet an annual minimum contribution amount of \$250,000, as specified. The bill would conform to those aforementioned requirements by requiring the Department of Housing and Community Development to comply with those Internet Web site reporting requirements and continuously appropriating those funds to the Franchise Tax Board, the Controller, and the Department of Housing and Community Development for disbursement to Habitat for Humanity of California, Inc., which represents and supports California Habitat for Humanity affiliates. The bill would require Habitat for Humanity of California, Inc., to submit, within a specified period of receiving a disbursement, a plan to the Department of Housing and Community Development for the use and distribution of moneys to Habitat for Humanity affiliates in California, as provided.

The bill would provide that these provisions would remain in effect only until January 1 of the 7th calendar year following the first appearance of the Habitat for Humanity Voluntary Tax Contribution Fund on the personal income tax return and would repeal the provisions as of December 1 of that year. The bill would provide for an earlier repeal if the Franchise Tax Board determines that the amount of contributions estimated to be received during the 2nd and later calendar years after its first appearance on a return will not at least equal the minimum contribution amount, in which case these provisions would be repealed on December 1 of that year.

By continuously appropriating these funds, this bill would make an appropriation.

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

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

SECTION 1. Article 22 (commencing with Section 18900.40) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 22. Habitat for Humanity Voluntary Tax Contribution Fund

18900.40. (a) An individual may designate on the personal income tax return that a contribution in excess of the tax liability, if any, be made to the Habitat for Humanity Voluntary Tax Contribution Fund established by Section 18900.41. That designation is to be used as a voluntary contribution on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for a taxable year on the original return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the individual's account, do not exceed the individual's tax liability, the return shall be treated as though no designation has been made.

(d) The Franchise Tax Board shall revise the form of the return to include a space labeled "Habitat for Humanity Voluntary Tax Contribution Fund" to allow for the designation permitted under subdivision (a). The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to build affordable housing in California.

(e) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

(f) Notwithstanding any other law, a voluntary contribution designation for the Habitat for Humanity Voluntary Tax Contribution Fund shall not be added on the tax return until another voluntary contribution designation is removed or space is available, whichever occurs first.

18900.41. There is hereby established in the State Treasury the Habitat for Humanity Voluntary Tax Contribution Fund to receive contributions made pursuant to Section 18900.40. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18900.40 to be transferred to the Habitat for Humanity Voluntary Tax Contribution Fund. The Controller shall transfer from the Personal Income Tax Fund to the Habitat for Humanity Voluntary Tax Contribution Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18900.40 for payment into that fund.

18900.42. (a) Notwithstanding Section 13340 of the Government Code, all money transferred to the Habitat for Humanity Voluntary Tax Contribution Fund shall be continuously appropriated and allocated as follows:

(1) To the Franchise Tax Board, the Controller, and the Department of Housing and Community Development for reimbursement of all costs incurred by the Franchise Tax Board, the Controller, and the Department of Housing and Community Development in connection with their duties under this article.

(2) (A) To the Department of Housing and Community Development for disbursement to Habitat for Humanity of California, Inc., a California nonprofit public benefit corporation representing and supporting California Habitat for Humanity affiliates as a state support organization.

(B) Habitat for Humanity of California, Inc., shall submit a plan to the Department of Housing and Community Development, within 60 calendar days of receiving a disbursement, for the use and competitive project specific distribution of moneys pursuant to this article to Habitat for Humanity affiliates in California that are in active status, as described on the Business Search page of the Secretary of State's Internet Web site, and that are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(b) Habitat for Humanity of California, Inc., shall not use more than 5 percent of the moneys received pursuant to this article for administrative expenses.

(c) A Habitat for Humanity affiliate shall not use the moneys received pursuant to this article for administrative expenses or for purposes outside of California.

(d) Habitat for Humanity of California, Inc., shall submit an annual audit of the program to the Department of Housing and Community Development within 60 calendar days of the completion of the audit.

(e) The Department of Housing and Community Development shall comply with the Internet Web site reporting requirements described in Section 18873.

18900.43. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the seventh calendar year following the first appearance of the Habitat for Humanity Voluntary Tax Contribution Fund on the personal income tax return, and is repealed as of December 1 of that year.

(b) (1) By September 1 of the second calendar year and each subsequent calendar year that the Habitat for Humanity Voluntary Tax Contribution Fund appears on the tax return, the Franchise Tax Board shall determine whether the amount of contributions estimated to be received during the calendar year will equal or exceed the minimum contribution amount determined by the Franchise Tax Board for the calendar year as described in paragraph (3). The Franchise Tax Board shall estimate the amount of contributions to be received by using the actual amounts received and an estimate of the contributions that will be received by the end of that calendar year.

(2) If the Franchise Tax Board determines that the amount of the contributions estimated to be received during a calendar year will not at least equal the minimum contribution amount for the calendar year, this article shall be inoperative with respect to taxable years beginning on or after January 1 of that calendar year and shall be repealed on December 1 of that year.

(3) For purposes of this section, the minimum contribution amount for a calendar year means two hundred fifty thousand dollars (\$250,000) for the second calendar year after the first appearance of the Habitat for Humanity Voluntary Tax Contribution Fund on the personal income tax return and the following calendar years.