

ASSEMBLY BILL

No. 17

Introduced by Assembly Member Bonilla

December 1, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 17, as introduced, Bonilla. Personal income tax: credit: qualified tuition 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, 2016, and before January 1, 2021, allow a credit in the amount of 20% of the monetary contributions made to a qualified tuition program, as defined, by a qualified taxpayer, as defined, not to exceed \$500. This bill would provide for the payment of a credit amount in excess of tax liability upon an appropriation by the Legislature 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:
- 3 17053. (a) (1) For taxable years beginning on or after January
- 4 1, 2016, and before January 1, 2021, there shall be allowed to a

1 qualified taxpayer a credit against the “net tax,” as defined in
2 Section 17039, in an amount as determined by paragraph (2).

3 (2) The credit amount allowed pursuant to this section shall be
4 the lesser of the following:

5 (A) Twenty percent of the monetary contributions made by a
6 qualified taxpayer to a qualified tuition program that the qualified
7 taxpayer owns during the taxable year.

8 (B) Five hundred dollars (\$500).

9 (b) For the purposes of this section:

10 (1) “Nonqualified withdrawal” means any payment or
11 distribution from a qualified tuition program that is subject to
12 additional tax pursuant to Section 529(c)(6) of the Internal Revenue
13 Code, relating to additional tax.

14 (2) “Qualified taxpayer” means an individual who, on behalf
15 of a beneficiary, contributes money to a qualified tuition program
16 for which the individual is the account owner and has one of the
17 following annual adjusted gross incomes:

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

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

25 (3) “Qualified tuition program” means a qualified tuition
26 program, as defined in Section 529 of the Internal Revenue Code.

27 (c) In the case of married taxpayers or registered domestic
28 partners who file separate returns, the credit may be taken by either
29 spouse or registered domestic partner or divided equally between
30 the spouses or registered domestic partners.

31 (d) When a qualified taxpayer receives a nonqualified
32 withdrawal, in addition to any tax imposed under this part, an
33 additional tax shall be imposed in an amount that is the lesser of
34 10 percent of that nonqualified withdrawal or the total amount of
35 credit allowed under subdivision (a) for the taxable year and all
36 prior taxable years in which the qualified taxpayer was allowed a
37 credit pursuant to this section.

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

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

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

9 (g) This section shall remain in effect only until December 1,
10 2021, and as of that date is repealed.

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

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