

6-16-2009

# TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE BENEFITS UPON THE DEATH OF FORMER EMPLOYEES. INITIATIVE STATUTE

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## Recommended Citation

TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE BENEFITS UPON THE DEATH OF FORMER EMPLOYEES. INITIATIVE STATUTE California Initiative 1363 (2009).  
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**DEBRA BOWEN** | SECRETARY OF STATE  
STATE OF CALIFORNIA | ELECTIONS

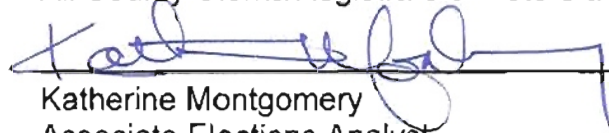
1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

December 1, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09196

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: Failure of #1363, Related to Taxation

Pursuant to Elections Code section 9030(b), you are hereby notified that the total number of signatures for the hereinafter named statute filed with all county elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has **failed**.

TITLE: TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE  
BENEFITS UPON THE DEATH OF FORMER  
EMPLOYEES. INITIATIVE STATUTE.

SUMMARY DATE: June 16, 2009

PROPONENT: Gregory Smith



**DEBRA BOWEN | SECRETARY OF STATE**  
**STATE OF CALIFORNIA | ELECTIONS**

1500 11th Street, 5th Floor | Sacramento, CA 95814 | Tel (916) 657-2166 | Fax (916) 653-3214 | www.sos.ca.gov

June 16, 2009

County Clerk/Registrar of Voters (CC/ROV) Memorandum #09096

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Associate Elections Analyst

RE: Initiative: 1363, Related to Taxation

Pursuant to Elections Code section 336, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE  
BENEFITS UPON THE DEATH OF FORMER EMPLOYEES.  
INITIATIVE STATUTE.**

The proponent of the above-named measure is:

Gregory Smith

lifeinsuranceparityact@gmail.com

#1363

**TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE  
BENEFITS UPON THE DEATH OF FORMER EMPLOYEES.  
INITIATIVE STATUTE.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: .....433,971  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Tuesday, 06/16/09
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elec. Code § 336) ..... Tuesday, 06/16/09
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elec. Codes §§ 336, 9030(a)) ..... Friday, 11/13/09
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elec. Code § 9030(b)) ..... Wednesday, 11/25/09  
  
(If the Proponent files the petition with the county on a date prior to  
11/13/09, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elec. Code § 9030(b)).
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties ..... Friday, 12/04/09\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elec. Code § 9030(d)(e)) ..... Wednesday, 01/20/10

\* Date varies based on the date of county receipt.

**INITIATIVE #1363**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 12/04/09, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elec. Code § 9030(d)(e)).

- f. If the signature count is more than 477,369 or less than 412,273 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 412,273 and 477,369 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a))..... Saturday, 01/30/10\*
  
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elec. Code § 9031(b)(c)). ..... Tuesday, 03/16/10

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 01/30/10, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elec. Code § 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elec. Code §§ 9031(d), 9033)..... Saturday, 03/20/10\*

\*Date varies based on the date of county receipt.

## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code section 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



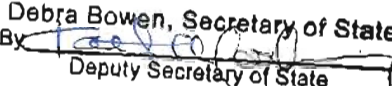
1300 I STREET, SUITE 125  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555  
Telephone: (916) 445-4752  
Facsimile: (916) 324-8835  
E-Mail: Krystal.Paris@doj.ca.gov

June 16, 2009

**FILED**  
In the office of the Secretary of State  
of the State of California

JUN 16 2009

Debra Bowen, Secretary of State  
By   
Deputy Secretary of State

Honorable Debra Bowen  
Secretary of State of the State of California  
State of California Elections  
1500 11th Street, 5th Floor  
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery  
Associate Elections Analyst

**Re: Initiative 09-0009, "Life Insurance Investment Parity Act."**

Official Circulating Title: Tax on Employers Who Collect Life-Insurance Benefits Upon the Death of Former Employees. Initiative Statute.

Dear Secretary Bowen:

Pursuant to Elections Code sections 9004 and 336, you are hereby notified that on this day we mailed our title and summary for Initiative 09-0009, "The Life Insurance Investment Parity Act" to the respective proponent

Enclosed is a copy of that title and summary, and text of the proposed measure.

