California Wealth Tax Proposal

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What is the 2026 Billionaire Tax Act?

In October 2025, a union of healthcare workers in California introduced a ballot initiative that would impose a one-time excise tax on certain individuals and trusts with a net worth of at least $1 billion. The stated purpose of the initiative is to raise funds for healthcare and education in California.

In order to appear in the November 2026 general election, the backers of the 2026 Billionaire Tax Act must obtain 875,000 valid voter signatures by late June. If the initiative is added to the November ballot, it will need a majority of the popular vote to become law.

The initiative has garnered significant attention from the business community and the mainstream press, with headlines claiming that billionaires are leaving California because of the potential wealth tax. The governor of California has publicly stated his opposition to the initiative, citing concerns about

wealthy individuals leaving the state, as well as the bill's use of funds. It is important to note that the initiative is currently a proposal only; even if some form of it becomes law, it may differ substantially from the current version of the initiative.

What individuals are subject to the proposed tax?

The initiative applies to any individual (applicable individual) who (1) is a California resident on January 1, 2026 (tax obligation date), and (2) whose net worth equals or exceeds $1 billion on December 31, 2026 (valuation date).[1] An individual who moves to California after January 1, 2026, or who is a California resident on January 1, 2026, and whose net worth equals or exceeds $1 billion only after the valuation date does not appear to be subject to the tax proposed by the initiative. However, the tax applies to an individual who is a California resident on the tax obligation date and who moves out of the state during the year if their net worth is $1 billion or more on the valuation date. There is no proration for amount of time spent in California, although apportionment based on where the wealth was acquired may be possible, as discussed below.

An individual's residence is determined the same way it is determined for California income tax purposes: based on their particular facts and circumstances.[2] Some of the primary facts and circumstances that the Franchise Tax Board (FTB) considers are time spent in California, where the individual's principal residence is located, family ties, where they have a driver's license, where they are registered to vote, and where they maintain social relationships and club memberships, among other things.

The determination of an applicable individual's net worth includes the value of any assets owned by a trust that is a grantor trust with respect to that individual.[3] In addition, an applicable individual's net worth for purposes of determining whether such individual's net worth equals or exceeds $1 billion on the tax obligation date includes the value of assets they transfer to an irrevocable nongrantor trust (other than a tax-exempt trust) in 2026, and 75% of the value of assets that they transferred to an irrevocable non-grantor trust in 2025.[4] The initiative does not clearly address whether net worth includes the value of assets transferred to an irrevocable nongrantor trust before 2025, but it may exclude the value of such assets.

An applicable individual's net worth also includes the value of assets in an irrevocable trust to the extent that the assets are (1) distributable to that applicable individual as a beneficiary, and (2) the trust is not an applicable trust subject to the tax based on its grantor's net worth as described directly below.[5] The initiative does not address how to determine whether an irrevocable trust is distributable to a beneficiary. For example, if distributions are completely discretionary, would that trust be distributable to a beneficiary for purposes of the initiative? Nor does the initiative clarify how much of the trust is distributable to a beneficiary when there are multiple beneficiaries of a single trust.

What trusts are subject to the proposed tax?

All grantor trusts are deemed owned by the grantor who is an applicable individual and subject to tax under the initiative. The tax also applies to an irrevocable nongrantor trust (other than a tax-exempt trust) if a living applicable individual with a net worth of $1 billion or more (calculated including the value of assets held in certain trusts described above) transferred property to the trust at any time (applicable trust).[6] This is the case even if the applicable trust is not a California resident. Moreover, the tax appears to apply to an applicable trust even if the trust itself does not have a net worth of at least $1 billion. If multiple grantors transferred property to the trust, a proportionate share of the trust may be subject to the tax. A grantor of an applicable trust may elect to treat the trust as part of their net worth so that trust is not separately subject to and diminished by the tax but should consider any federal gift tax consequences of doing so.[7]

[1] Section 50301(a). In this alert, any reference to a section is a section of the 2026 Billionaire Tax Act (Initiative No. 25-0024), unless the reference specifically refers to another law or source.

[2] Section 50308(a) and Cal. Rev. & Tax Code Section 17014.

[3] Section 50303(c)(6)(A). A grantor trust for purposes of the proposed tax includes a trust that is owned by the grantor for federal income tax purposes and a trust whose assets would be included in the grantor's taxable estate for estate tax purposes, even if the trust is a nongrantor trust for federal income tax purposes, such as an incomplete nongrantor trust. Section 50308(e).

[4] Section 50303(c)(6)(B).

[5] Section 50303(c)(6)(C).

