

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1956**

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**Introduced by Assembly Member Bonilla**  
*(Coauthors: Assembly Members Buchanan, Maienschein, Nestande,  
Patterson, Rodriguez, and Ting)*

February 19, 2014

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An act to add Section 17053 to the Revenue and Taxation Code, relating to taxation, *to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1956, as amended, Bonilla. Personal income tax: credit: qualified tuition-~~plan~~: *program*.

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

This bill would, *for taxable years beginning on or after January 1, 2015*, allow a ~~refundable~~ credit in the amount of 20% of the monetary contributions made to a qualified tuition-~~plan~~-~~account~~ *program*, as defined, by a qualified taxpayer, as defined, not to exceed \$500-~~per return~~. This bill would provide for the payment of credit amount in excess of tax liability upon on appropriation for that purpose.

*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 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053. (a) (1) For taxable years beginning on or after January  
2 1, ~~2014~~ 2015, there shall be allowed *to a qualified taxpayer* a  
3 credit, ~~refundable as provided in subdivision (f)~~, against the “net  
4 tax,” as defined in Section 17039, in the amount of 20 percent of  
5 the monetary contributions made by a qualified taxpayer to a  
6 ~~qualified tuition plan account that the qualified taxpayer owns~~  
7 ~~during the taxable year, not to exceed five hundred dollars (\$500)~~  
8 ~~per return.~~ *an amount as determined by paragraph (2).*

9 (2) *The credit amount allowed pursuant to this section shall be*  
10 *the lesser of the following:*

11 (A) *Twenty percent of the monetary contributions made by a*  
12 *qualified taxpayer to a qualified tuition program that the qualified*  
13 *taxpayer owns during the taxable year.*

14 (B) *Five hundred dollars (\$500).*

15 (b) For the purposes of this section:

16 (1) “Nonqualified withdrawal” means ~~a withdrawal of funds~~  
17 ~~from a qualified tuition plan account for purposes that are not~~  
18 ~~qualified higher education expenses, as defined in Section 529 of~~  
19 ~~the Internal Revenue Code~~ *any payment or distribution from a*  
20 *qualified tuition program that is subject to additional tax pursuant*  
21 *to Section 529(c)(6) of the Internal Revenue Code, relating to*  
22 *additional tax.*

23 (2) “Qualified taxpayer” means an individual who, on behalf  
24 of a beneficiary, contributes money to a qualified tuition ~~plan~~  
25 ~~account~~ *program* for which the individual is the account owner  
26 and has one of the following annual adjusted gross incomes:

27 (A) If the qualified taxpayer’s filing status is single, married  
28 *filing separately*, or domestic registered partner filing separately,  
29 one hundred thousand dollars (\$100,000) or less.

30 (B) If the qualified taxpayer files as a head of household,  
31 surviving spouse, as defined in Section 17046, married filing  
32 jointly, or domestic partner filing jointly, two hundred thousand  
33 dollars (\$200,000) or less.

34 (3) “Qualified tuition ~~plan~~” *program*” means a qualified tuition  
35 program, as defined in Section 529 of the Internal Revenue Code,  
36 ~~and established pursuant to the Golden State Scholarshare Trust~~  
37 ~~Act (Article 19 (commencing with Section 69980) of Chapter 2~~  
38 ~~of Part 42 of Division 5 of Title 3 of the Education Code)~~ *Code.*

39 (4) “Qualified tuition plan account” means an account described  
40 in Section 529(b)(1)(A)(ii) of the Internal Revenue Code.

1 (c) In the case of married taxpayers or registered domestic  
2 partners who file separate returns, the credit may be taken by either  
3 spouse or registered domestic partner or divided equally between  
4 the spouses or registered domestic partners.

5 ~~(d) The credit shall be recaptured in the amount of 10 percent~~  
6 ~~of any nonqualified withdrawals for a qualified tuition plan account~~  
7 ~~for which the credit has been claimed, up to a maximum of the~~  
8 ~~total credits received under this section.~~

9 ~~(e) The Scholarshare Investment Board shall verify the amount~~  
10 ~~of the contribution made and the name of the accountholder for~~  
11 ~~the Franchise Tax Board.~~

12 *(d) When a qualified taxpayer receives a nonqualified*  
13 *withdrawal, in addition to any tax imposed under this part, an*  
14 *additional tax shall be imposed in an amount that is the lesser of*  
15 *10 percent of that nonqualified withdrawal or the total amount of*  
16 *credit allowed under subdivision (a) for the taxable year and all*  
17 *prior taxable years in which the qualified taxpayer was allowed*  
18 *a credit pursuant to this section.*

19 ~~(f)~~

20 *(e) That portion of any credit allowed under this section that is*  
21 *in excess of tax liability shall, upon an appropriation by the*  
22 *Legislature, be paid to the qualified taxpayer.*

23 ~~(g)~~

24 *(f) (1) The Franchise Tax Board may prescribe rules, guidelines,*  
25 *or procedures necessary or appropriate to carry out the purposes*  
26 *of this section.*

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

32 *SEC. 2. This act provides for a tax levy within the meaning of*  
33 *Article IV of the Constitution and shall go into immediate effect.*