

AMENDED IN SENATE APRIL 20, 2015

AMENDED IN SENATE MARCH 23, 2015

SENATE BILL

No. 268

**Introduced by ~~Senator~~ Senators Nguyen and Vidak
(Coauthor: Senator Bates)**

(Coauthors: Assembly Members Bigelow, Olsen, and Waldron)

February 19, 2015

~~An act to amend Section 17052.6 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~ *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 amended, 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. The amount of the credit is a percentage of the allowable federal credit determined on the basis of the amount of federal adjusted gross income, up to \$100,000.

This bill, for taxable years beginning on or after January 1, 2015, would increase that amount of federal adjusted gross income, up to \$250,000, and 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.

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
8 for gainful employment, except that the amount of the credit shall
9 be a percentage, as provided in subdivision (b) of the allowable
10 federal credit without taking into account whether there is a federal
11 tax liability.

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

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

| | The percentage of |
|---|-------------------|
| If the adjusted gross income is: | credit is: |
| 18 \$40,000 or less..... | 63% |
| 19 Over \$40,000 but not over \$70,000..... | 53% |
| 20 Over \$70,000 but not over \$100,000..... | 42% |
| 21 Over \$100,000..... | 0% |

22
23 (2) For taxable years beginning on or after January 1, 2003:
24 2003, and before January 1, 2015:

| | | |
|---|---|-------------------|
| 1 | | The percentage of |
| 2 | If the adjusted gross income is: | credit is: |
| 3 | \$40,000 or less..... | 50% |
| 4 | Over \$40,000 but not over \$70,000..... | 43% |
| 5 | Over \$70,000 but not over \$100,000..... | 34% |
| 6 | Over \$100,000..... | 0% |

(3) For taxable years beginning on or after January 1, 2015:

| | | |
|----|--|-------------------|
| 10 | | The percentage of |
| 11 | If the adjusted gross income is: | credit is: |
| 12 | \$100,000 or less..... | 50% |
| 13 | Over \$100,000 but not over \$175,000..... | 43% |
| 14 | Over \$175,000 but not over \$250,000..... | 34% |
| 15 | Over \$250,000..... | 0% |

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

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

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

(2) Earned income, within the meaning of Section 21(d) of the Internal Revenue Code, *relating to earned income limitation*, shall be limited to earned income subject to tax under this part. For purposes of this paragraph, compensation received by a member of the armed forces for active services as a member of the armed forces, other than pensions or retired pay, shall be considered earned income subject to tax under this part, whether or not the member is domiciled in this state.

(e) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child, as defined in Section ~~151(e)(3)~~ *152(c)(3)* of the Internal Revenue Code, *relating to age requirements*, shall be treated, for purposes of Section 152 of the Internal Revenue Code, *relating to dependent defined*, as applicable

1 for purposes of this section, as receiving over one-half of his or
2 her support during the calendar year from the parent having custody
3 for a greater portion of the calendar year, that parent shall be treated
4 as a “custodial parent,” within the meaning of Section 152(e) of
5 the Internal Revenue Code, *relating to special rule for divorced*
6 *parents, etc.*, as applicable for purposes of this section, and the
7 child shall be treated as a qualifying individual under Section
8 21(b)(1) of the Internal Revenue Code, *relating to qualifying*
9 *individual*, as applicable for purposes of this section, if both of the
10 following apply:

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

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

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

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

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

22 (f)

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

26 (g)

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

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

32 ~~SECTION 1. Section 17052.6 of the Revenue and Taxation~~
33 ~~Code is amended to read:~~

34 ~~17052.6. (a) For each taxable year beginning on or after~~
35 ~~January 1, 2000, there shall be allowed as a credit against the “net~~
36 ~~tax”, as defined in Section 17039, an amount determined in~~
37 ~~accordance with Section 21 of the Internal Revenue Code, relating~~
38 ~~to expenses for household and dependent care services necessary~~
39 ~~for gainful employment, except that the amount of the credit shall~~
40 ~~be a percentage, as provided in subdivision (b) of the allowable~~

1 federal credit without taking into account whether there is a federal
2 tax liability.

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

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

| - If the adjusted gross income is: | The percentage of credit is: |
|--|---------------------------------|
| 9 \$40,000 or less..... | 63% |
| 10 Over \$40,000 but not over \$70,000..... | 53% |
| 11 Over \$70,000 but not over \$100,000..... | 42% |
| 12 Over \$100,000..... | -0% |

13
14 ~~(2) For taxable years beginning on or after January 1, 2003:~~

| - If the adjusted gross income is: | The percentage of credit is: |
|--|---------------------------------|
| 18 \$40,000 or less..... | 50% |
| 19 Over \$40,000 but not over \$70,000..... | 43% |
| 20 Over \$70,000 but not over \$100,000..... | 34% |
| 21 Over \$100,000..... | -0% |

22
23 ~~(e) For purposes of this section, “adjusted gross income” means~~
24 ~~adjusted gross income as computed for purposes of paragraph (2)~~
25 ~~of subdivision (h) of Section 17024.5.~~

26 ~~(d) The credit authorized by this section shall be limited, as~~
27 ~~follows:~~

28 ~~(1) Employment-related expenses, within the meaning of Section~~
29 ~~21 of the Internal Revenue Code, relating to expenses for household~~
30 ~~and dependent care services necessary for gainful employment,~~
31 ~~shall be limited to expenses for household services and care~~
32 ~~provided in this state.~~

33 ~~(2) Earned income, within the meaning of Section 21(d) of the~~
34 ~~Internal Revenue Code, relating to earned income limitation, shall~~
35 ~~be limited to earned income subject to tax under this part. For~~
36 ~~purposes of this paragraph, compensation received by a member~~
37 ~~of the armed forces for active services as a member of the armed~~
38 ~~forces, other than pensions or retired pay, shall be considered~~
39 ~~earned income subject to tax under this part, whether or not the~~
40 ~~member is domiciled in this state.~~

~~(e) For purposes of this section, Section 21(b)(1) of the Internal Revenue Code, relating to a qualifying individual, is modified to additionally provide that a child, as defined in Section 152(f)(1) of the Internal Revenue Code, relating to child defined, shall be treated, for purposes of Section 152 of the Internal Revenue Code, relating to dependent defined, as applicable for purposes of this section, as receiving over one-half of his or her support during the calendar year from the parent having custody for a greater portion of the calendar year, that parent shall be treated as a “custodial parent,” within the meaning of Section 152(e) of the Internal Revenue Code, relating to special rule for divorced parents, etc., as applicable for purposes of this section, and the child shall be treated as a qualifying individual under Section 21(b)(1) of the Internal Revenue Code, relating to qualifying individual, as applicable for purposes of this section, if both of the following apply:~~

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

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

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

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

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

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

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

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