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**Introduced by Senator Nguyen**

February 19, 2015

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An act to amend Section 17052.6 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 268, as introduced, Nguyen. Income taxes: credit: dependent care.

The Personal Income Tax Law, in modified conformity to federal income tax law, authorizes a credit for household and dependent care expenses necessary for gainful employment, as provided.

This bill, for taxable years beginning on or after January 1, 2015, would increase the amount of employment-related expenses incurred during a taxable year which may be taken into account in determining the amount of the credit from \$3,000 to \$4,000 if there is one qualifying dependent and from \$6,000 to \$12,000 if there are 2 or more qualifying dependents.

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 17052.6 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17052.6. (a) For each taxable year beginning on or after
- 4 January 1, 2000, there shall be allowed as a credit against the "net
- 5 tax", as defined in Section 17039, an amount determined in
- 6 accordance with Section 21 of the Internal Revenue Code, *relating*
- 7 *to expenses for household and dependent care services necessary*

1 *for gainful employment*, except that the amount of the credit shall  
 2 be a percentage, as provided in subdivision (b) of the allowable  
 3 federal credit without taking into account whether there is a federal  
 4 tax liability.

5 (b) For the purposes of subdivision (a), the percentage of the  
 6 allowable federal credit shall be determined as follows:

7 (1) For taxable years beginning before January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
11 \$40,000 or less.....	63%
12 Over \$40,000 but not over \$70,000.....	53%
13 Over \$70,000 but not over \$100,000.....	42%
14 Over \$100,000.....	0%

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 16 (2) For taxable years beginning on or after January 1, 2003:

If the adjusted gross income is:	The percentage of credit is:
20 \$40,000 or less.....	50%
21 Over \$40,000 but not over \$70,000.....	43%
22 Over \$70,000 but not over \$100,000.....	34%
23 Over \$100,000.....	0%

24  
 25 (c) For purposes of this section, “adjusted gross income” means  
 26 adjusted gross income as computed for purposes of paragraph (2)  
 27 of subdivision (h) of Section 17024.5.

28 (d) The credit authorized by this section shall be limited, as  
 29 follows:

30 (1) Employment-related expenses, within the meaning of Section  
 31 21 of the Internal Revenue Code, *relating to expenses for*  
 32 *household and dependent care services necessary for gainful*  
 33 *employment*, shall be limited to expenses for household services  
 34 and care provided in this state.

35 (2) Earned income, within the meaning of Section 21(d) of the  
 36 Internal Revenue Code, *relating to earned income limitation*, shall  
 37 be limited to earned income subject to tax under this part. For  
 38 purposes of this paragraph, compensation received by a member  
 39 of the armed forces for active services as a member of the armed  
 40 forces, other than pensions or retired pay, shall be considered

1 earned income subject to tax under this part, whether or not the  
2 member is domiciled in this state.

3 (e) For purposes of this section, Section 21(b)(1) of the Internal  
4 Revenue Code, relating to a qualifying individual, is modified to  
5 additionally provide that a child, as defined in Section ~~151(e)(3)~~  
6 *152(c)(3)* of the Internal Revenue Code, *relating to age*  
7 *requirements*, shall be treated, for purposes of Section 152 of the  
8 Internal Revenue Code, *relating to dependent defined*, as applicable  
9 for purposes of this section, as receiving over one-half of his or  
10 her support during the calendar year from the parent having custody  
11 for a greater portion of the calendar year, that parent shall be treated  
12 as a “custodial parent,” within the meaning of Section 152(e) of  
13 the Internal Revenue Code, *relating to special rule for divorced*  
14 *parents, etc.*, as applicable for purposes of this section, and the  
15 child shall be treated as a qualifying individual under Section  
16 21(b)(1) of the Internal Revenue Code, *relating to qualifying*  
17 *individual*, as applicable for purposes of this section, if both of the  
18 following apply:

19 (1) The child receives over one-half of his or her support during  
20 the calendar year from his or her parents who never married each  
21 other and who lived apart at all times during the last six months  
22 of the calendar year.

23 (2) The child is in the custody of one or both of his or her parents  
24 for more than one-half of the calendar year.

25 (f) *For taxable years beginning on or after January 1, 2015:*

26 (1) *The reference to “\$3,000” in Section 21(c)(1) of the Internal*  
27 *Revenue Code is modified to read “\$4,000”.*

28 (2) *The reference to “\$6,000” in Section 21(c)(2) of the Internal*  
29 *Revenue Code is modified to read “\$12,000”.*

30 ~~(f)~~

31 (g) The amendments to this section made by Section 1.5 of  
32 Chapter 824 of the Statutes of 2002 shall apply only to taxable  
33 years beginning on or after January 1, 2002.

34 ~~(g)~~

35 (h) The amendments made to this section by the act adding this  
36 ~~subdivision~~ *Chapter 14 of the Statutes of 2011* shall apply to  
37 taxable years beginning on or after January 1, 2011.

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.

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