[6] Sections 50301(a) and 50308(b).

[7] Section 50308(b).

What assets are included in net worth?

Net worth generally includes the total value of an applicable individual's or applicable trust's assets and property interests worldwide, and married couples are treated as a single individual for purposes of the proposed tax.[8] However, the following property is generally excluded:

- Interests in real property owned directly or through a revocable trust.[9]
- Tangible property located outside California for at least 270 days in 2026 unless relocated temporarily to avoid the tax.[10]
- Most nonqualified deferred compensation unless the individual has a legally binding right to payment, and qualified pension plans and individual retirement accounts (IRAs) other than amounts held in Roth IRAs or Roth-type retirement accounts in which the individual's interest exceeds $10 million in the aggregate.[11]
- Up to $5 million in combined value of assets such as art and collectibles, non-publicly traded financial instruments, intellectual property rights, debts owed to the individual, vehicles, and other personal property.[12]

Debts and liabilities generally reduce net worth. However, only fully recourse debt reduces net worth dollar-for-dollar.[13] Nonrecourse debt only reduces net worth to the extent of the value of its collateral, and net worth is not reduced by a liability to a related party or by a guaranty of another's liability.[14] Moreover, contingent debts and non-arm's length debts are generally ignored.[15] Further, a pledge to charity reduces net worth only if it is legally enforceable by the organization to which it is made, and it was entered into before October 15, 2025.[16]

What is the proposed tax rate?

The tax is generally equal to 5% of an applicable individual's entire net worth if their net worth is $1 billion or more, although a sliding scale applies for individuals with net worths between $1 billion and $1.1 billion. Specifically, the tax rate is reduced by 0.1% for each $2 million by which the applicable individual's net worth falls below $1.1 billion. For applicable trusts, the 5% tax appears to apply as a flat tax on the trust's net worth.[17]

How are a taxpayer's assets valued?

The initiative's starting point for valuing a taxpayer's assets is the price at which they would change hands between a willing buyer and willing seller.[18] However, the initiative introduces certain asset valuation methodologies that are not necessarily consistent with an arms' length standard.

For example, no valuation discounts are permitted to reduce the value of an interest in an asset if the effect of the discount would be to reduce the value of a partial interest in an asset below the taxpayer's pro rata portion of the value of the entire asset. In addition, any feature of an asset, such as a shareholder's rights plan, whose significant purpose and effect is to reduce the appraised value of the asset, is ignored.[19]

The proposed tax distinguishes between publicly traded assets and other assets in determining value. Publicly traded assets are valued based on their market trading value as of the valuation date.[20] In contrast, privately held business entities are deemed to have a value based on the following calculation:

- The book value of the entity plus a present value multiplier of 7.5 times the annual book profits of the business, annualized over three years, multiplied by
- The percentage interest owned by the taxpayer.

If a taxpayer owns both a voting interest and a nonvoting interest in a business entity, the initiative presumes that their percentage interest for this purpose is not less than their voting interest. For example, if a taxpayer owns 90% of the voting stock in a corporation and 10% of the nonvoting stock, the percentage interest used to determine the value of the taxpayer's interest in the entity under the initiative appears to be not less than 90% rather than the taxpayer's economic interest in the entity.

[8] Sections 50301(a) and 50308(f).
[9] Section 50303(c)(4).
[10] Section 50303(c)(5).
[11] Section 50303(c)(7).
[12] Section 50303(c)(9).
[13] Section 50302(a).
[14] Sections 50302(b), (d), and (e).
[15] Section 50302(e).
[16] Section 50302(f).
[17] Section 50301(b).
[18] Section 50303(a).
[19] Section 50303(b).
[20] Section 50303(c)(1).

If a taxpayer lacks information on the book value or book profits of the business entity and lacks the right to obtain that information, the taxpayer must submit a certified appraisal of the taxpayer's interest in the business entity. Further, if the taxpayer or the FTB can demonstrate with clear and convincing evidence that the value of an interest in a business entity as determined by the above methodology would substantially overstate or understate the actual value of the business entity owned by the taxpayer or the percentage owned by the taxpayer, the taxpayer or the FTB may instead submit a certified appraisal of the interest in the business entity owned by the taxpayer.[21] The proposed tax provides that the FTB would have the authority to enact regulations to detail the requirements for a certified appraisal. In addition, the FTB would have the discretion to impose penalties on appraisers if a certified appraisal results in a substantial or gross understatement of tax imposed by the initiative.[22]

The proposed tax includes several rules aimed at curbing undervaluation of assets. For example, an asset's value may not be less than the amount for which it is insured. In addition, in the case of a business entity, the value of the entity cannot be less than the value reflected in a funding round or other sale of equity for the entity occurring within two years of the valuation date, unless the taxpayer can show by clear and convincing evidence that such value would significantly overstate the value of the entity.[23] It is unclear how this rule would apply in the case of a business entity with multiple classes of stock with different economic entitlements.

