

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2426

Introduced by Assembly Member Nestande
(Coauthor: Assembly Member Allen)

February 21, 2014

An act to add Section 17141.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2426, as amended, Nestande. Income taxes: education savings accounts.

The Personal Income Tax Law excludes from gross income distributions from a Coverdell ~~Education Savings Account~~ *education savings account*, provided the distributions are used for qualified education expenses, as provided.

~~This bill would state the intent of the Legislature to increase the benefits related to the exclusion for distributions from an education savings accounts by allowing a deduction for contributions to an education savings account, as provided~~ *allow as an exclusion from gross income those amounts contributed to a Coverdell education savings account, up to \$750 per taxable year, as provided. This bill would impose a penalty upon a taxpayer of 2.5% for unauthorized distributions from the account, as specified.*

This bill would take effect immediately as a tax levy.

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

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

1 *SECTION 1. Section 17141.1 is added to the Revenue and*
2 *Taxation Code, to read:*

3 *17141.1. (a) Notwithstanding any other provision of this part*
4 *or Part 11 (commencing with Section 23001) to the contrary, any*
5 *amount contributed by a taxpayer during the taxable year to a*
6 *Coverdell education savings account, not to exceed seven hundred*
7 *fifty dollars (\$750) per taxable year, shall not be includable in the*
8 *gross income of the taxpayer, except as otherwise provided in this*
9 *section.*

10 *(b) For purposes of this section:*

11 *(1) "Coverdell education savings account" shall have the same*
12 *meaning as that term is defined by Section 530 of the Internal*
13 *Revenue Code.*

14 *(2) "Dependent" shall have the same meaning as that term is*
15 *defined by Section 152 of the Internal Revenue Code.*

16 *(3) "Qualified education expenses" shall have the same meaning*
17 *as that term is defined by Section 530 of the Internal Revenue*
18 *Code.*

19 *(c) (1) Any amount withdrawn or distributed from a Coverdell*
20 *education savings account shall subject the taxpayer to a penalty*
21 *in an amount equal to 2.5 percent of the payment or distribution,*
22 *unless the payment or distribution is made to pay for the qualified*
23 *education expenses of the taxpayer that established the account*
24 *or his or her spouse or their dependents.*

25 *(2) If the withdrawal or distribution from a Coverdell education*
26 *savings account is not used to pay for qualified education expenses*
27 *then any amount previously excluded from gross income pursuant*
28 *to this section shall be included in a taxpayer's gross income for*
29 *the taxable year in which the amount was excluded and the*
30 *taxpayer shall be liable for any increase in tax attributable to that*
31 *inclusion.*

32 *(d) Notwithstanding any other provision of this part, the transfer*
33 *of a taxpayer's interest in a Coverdell education savings account*
34 *to his or her former spouse under a dissolution decree or under a*
35 *written instrument incident to a dissolution is not to be considered*
36 *a taxable transfer made by that taxpayer, as long as the transferred*
37 *moneys are deposited into another Coverdell education savings*
38 *account established by the former spouse.*

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

3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation to increase the benefits of the current gross income~~
5 ~~exclusion for individual taxpayers for distributions from a~~
6 ~~Coverdell Education Savings Account, where the distributions are~~
7 ~~spent on qualified educational expenses at public and private~~
8 ~~schools, colleges, and universities that include tuition, fees, books,~~
9 ~~supplies, equipment, and room and board, by allowing an~~
10 ~~above-the-line deduction, not to exceed seven hundred fifty dollars~~
11 ~~(\$750) per taxable year for each designated beneficiary, for~~
12 ~~contributions made to an education savings account.~~