

Date of Hearing: May 18, 2009

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION  
Charles M. Calderon, Chair

AB 233 (Smyth) - As Amended: May 4, 2009

SUSPENSE

Majority vote. Tax levy. Fiscal committee.

SUBJECT : Personal income tax: deductions: pet adoption costs

SUMMARY : Allows a deduction under the Personal Income Tax Law for qualified costs paid or incurred by a taxpayer for the adoption of a pet from a qualified animal rescue organization. Specifically, this bill :

1)Allows a deduction, for each taxable year beginning on or after January 1, 2010, and before January 1, 2015, for "qualified costs" paid or incurred during the taxable year by a taxpayer for the adoption of a "pet" from a "qualified animal rescue organization".

2)Defines the term "pet" as "an animal adopted from a qualified animal rescue organization that is not used by the taxpayer in a trade or business or for the production of income".

3)Defines the term "qualified animal rescue organization" as "a public animal control agency or shelter, humane society shelter, or rescue group". The term "rescue group", in turn, is defined as a "not-for-profit entity, as defined in Section 501(c)(3) of the Internal Revenue Code, whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society, or that have been surrendered or relinquished to the entity by the previous owner".

4)Defines "qualified costs" as "amounts paid or incurred to a qualified animal rescue organization to adopt a pet, not to exceed one hundred dollars (\$100)".

5)Provides that the deduction allowed for a taxable year shall not exceed \$100.

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6)Provides that the deduction may not be treated as a

miscellaneous itemized deduction under Internal Revenue Code (IRC) Section 67(a).

7) Takes immediate effect as a tax levy.

EXISTING LAW :

1) Allows individuals to deduct either a fixed amount, indexed for inflation, known as the standard deduction, or the amount of a taxpayer's itemized deductions, whichever is greater. Certain expenses, such as medical expenses, charitable contributions, interest, and taxes, are deductible as itemized deductions. The law also provides for "miscellaneous itemized deductions", which are those itemized deductions not specifically listed in IRC Section 67(b). As a general rule, miscellaneous itemized deductions are allowed only to the extent that the aggregate of such deductions exceeds 2% of adjusted gross income (AGI).

2) Provides no tax benefit in connection with the adoption of a pet from an animal shelter or nonprofit animal welfare organization.

FISCAL EFFECT : The Franchise Tax Board (FTB) estimates that this bill would reduce General Fund (GF) revenues by \$200,000 in fiscal year (FY) 2009-10, \$1 million in FY 2010-11, and \$1.2 million in FY 2011-12.

COMMENTS :

1) The author states, "California is one of the friendliest states in the nation in how we treat animals, thanks in large part to legislation like SB 1785 passed in 1998 that set out critical protections for animals in shelters. Unfortunately, sheltering pets continues to be a huge financial burden to local governments, costing them an estimated quarter of a billion dollars every year. With home foreclosures increasing, many families are abandoning their pets, putting even more pressure on overpopulated shelters." The author goes on to state, "AB 233 encourages individuals to adopt pets from these shelters in an effort to ease these enormous costs to local governments with the added benefit of decreasing the overpopulation shelters are contending with on a daily basis."

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2) The sponsor states, "While the tax deduction provision that AB 233 would create cannot address all that ails our state's homeless pets and the agencies vested with looking out for their interests, it is a relatively inexpensive and efficient way to send a strong message to California taxpayers: that never before has their compassion been more critical to improving the chances for animals who have done nothing wrong other than prove too expensive for their downtrodden owners. AB 233 asks Californians to help out, and by promoting the

benefits - to the animals and to the government and charitable sectors - of adopting rather than purchasing dogs and cats, the deduction would increase the ability of municipal and charitable animal protection organizations to continue their life-saving work." The sponsor goes on to state, "Rather than distributing additional government funds to all animal shelters, a tax deduction puts the power in the taxpayer's hands - and to the extent they [choose] to adopt, they will be rewarded (however modestly) by the state for doing so."