Sincerely,

Handwritten signature of Krystal M. Paris in blue ink.

KRYSTAL M. PARIS  
Initiative Coordinator

For EDMUND G. BROWN JR.  
Attorney General

KMP:  
Encl.

Date: June 16, 2009  
Initiative No.: 09-0009

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**TAX ON EMPLOYERS WHO COLLECT LIFE-INSURANCE BENEFITS UPON THE**

**DEATH OF FORMER EMPLOYEES. INITIATIVE STATUTE.** Establishes that life

insurance proceeds received by an employer upon the death of a former or retired employee will

be considered taxable gross income when the employer lacks an "insurable interest" in the

employee. Exempts employers who are charitable organizations. Summary of estimate by

Legislative Analyst and Director of Finance of fiscal impact on state and local government:

State revenue increases of up to several millions of dollars from higher business income taxes in

some years. (09-0009.)



April 21, 2009

09-0009  
RECEIVED

APR 24 2009

The Honorable Edmund Brown  
Attorney General, State of California  
Office of the Attorney General  
ATTN: Krystal Paris, Initiative Coordinator  
1300 I Street  
Sacramento, California 95814

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Dear General Brown:

Pursuant to Elections Code §9002, I hereby request that your office prepare a title and summary of the chief purpose and points of the attached proposed initiative measure. I am registered to vote in the State of California. Included is a check for \$200 as required by §9002. Attached is a signed statement certifying that I will not willfully allow initiative signatures to be used for purposes other than qualification of the measure as required by §9608. Also attached is the address at which I am registered to vote.

Please direct any questions regarding this submission to the following email address:  
[lifeinsuranceparityact@gmail.com](mailto:lifeinsuranceparityact@gmail.com).

Thank you.

Gregory Smith

### Section 1. Title.

This measure shall be known as the Life Insurance Investment Parity Act.

### Section 2. Findings and Declarations.

The People of the State of California find and declare that:

1. California law requires that a life insurance policy be issued only to a person or entity with an insurable interest in the continued life and health of the individual whose life will be the subject of a life insurance policy.
2. California law permits an employer to obtain and maintain life insurance policies on certain employees and retired employees, provided the employer has an insurable interest in the life or physical or mental ability of employees whose death or physical or mental disability might cause financial loss to the employer.
3. California law permits employers to obtain and maintain "corporate-owned life insurance" on certain employees and former employees.
4. An employer's insurable interest in an employee is extinguished when that employee separates from that employer through involuntary or voluntary termination, as the death or physical or mental disability of a former or retired employee would not cause financial loss to the employer.
5. Current California law exempts from state income taxation the proceeds of a life insurance policy paid to an employer on the death of a former or retired employee.
6. There are circumstances where proceeds of a life insurance policy are paid to a recipient that does not have an insurable interest in the life of the individual whose life is the subject of such policy at the time of such individual's death.
7. The public interest of California would be better served by requiring that proceeds of a life insurance policy be included in the recipient's gross income if, at the time of death of the insured, the recipient does not have an insurable interest in the insured, or if the recipient is an employer and the insured is a former or retired employee of such employer.

### Section 3. Section 24305 of the Revenue and Taxation Code is amended to read:

24305. (a) Except as provided in subdivision (b), amounts received under life insurance policies and contracts paid by reason of the death of the insured but if such amounts are held by the insurer under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(b) Proceeds of flexible premium contracts payable by reason of death shall be excluded from gross income only in accordance with the provisions of Section 101(f) of the Internal Revenue Code.

(c) Notwithstanding any other provision of law, proceeds of a life insurance policy shall be included in the gross income of a recipient of such proceeds if, at the time of the death of the insured under such policy, all of the following apply:

(1) The recipient did not have an insurable interest in the insured, pursuant to Sections 101101 and 10110.1(a) and 101101(b) of the Insurance Code;

(2) The recipient was an employer and the insured was a retired employee of the recipient of the proceeds, pursuant to Section 1011.01(c) of the Insurance Code;

or

(3) The recipient was an employer and the insured was a former employee of the recipient of the proceeds, pursuant to Section 1011.01.4.

(d) Subsection (c) shall not apply to any recipient that is a charitable organization that meets the requirements of Section 214 or 23701d of the Revenue and Taxation Code.