What are the reporting obligations?

Under the proposed tax, every California resident individual with an obligation to file a California tax return is required to either: (1) declare that their net assets were worth less than or equal to $1 billion as of December 31, 2026, or (2) submit a declaration with the amount of additional tax owed as a result of the proposed tax, along with any forms created by the FTB for calculating such tax, and any required appraisals or other evidence of fair market value.[24]

How is the proposed tax apportioned?

The proposed tax provides two methods for apportioning the tax between multiple jurisdictions. The standard method requires taxpayers to pay 100% of the tax regardless of residency history. However, the initiative allows a taxpayer to ask the FTB for (or for the FTB to require) an alternative apportionment method if the standard method "does not fairly represent the extent to which the taxpayer's excessive wealth was accumulated in, or substantially sustained by, California."[25] A taxpayer may qualify for the alternative apportionment method by establishing that the United States Constitution or California Constitution or federal law prohibits the application of the standard method of apportionment. Except when required by the United States or California Constitutions or by federal law, the alternative method may not reduce the California apportionment percentage below 25%.[26]

When is the proposed tax due?

The tax is due together with California income taxes owed for the 2026 tax year, or, at the taxpayer's election, in five equal annual installments beginning in 2026, plus a 7.5% nondeductible interest charge.[27]

In addition, taxpayers who can demonstrate that the tax exceeds the value of their publicly traded assets can defer the portion of the tax in excess of the value of their liquid assets via an optional deferral account (ODA). When determining the extent of the deferral available, the proposed tax does not take into account any income tax that may be owed as a result of taxpayers liquidating their publicly traded assets.

Under the ODA program, the taxpayer enters into a legally binding contract with the state to attach certain assets to the ODA, and agrees to file annual tax returns with the state, reconcile and pay all tax liabilities owed under the ODA, and be subject to personal jurisdiction in the state for purposes of the collection of the tax. Unlike the five-year payment option described above, the ODA program does not appear to include an interest charge; rather, the ODA simply remains in effect until the attached assets are liquidated and the tax due is

[21] Section 50303(c)(3).
[22] Section 50305.
[23] Section 50303(c)(10).
[24] Section 50301(d). While section 50301(a) imposes the tax on applicable individuals with a net worth that equals or exceeds $1 billion, section 50301(d) appears to permit an individual to avoid paying the tax if they declare that their net worth is less than or equal to $1 billion.
[25] Section 50306(b)(2).
[26] Section 50306.
[27] Section 50301(c).

reconciled. During the period that an ODA is open, the taxpayer is subject to reporting with respect to the assets attached to the ODA, as well as potential withholding on material distribution transactions that could reduce the value of the assets attached to the ODA. The ODA contract is binding on a taxpayer's estate and assigns.[28]

Potential constitutional challenges

Commentators and academics have identified several potential constitutional challenges to the initiative. As noted above, the proposed tax is drafted to apply to individuals who were California residents as of January 1, 2026, even though the proposed tax cannot be enacted until after the election in November. This retroactivity could be in violation of the Due Process Clause of the United States and California Constitutions. In addition, the Dormant Commerce Clause doctrine under the United States Constitution is construed to require that new state taxes apply to activities with substantial nexus to the taxing state and be fairly apportioned to the state. The proposed tax could exceed these standards since the tax base includes a taxpayer's worldwide assets and is fully apportioned to California under the standard method; the alternative apportionment method provided for in the initiative may have been intended to deflect the Dormant Commerce Clause argument.

The tax could also be vulnerable to challenge under the Equal Protection Clause of the United States and California Constitutions, since it treats those who have a net worth of over $1 billion differently than those who do not. Further, the California Constitution prohibits a property tax that exceeds 0.04% of the property's value on any interest in certain properties like notes, bonds, stock, and mortgages. While the proposed statute describes the tax as an excise tax, a court could identify it as a property tax in excess of 0.04% on taxable assets. Other potential arguments against the initiative could come under the Bill of Attainder in the United States Constitution, the right to interstate travel in the United States Constitution, and the Uniformity and Takings Clause of the United States and California Constitutions. The proposed statute includes an amendment to the California Constitution which may preempt the state constitutional arguments.

[28] Section 50304.

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