

SUMMARY ANALYSIS OF AMENDED BILL

Author: Lackey & Olsen Analyst: Davi Milam Bill Number: AB 1371
 Related Bills: See Prior Analysis Telephone: 845-2551 Amended Date: April 20, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Education-Related Expenses Deduction
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SUMMARY

This bill would, under the Personal Income Tax Law, allow a deduction from gross income for certain education-related expenses.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 20, 2015, amendments modified definitions and made other clarifying changes. As a result of the amendments, the implementation and technical concerns discussed in the department’s analysis of the bill as introduced February 27, 2015, have been resolved, and two new technical concerns have been identified.

Except for the “This Bill,” “Implementation Considerations,” “Technical Considerations,” “Fiscal Impact,” and “Economic Impact” sections, the remainder of the department’s analysis of the bill as introduced February 27, 2015, still applies.

For convenience, the “Policy Concern” section has been restated.

Summary of Suggested Amendments

Minor technical amendments are suggested.

THIS BILL

For each taxable year beginning on or after January 1, 2016, and before January 1, 2021, this bill would allow a deduction in an amount equal to the qualified amount that was paid or incurred for qualified education-related expenses for one or more dependent children by a qualified taxpayer during the taxable year, not to exceed \$2,500 in a taxable year. If a deduction is allowed to more than one qualified taxpayer, including a qualified taxpayer filing a joint return, for expenses related to a dependent child, the total combined deduction amount allowed under this bill cannot exceed \$2,500 in a taxable year.

This bill would allow the deduction for qualified education-related expenses to be taken as an “above-the-line” deduction when calculating adjusted gross income (AGI).

Board Position:	Legislative Director	Date
_____ S _____ NA _____ X _____ NP	Gail Hall	5/8/15
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This bill would define the following terms and phrases:

- “Dependent children” means one or more children who meet all of the following requirements:
 - Attend kindergarten or any of grades 1 to 12, inclusive, in California at a public, charter, or private school that has a current private school affidavit on file with the State Department of Education in the taxable year.
 - Are deemed a full-time pupil in accordance with the compulsory education requirements of Sections 48200 and 48222 of the Education Code, if applicable.
 - Are under 21 years of age at the end of the school year.
 - Meet the requirements of Section 152(c)(1)(D) and (E) of the Internal Revenue Code (IRC).¹
 - Are claimed as the dependent children on the original, timely filed return of the qualified taxpayer.
- “Qualified amount” means the amount paid or incurred for qualified education-related expenses, not to exceed \$2,500.
- “Qualified education-related expenses” means the kindergarten or any of grades 1 to 12, inclusive, costs of: textbooks and school supplies, including, but not limited to, pens, paper, pencils, notebooks, calculators, and rulers; the rental or purchase of educational equipment required for classes during the regular school day; school uniforms that are not part of a cocurricular activity; computers, computer hardware, and educational computer software used to learn academic subjects; fees for college courses at public institutions or independent nonprofit colleges, or for summer school courses that satisfy high school graduation requirements; psychoeducational diagnostic evaluations to assess the cognitive and academic abilities of dependent children; special education and related services for dependent children who have an individualized education program or its equivalent; out-of-school enrichment programs, tutoring, and summer programs that are academic in nature; and public transportation or third-party transportation expenses for traveling directly to and from school.

Expenses for items that are used in a trade or business would be specifically excluded from the definition of “qualified education-related expenses.”

- “Qualified taxpayer” means a parent or legal guardian of one or more dependent children who meet all of the following requirements:
 - Both the dependent children and the parent or guardian reside in California when the qualified education-related expenses are paid or incurred; and

¹ The term qualifying child under this section means, an individual, who hasn’t provided over one-half of his or her own support for the calendar year, and who must be younger than the claimant and be unmarried; qualifying child benefits restricted to child’s parents.

- The household income does not exceed 250 percent of the federal Income Eligibility Guidelines published by the Food and Nutrition Service of the United States Department of Agriculture for use in determining eligibility for reduced price meals.

“Household income” means AGI defined in Section 62 of the IRC.²

The Franchise Tax Board (FTB) would have the authority to prescribe rules, guidelines or procedures necessary or appropriate to carry out the provisions of the bill. These rules, guidelines, or procedures would be exempt from the normal rulemaking requirements of the Administrative Procedures Act.

This deduction would be repealed by its own terms as of December 1, 2021.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

TECHNICAL CONSIDERATIONS

Amendment 1 is suggested to clarify the definition of child.

Amendments 2 and 3 are suggested to clarify the definition of full-time pupil.

FISCAL IMPACT

Department costs have yet to be determined. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1371 As Amended April 20, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2016-17	2017-18	2018-19
- \$21	- \$22	- \$22

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

²AGI under this section means gross income minus specified deductions.

Revenue Discussion

Data from taxable year 2011 returns filed with the FTB show that approximately 1.2 million taxpayers met the income eligibility provisions specified in the bill. Additionally, limiting this deduction to qualified taxpayers who claim the dependent children on their original timely filed returns, is expected to reduce the qualified population by 250,000. It is assumed that 100 percent of all qualified taxpayers would take the deduction. Information from the Bureau of Labor and Statistics indicates that qualified taxpayers spend nearly \$700 annually on qualified education-related expenses for a total estimated deduction of approximately \$700 million. Using an average tax rate of 2.5 percent, the annual tax loss would be approximately \$18 million.

This amount is grown,³ converted to fiscal year estimates, and then rounded, to arrive at the amounts reflected in the table above.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation. Tax credits, rather than deductions, are claimed after taxable income has been calculated and, therefore, do not create differences between the taxable income amounts shown on the federal and state income tax returns.

LEGISLATIVE STAFF CONTACT

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³ Indexed using Department of Finance forecasts.

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PROPOSED AMENDMENT TO AB 1371
As Amended April 20, 2015

AMENDMENT 1

On page 2, line 25, after “more children” and insert:

, as defined in Internal Revenue Code section 152(f)(1), relating to child defined,

AMENDMENT 2

On page 2, line 32, ~~strikeout~~ “and” and insert:

or

AMENDMENT 3

On page 2, ~~strikeout~~ line 33, and insert:

of the Education Code