3)Proponents state, "Every year, local governments in California spend \$250 million sheltering animals. Meanwhile, each year nearly 800,000 animals are abandoned in the state leaving local governments responsible for their care and unfortunately euthanasia as well. A tax deduction will likely encourage individuals and families looking for a pet to visit their local shelters, thereby helping to relieve the pressure on these facilities."

4)Opponents state, "As a matter of tax policy, we do not believe it makes sense to give a tax deduction for pet adoption. This could potentially open up a tax loophole that could end up harming many more animals than it helps. [This] bill would create an incentive to adopt pets but not necessarily ensure that the pets are properly cared for. Taxpayers could potentially adopt pets to reduce their tax bill and then either set the pet free or take it to another animal shelter. Enforcement would be a real issue and not worth taxpayer expense. In addition, given the state's budget deficit, the state cannot afford to grant this tax break."

5)FTB notes that:

a) A review of Illinois, Massachusetts, Michigan,

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Minnesota, and New York laws found no comparable tax deduction for pet adoption costs.

b) This bill would allow a taxpayer to deduct pet adoption costs as a miscellaneous itemized deduction not subject to the 2% of AGI limitation on such deductions.

6)Committee Staff Comments:

a) A clear need : As the author notes, "With home foreclosures increasing, many families are abandoning their pets, putting even more pressure on overpopulated shelters." It should be noted, however, that this Committee just voted out a bill [AB 47 (Ma)] that expands the existing adoption tax credit to encourage the adoption of children from foster care. AB 47 reduced GF revenues by \$45,000 each year. While the goal of encouraging pet adoptions is laudable, the author may wish to consider amendments to reduce the cost associated with this tax expenditure.

b) Definitional language :

i) As noted above, this bill defines the term "qualified animal rescue organization" as "a public animal control agency or shelter, humane society shelter, or rescue group". It is somewhat unclear, however, what is meant by the term "humane society shelter". Committee staff is informed that this term refers generally to non-profit organizations dedicated to sheltering and placing animals. If this is correct, the use of the term would seem somewhat redundant, given the inclusion of the term "rescue group" which is defined as a "not-for-profit entity, as defined in Section 501(c)(3) of the Internal Revenue Code, whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society . . . ."

ii) This raises a second, technical question. In referring to a "society for the prevention of cruelty to animals shelter", is the author referring specifically to a shelter run by or affiliated with the American Society for the Prevention of Cruelty to Animals, or is this also

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intended to be a more generic term?

c) Prior Legislative Efforts :

i) AB 373 (Leach), introduced in the 2001-02 Legislative Session, would have allowed a taxpayer to deduct veterinary service expenses for an animal adopted from an animal shelter or a nonprofit animal welfare organization. AB 373 failed passage from the Senate Revenue and Taxation Committee.

ii) SB 430 (Vincent) of the 2001-02 Legislative Session would have provided a credit for spaying or neutering a cat or dog purchased or adopted by the taxpayer. SB 430 died in committee.

REGISTERED SUPPORT / OPPOSITION :

Support

Humane Society of the United States (sponsor)  
American Society for the Prevention of Cruelty to Animals  
Born Free USA  
California Animal Association  
California Animal Control Directors Association  
City of West Hollywood  
County Health Executives Association of California  
Friends of Auburn/Tahoe Vista - Placer County Animal Shelter

Happy Tails Pet Sanctuary  
Humane Society Veterinary Medical Association  
Paw Pac  
People for the Ethical Treatment of Animals  
Pet Industry Joint Advisory Council  
San Diego Animal Advocates  
State Humane Association of California  
The Paw Project  
United Animal Nations  
WOOFF (Welfare of Our Furry Friends)  
2 individuals

Opposition

California School Employees Association, AFL-CIO

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California Tax Reform Association

Analysis Prepared by : M. David Ruff / REV. & TAX. / (916)  
319-2098