

AMENDED IN ASSEMBLY APRIL 17, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2582

Introduced by Assembly Member Nestande

February 24, 2012

An act to add Sections 17053.83, 23683, and 23684 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2582, as amended, Nestande. Income taxes: credit: contributions: educational organizations.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, *for taxable years beginning on or after January 1, 2015*, would allow a credit against the taxes imposed under the Personal Income Tax Law and the Corporation Tax Law for monetary contributions to a public school for support of cocurricular activities or to an educational improvement organization that supports innovative programs in public schools, as specified, and would allow a credit against the taxes imposed under the Corporation Tax Law for contributions to an education scholarship-granting organization, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.83 is added to the Revenue and
2 Taxation Code, to read:

3 17053.83. (a) (1) ~~There~~*For taxable years beginning on or*
4 *after January 1, 2015, there* shall be allowed as a credit against
5 the “net tax,” as defined in Section 17039, an amount equal to the
6 monetary amount contributed during the taxable year by a taxpayer
7 to a public school for support of cocurricular activities or to an
8 educational improvement organization that supports innovative
9 programs in public schools.

10 (2) The maximum amount of credit allowed under this section
11 per taxable year is as follows:

12 (A) Five hundred dollars (\$500) for a person making a separate
13 return.

14 (B) One thousand dollars (\$1,000) for persons making a joint
15 return.

16 (b) For purposes of this section, the following definitions shall
17 apply:

18 (1) “Cocurricular activities” means activities for students that
19 are optional, noncredit educational activities that supplement
20 education, including, but not limited to, career and technical
21 education, gifted programs, athletics, visual and performing arts,
22 classroom enrichment, educational field trips, outdoor education,
23 and tutoring. For purposes of this section, “support of cocurricular
24 activities” does not include administrative or overhead costs.

25 (2) “Educational improvement organization” or “EIO” means
26 an organization that meets all of the following:

27 (A) Is an organization that is exempt from federal income tax
28 as an organization described in Section 501(c)(3) of the Internal
29 Revenue Code.

30 (B) Is an organization that contributes at least 80 percent of the
31 contributions that it receives during a taxable year as grants to a
32 public school for innovative programs. Grants may include cash
33 payments to public schools to carry on innovative programs and
34 may include costs incurred by the EIO in providing innovative
35 programs to, or in conjunction with, public schools.

36 (3) “Innovative program” means a program that meets all of the
37 following:

1 (A) Is an advanced academic or similar program that is not part
2 of the regular program of a public school, but enhances the
3 curriculum of the public school.

4 (B) Is targeted towards supporting innovative programs in
5 science, technology, engineering, and math (STEM) literacy, and
6 the arts for public schools.

7 (C) Provides creative focus, delivery, including Internet-based
8 and distance learning technologies, methodology, or skill training
9 that is different than the academic program of the school.

10 (4) "Public school" means a public school, including a charter
11 school, that provides instruction in kindergarten and grades 1
12 through 12, inclusive. For purposes of this section, the amount
13 contributed for cocurricular activities must be made directly to the
14 public school or public schools of the taxpayer's choice.

15 (c) In the case where the credit allowed by this section exceeds
16 the "net tax," the excess may be carried over to reduce the "net
17 tax" in the following year, and the succeeding four years if
18 necessary, until the credit is exhausted.

19 (d) The total amount of credit allowed under this section and
20 Section 23683 shall not exceed five hundred million dollars
21 (\$500,000,000). However, this amount may increase by ~~25~~ 3
22 percent in any taxable year after 90 percent of the total amount of
23 credit allowed under this subdivision, as adjusted, has been
24 allowed.

25 (e) The credit under this section shall be in addition to any
26 deduction under this part to which the taxpayer may be entitled.

27 (f) The Franchise Tax Board shall promulgate rules and
28 regulations as necessary or appropriate to implement this section.

29 SEC. 2. Section 23683 is added to the Revenue and Taxation
30 Code, to read:

31 23683. (a) (1) ~~There~~ *For taxable years beginning on or after*
32 *January 1, 2015, there* shall be allowed as a credit against the
33 "tax," as defined in Section 23036, an amount equal to the
34 monetary amount contributed during the taxable year by a taxpayer
35 to a public school for support of cocurricular activities or to an
36 educational improvement organization that supports innovative
37 programs in public schools.

38 (2) The maximum amount of credit allowed under this section
39 per taxable year is as follows:

1 (A) Fifty percent of the total tax liability of a taxpayer for the
2 taxable year under this part, before allowance of any credit under
3 this section, not to exceed three hundred thousand dollars
4 (\$300,000).

5 (B) Notwithstanding subparagraph (A), for contributions made
6 after the effective date of this section, up to 75 percent of the total
7 tax liability of a taxpayer for the taxable year under this part, before
8 allowance of any credit under this section, if the amount
9 contributed in the preceding taxable year and current taxable year
10 are at least an amount that is 80 percent of the amount contributed
11 in the taxable year two years prior to the current taxable year, not
12 to exceed three hundred thousand dollars (\$300,000).

13 (b) For purposes of this section, the following definitions shall
14 apply:

15 (1) “Cocurricular activities” means activities for students that
16 are optional, noncredit educational activities that supplement
17 education, including, but not limited to, career and technical
18 education, gifted programs, athletics, visual and performing arts,
19 classroom enrichment, educational field trips, outdoor education,
20 and tutoring. For purposes of this section, “support of cocurricular
21 activities” does not include administrative or overhead costs.

