Franchise Tax Board — # ANALYSIS OF AMENDED BILL

Author:	Oropeza	Analyst:	Nicole Kwon	Bill Number:	SB 918
Related Bills:	See Legislative History	Telephone:	845-7800	Amended Date:	March 29, 2007
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Qualified Tuition Program Deposits/FTB Revise PIT Return To Allow Taxpayers To Designate Amount In Excess Of Tax Liability To Be Deposited In Taxpayer's Qualified Tuition Program

SUMMARY

This bill would allow taxpayers to direct any amount in excess of their of tax liability to a Qualified Tuition Program account.

SUMMARY OF AMENDMENTS

The March 29, 2007, amendments struck the previous provisions relating to collection of delinquent fees, wages, and penalties and replaced them with the provision to allow taxpayers to designate on their tax return an amount to be deposited to the credit of the taxpayer's qualified tuition program.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill would be to encourage taxpayers to save for future educational expenses for themselves or their dependents.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and operative for designations made on tax returns filed on or after January 1, 2009.

POSITION

Pending.

Board Position:			Department Director	Date
_______ S	_______ NA	_______ NP		
_______ SA	_______ O	_______ NAR	Selvi Stanislaus	4/20/07
_______ N	_______ OUA	___X___ PENDING	by Lynette Iwafuchi	

ANALYSIS

FEDERAL/STATE LAW

Current federal law provides tax-exempt status to “qualified tuition programs” (QTPs). QTPs are programs established and maintained by a state, an agency, or an eligible educational institution to encourage saving for future education expenses of a designated beneficiary. Distributions and earnings from a QTP are not taxable, except to the extent the distributions exceed qualified higher education expenses, as defined. Contributions to a QTP are not deductible.

California law conforms to federal law as it relates to tax-exempt QTPs. In addition, state law in the Education Code, known as the Golden State Scholarshare Trust Act, establishes authority for California’s qualified state tuition plan. There is no limitation on who may make a contribution to a Golden State Scholarshare Trust Account or where a designated beneficiary must incur qualified higher education expenses.

Under current state law, the Controller has the discretion to offset any amount due a state agency from a person or entity against any amount owing that person or entity by any state agency.
The Franchise Tax Board (FTB) administers the Interagency Intercept program on behalf of the Controller. The Interagency Intercept Program requires, through an annual enrollment process, other state agencies and the IRS to provide FTB with a list of debtors and amounts owed to be offset in the following tax filing season. As returns are filed, and tax refunds issued, any refunds due the taxpayer are offset to satisfy the debts identified by the participating agencies. All participating agencies are charged an administrative fee to cover the cost of the Intercept Program.

THIS BILL

This bill would allow taxpayers to designate on their tax return that an amount in excess of tax liability be deposited into a QTP, as defined. The designation is only allowed in full dollar amounts in excess of $1.

This bill would require FTB to revise the form of the return to include the amount of the designation, account numbers, and named beneficiaries of the QTP.

This bill would specify that if the payments on a tax return are not enough to cover both the tax liability and the amount designated for the QTP, the tax return will be treated as though the designation had not been made. If a taxpayer designates a deposit to more than one QTP and the overpayment amount available is insufficient to satisfy the total amount designated, the deposits would be allocated among the designated accounts on a prorata basis.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- Permitting taxpayers to designate return payments to a QTP would replace the priority of the current refund offset program that remits overpayments to other state and local agencies for delinquent debts owed by the taxpayer. If it is the author's intent that QTP contributions have priority over refund offset requests, express language should be added to clarify the author's intent.

- Currently state tax law allows taxpayers to make contributions of their own funds to any of the 14 voluntary contribution funds listed on the state personal tax return. If it is author's intent that QTP contributions have priority over these14 voluntary contribution funds, express language should be added for the department to implement the provisions.

- This bill would require the department to modify existing tax forms and instruction booklets and make changes to the computer systems, which could be accomplished during normal annual updates but could require additional funding as described below under Fiscal Impact.

LEGISLATIVE HISTORY

AB 2437 (Baca, 2005/2006) would have allowed taxpayers to designate a minimum amount of $250 to be deposited to the credit of the taxpayer's QTP. AB 2437 failed to pass out of the Assembly Revenue & Taxation Committee.

OTHER STATES' INFORMATION

The states reviewed include *Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. These states have no laws similar to the provisions of this bill.

FISCAL IMPACT

Implementation of this bill could require changes to existing tax forms and electronic applications resulting in the current tax return expanding to three pages. If the forms did increase to three pages, the department would incur costs of over $2 million for revising the forms and instructions, printing, systems changes, processing, and storage.

This bill would require the development of an additional form that would also impact departmental printing, processing, and storage costs. This bill would also require additional administrative and system programming costs to manage the transfer of funds to entities designated by the taxpayer. The additional costs will be identified and, if needed, an appropriation requested as the bill moves through the legislative process.

ECONOMIC IMPACT

Revenue Estimate

Revenue Analysis for SB 918 – as Amended 03/29/07 Enactment Assumed after June 30, 2007 Effective and Operative January 1, 2008			
Fiscal Year	2007-08	2008-09	2009-10
Revenue Gain/Loss	+/- < $250,000	+/- < $250,000	+/- < $250,000

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

This bill would result in negligible gains or losses of less than $250,000 in any given year. Providing an additional mechanism to induce deposits would not necessarily increase total deposits to QTP accounts. Individuals who are going to contribute to an account are likely to contribute without a tax refund mechanism.

Contributions to QTP accounts do not directly cause a revenue effect. It is the eventual tax-free distribution of deferred investment returns for qualified education expenses that impact revenue. Because it is unlikely that a distribution from a QTP would occur in the same year a contribution occurred, any incremental revenue effects of tax-free distributions would be in future years

LEGISLATIVE STAFF CONTACT

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