ASSEMBLY BILL No. 943

Introduced by Assembly Member Nestande

February 22, 2013

An act to add and repeal Sections 1705.83, 17053.84, 23683, and 23684 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

legislative counsel's digest

AB 943, as introduced, Nestande. Income taxes: credits: qualified scholarships: qualified programs.

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

This bill, for taxable years beginning on or after January 1, 2013, and before January 1, 2017, would allow a credit against the taxes imposed under those laws for monetary contributions to nonprofit organizations to fund qualified scholarships for specified pupils to attend private schools, as defined, or to fund grants for qualified programs relating to science, technology, engineering, and math literacy, and the arts for public and charter schools, as defined.

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:

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

17053.83. (a) For each taxable year beginning on or after January 1, 2013, and before January 1, 2017, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the monetary amount contributed by a taxpayer to a nonprofit organization to fund a qualified scholarship. The credit shall not exceed 50 percent of the "net tax" for the taxable year.

(b) For purposes of this section:

(1) "Nonprofit organization" means an organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) "Private school" means a person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level.

(3) "Qualified scholarship" means a scholarship for a pupil with special needs or a pupil in foster care to attend a private school that meets all of the following:

(A) The pupil remains eligible for the scholarship until he or she graduates from high school or leaves the foster care program.

(B) The scholarship may be used at any private school if the pupil's residence changes and attendance at a particular private school is not feasible.

(C) Eligibility for the scholarship shall be based on family income, not to exceed 250 percent of the federal poverty guidelines. A partial scholarship may be granted if the family income of a pupil that was awarded a scholarship in the previous year increases in the following year.

(c) A nonprofit organization that provides qualified scholarships shall retain data on the educational improvement of scholarship recipients so that the efficacy of the qualified scholarship program may be evaluated.

(d) The aggregate amount of credit allowed to all taxpayers under this section and Section 23684 shall not exceed fifty million dollars ($50,000,000) for all taxable years.

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

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

(g) (1) The Franchise Tax Board shall promulgate rules and regulations as necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(h) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 2. Section 17053.84 is added to the Revenue and Taxation Code, to read:

17053.84. (a) For each taxable year beginning on or after January 1, 2013, and before January 1, 2017, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the monetary amount contributed by a taxpayer to a nonprofit organization to provide a grant for a qualified program. The credit shall not exceed 50 percent of the "net tax" for the taxable year.

(b) For purposes of this section:

(1) "Charter school" means a school established pursuant to Part 26.8 (commencing with Section 47600) of Title 2 of the Education Code providing elementary or high school education.

(2) "Nonprofit organization" means an organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

(3) "Public school" means any day or evening elementary school and any day or evening high school established by statute, or by municipal or district authority.

(4) "Qualified program" means a program in science, technology, engineering, and math literacy, and the arts for public and charter schools that is both of the following:

(A) An advanced academic or similar program that is not part of the regular program of a public or charter school, but enhances the curriculum of the public or charter school.

(B) A cocurricular activity for pupils that is an optional, noncredit educational activity that supplements education, including, but not limited to, gifted programs, visual and performing arts, music arts, academic clubs, and educational field trips.

(c) A grant provided by the nonprofit organization for a qualified program shall be provided to a specific public or charter school, or more than one school, of the nonprofit organization's choosing. A grant shall include guidelines that detail what specific programs may be funded by the grant moneys and shall prohibit the use of grant moneys for administration or overhead costs.

(d) The aggregate amount of credit allowed to all taxpayers under this section and Section 23683 shall not exceed fifty million dollars ($50,000,000) for all taxable years.

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

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

(g) (1) The Franchise Tax Board shall promulgate rules and regulations as necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(h) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 3. Section 23683 is added to the Revenue and Taxation Code, to read:

23683. (a) For each taxable year beginning on or after January 1, 2013, and before January 1, 2017, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the monetary amount contributed by a taxpayer to a nonprofit organization to fund a qualified scholarship. The credit shall not exceed 50 percent of the "tax" for the taxable year.

(b) For purposes of this section:

(1) "Nonprofit organization" means an organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) "Private school" means a person, firm, association, partnership, or corporation offering or conducting private school instruction on the elementary or high school level.

(3) "Qualified scholarship" means a scholarship for a pupil with special needs, a pupil in foster care, or a pupil from a low-income family, to attend a private school that meets all of the following:

(A) The pupil remains eligible for the scholarship until he or she graduates from high school or leaves the foster care program.

(B) The scholarship may be used at any private school if the pupil's residence changes and attendance at a particular private school is not feasible.

(C) Eligibility for the scholarship shall be based on family income, not to exceed 250 percent of the federal poverty guidelines. A partial scholarship may be granted if the family income of a pupil that was awarded a scholarship in the previous year increases in the following year.

(c) A nonprofit organization that provides qualified scholarships shall retain data on the educational improvement of scholarship recipients so that the efficacy of the qualified scholarship program may be evaluated.

(d) The aggregate amount of credit allowed to all taxpayers under this section and Section 23684 shall not exceed fifty million dollars ($50,000,000) for all taxable years.

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

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

(g) (1) The Franchise Tax Board shall promulgate rules and regulations as necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(h) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 4. Section 23684 is added to the Revenue and Taxation Code, to read:

23684. (a) For each taxable year beginning on or after January 1, 2013, and before January 1, 2017, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the monetary amount contributed by a taxpayer to a nonprofit organization to provide a grant for a qualified program.

The credit shall not exceed 50 percent of the “tax” for the taxable year.

(b) For purposes of this section:

(1) “Charter school” means a school established pursuant to Part 26.8 (commencing with Section 47600) of Title 2 of the Education Code providing elementary or high school education.

(2) “Nonprofit organization” means an organization that is tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

(3) “Public school” means any day or evening elementary school and any day or evening high school established by statute, or by municipal or district authority.

(4) “Qualified program” means a program in science, technology, engineering, and math literacy, and the arts for public and charter schools that is both of the following:

(A) An advanced academic or similar program that is not part of the regular program of a public or charter school, but enhances the curriculum of the public or charter school.

(B) A cocurricular activity for pupils that is an optional, noncredit educational activity that supplements education, including, but not limited to, gifted programs, visual and performing arts, music arts, academic clubs, and educational field trips.

(c) A grant provided by the nonprofit organization for a qualified program shall be provided to a specific public or charter school, or more than one school, of the nonprofit organization’s choosing. A grant shall include guidelines that detail what specific programs may be funded by the grant moneys and shall prohibit the use of grant moneys for administration or overhead costs.

(d) The aggregate amount of credit allowed to all taxpayers under this section and Section 23683 shall not exceed fifty million dollars ($50,000,000) for all taxable years.

(e) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and the succeeding years if necessary, until the credit is exhausted.

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

(g) (1) The Franchise Tax Board shall promulgate rules and regulations as necessary or appropriate to implement this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this section.

(h) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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