22 (2) “Educational improvement organization” or “EIO” means
23 an organization that meets all of the following:

24 (A) Is an organization that is exempt from federal income tax
25 as an organization described in Section 501(c)(3) of the Internal
26 Revenue Code.

27 (B) Is an organization that contributes at least 80 percent of the
28 contributions that it receives during a taxable year as grants to a
29 public school for innovative programs. Grants may include cash
30 payments to public schools to carry on innovative programs and
31 may include costs incurred by the EIO in providing innovative
32 programs to, or in conjunction with, public schools.

33 (3) “Innovative program” means a program that meets all of the
34 following:

35 (A) Is an advanced academic or similar program that is not part
36 of the regular program of a public school, but enhances the
37 curriculum of the public school.

38 (B) Is targeted towards supporting innovative programs in
39 science, technology, engineering, and math (STEM) literacy, and
40 the arts for public schools.

1 (C) Provides creative focus, delivery, including Internet-based
2 and distance learning technologies, methodology, or skill training
3 that is different than the academic program of the school.

4 (4) "Public school" means a public school, including a charter
5 school, that provides instruction in kindergarten and grades 1
6 through 12, inclusive. For purposes of this section, the amount
7 contributed for cocurricular activities must be made directly to the
8 public school or public schools of the taxpayer's choice.

9 (c) In the case where the credit allowed by this section exceeds
10 the "tax," the excess may be carried over to reduce the "tax" in
11 the following year, and the succeeding four years if necessary,
12 until the credit is exhausted.

13 (d) The total amount of credit allowed under this section and
14 Section 17053.83 shall not exceed five hundred million dollars
15 (\$500,000,000). However, this amount may increase by ~~25~~ 3
16 percent in any taxable year after 90 percent of the total amount of
17 credit allowed under this subdivision, as adjusted, has been
18 allowed.

19 (e) The credit under this section shall be in addition to any
20 deduction under this part to which the taxpayer may be entitled.

21 (f) The Franchise Tax Board shall promulgate rules and
22 regulations as necessary or appropriate to implement this section.

23 SEC. 3. Section 23684 is added to the Revenue and Taxation
24 Code, to read:

25 23684. (a) (1) ~~There~~ *For taxable years beginning on or after*
26 *January 1, 2015, there* shall be allowed as a credit against the
27 "tax," as defined in Section 23036, an amount equal to the
28 monetary amount contributed during the taxable year by a taxpayer
29 to an education scholarship granting organization that provides
30 qualified tuition assistance to qualified students from moderate-
31 to low-income families who attend a qualified school.

32 (2) The maximum amount of credit allowed under this section
33 per taxable year is as follows:

34 (A) Fifty percent of the total tax liability of a taxpayer for the
35 taxable year under this part, before allowance of any credit under
36 this section, not to exceed three hundred thousand dollars
37 (\$300,000).

38 (B) Notwithstanding subparagraph (A), for contributions made
39 after the effective date of this section, 75 percent of the total tax
40 liability of a taxpayer for the taxable year under this part, before

1 allowance of any credit under this section, if the amount
2 contributed in the preceding taxable year and current taxable year
3 are at least an amount that is 80 percent of the amount contributed
4 in the taxable year two years prior to the current taxable year, not
5 to exceed three hundred thousand dollars (\$300,000).

6 (c) For purposes of this section, the following definitions shall
7 apply:

8 (1) “Education scholarship granting organization” or “SGO”
9 means an organization that meets all of the following conditions:

10 (A) Is an organization that is exempt from federal income tax
11 as an organization described in Section 501(c)(3) of the Internal
12 Revenue Code.

13 (B) Uses at least 97 percent of amounts contributed during the
14 taxable year for education scholarships, or 100 percent of amounts
15 contributed during the taxable year for education scholarships if
16 the organization has less than three years of audits.

17 (C) Makes scholarships available for more than one school.

18 (D) Submits to the state the following:

19 (i) A financial and compliance audit performed by a certified
20 public accountant.

21 (ii) Quarterly reports on the number of scholarships to recipients
22 and the participating schools.

23 (2) “Qualified school” means a school that meets all of the
24 following:

25 (A) Is accredited.

26 (B) Complies with the Health and Safety Code.

27 (C) Complies with federal nondiscrimination requirements.

28 (D) Requires teachers and other school personnel to have a
29 background check.

30 (E) Requires scholarship students to take a nationally recognized
31 norm-referenced test or the state public school assessment.

32 (F) Posts standardized test scores.

33 (G) Provides financial reporting to the state.

34 (H) If the school is in operation for less than three years, obtains
35 a surety bond or letter of credit in an amount equal to the value of
36 the scholarship payments for one quarter.

37 (3) “Qualified student” means an individual who meets all of
38 the following conditions:

39 (A) Family income does not exceed 300 percent of federal
40 poverty guidelines.

1 (B) Attended public school in the preceding school year or is
2 entering kindergarten or first grade.

3 (C) Is in kindergarten or in grades 1 to 12, inclusive.

4 (D) “Qualified tuition” means that amount that is 65 percent of
5 the basic state per pupil funding, or selected school’s tuition and
6 fees, whichever is less.

7 (d) The total amount of credit allowed under this section shall
8 not exceed five hundred million dollars (\$500,000,000). However,
9 this amount may increase by ~~25~~ 3 percent in any taxable year after
10 90 percent of the total amount of credit allowed under this
11 subdivision, as adjusted, has been allowed.

12 (e) The Franchise Tax Board shall promulgate rules and
13 regulations as necessary or appropriated to implement this section.

14 SEC. 4. This act provides for a tax levy within the meaning of
15 Article IV of the Constitution and shall go into immediate effect.