

AMENDED IN ASSEMBLY MAY 5, 2014

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~~)

**(*Coauthors: Assembly Members Allen, Bonilla, Grove, Harkey,
Maienschein, and Olsen*)**

(*Coauthor: Senator Cannella*)

February 21, 2014

An act to ~~add Section 17141.1 to~~ amend Section 17072 of, and to add Section 17208 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, provided the distributions are used for qualified education expenses, as provided Law, in modified conformity with federal income tax laws, allows various deductions in computing the income that is subject to the taxes imposed by that law.~~

This bill would allow ~~as an exclusion from a deduction in computing adjusted gross income for 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: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 17072 of the Revenue and Taxation Code
2 is amended to read:

3 17072. (a) Section 62 of the Internal Revenue Code, relating
4 to adjusted gross income defined, shall apply, except as otherwise
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
7 to certain expenses of elementary and secondary school teachers,
8 shall not apply.

9 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
10 attorneys fees relating to awards to whistleblowers, shall not apply.

11 (d) For taxable years beginning on or after January 1, 2014,
12 Section 62(a) of the Internal Revenue Code is modified to provide
13 that the deduction allowed under Section 17208 shall be allowed
14 in determining adjusted gross income.

15 SECTION 1.

16 SEC. 2. Section ~~17141.1~~ 17208 is added to the Revenue and
17 Taxation Code, to read:

18 ~~17141.1.~~

19 17208. (a) Notwithstanding any other provision of this part
20 or Part 11 (commencing with Section 23001) to the contrary, ~~any~~
21 a deduction shall be allowed for an amount contributed by a
22 taxpayer during the taxable year to a Coverdell education savings
23 account, not to exceed seven hundred fifty dollars (\$750) per
24 taxable year, ~~shall not be includable in the gross income of the~~
25 taxpayer, except as otherwise provided in this section.

26 (b) For purposes of this section:

27 (1) ~~“Coverdell education savings account” shall have the same~~
28 meaning as that term is defined by Section 530 of the Internal
29 Revenue Code.

30 (2) ~~“Dependent” shall have the same meaning as that term is~~
31 defined by Section 152 of the Internal Revenue Code.

32 (3) ~~“Qualified education expenses” shall have the same meaning~~
33 as that term is defined by Section 530 of the Internal Revenue
34 Code.

1 ~~(e) (1) Any amount withdrawn or distributed from a Coverdell~~
2 ~~education savings account shall subject the taxpayer to a penalty~~
3 ~~in an amount equal to 2.5 percent of the payment or distribution,~~
4 ~~unless the payment or distribution is made to pay for the qualified~~
5 ~~education expenses of the taxpayer that established the account or~~
6 ~~his or her spouse or their dependents.~~

7 ~~(2) If the withdrawal or distribution from a Coverdell education~~
8 ~~savings account is not used to pay for qualified education expenses~~
9 ~~then any amount previously excluded from gross income pursuant~~
10 ~~to this section shall be included in a taxpayer's gross income for~~
11 ~~the taxable year in which the amount was excluded and the taxpayer~~
12 ~~shall be liable for any increase in tax attributable to that inclusion.~~

13 ~~(d) Notwithstanding any other provision of this part, the transfer~~
14 ~~of a taxpayer's interest in a Coverdell education savings account~~
15 ~~to his or her former spouse under a dissolution decree or under a~~
16 ~~written instrument incident to a dissolution is not to be considered~~
17 ~~a taxable transfer made by that taxpayer, as long as the transferred~~
18 ~~moneys are deposited into another Coverdell education savings~~
19 ~~account established by the former spouse.~~

20 ~~(b) For purposes of this section, "Coverdell education savings~~
21 ~~account" shall have the same meaning as that term is defined by~~
22 ~~Section 530 of the Internal Revenue Code, as modified by Section~~
23 ~~23712.~~

24 ~~(c) For purposes of applying Section 530 of the Internal Revenue~~
25 ~~Code, relating to Coverdell education savings accounts, the basis~~
26 ~~of the Coverdell education savings account shall be reduced by~~
27 ~~any amount deducted pursuant to this section.~~

28 ~~SEC. 2.~~

29 ~~SEC. 3. This act provides for a tax levy within the meaning of~~
30 ~~Article IV of the Constitution and shall go into immediate effect.~~