

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Melendez Analyst: Davi Milam Bill Number: AB 1304
Related Bills: See Legislative History Telephone: 845-2551 Introduced Date: February 17, 2017
Attorney: Bruce Langston Sponsor: _____

SUBJECT: Exclusion/ CalKIDS Savings Account Deposits

SUMMARY

The bill would create the CalKIDS Savings Trust Fund under the Education Code, and under the Personal Income Tax Law (PITL), would exclude from gross income amounts deposited into a CalKIDS savings account.

This analysis only addresses the provisions of the bill that would impact the department's programs and operations.

RECOMMENDATION – NO POSITION

REASON FOR THE BILL

The reason for the bill is to encourage savings for costs of child care, education, other enrichment activities, or care of elderly dependents.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2018, and specifically operative with respect to the gross income exclusion for taxable years beginning on or after January 1, 2018.

FEDERAL/STATE LAW

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Existing federal and state laws allow contributions to qualified tuition program accounts (established pursuant to Internal Revenue Code section 529), and earnings on those accounts to accumulate on a tax-free basis. Distributions from a qualified tuition program account are generally excludable from the distributee's gross income to the extent that the total distribution does not exceed the qualified higher education expenses incurred for the beneficiary.

Existing federal and state laws allow contributions to Achieving a Better Life Experience Accounts (ABLE accounts) for the qualified disability expenses of the designated beneficiary of the account. Amounts in the account accumulate on a tax-free basis. Distributions from an ABLE account are generally excludable from income to the extent that the total distribution does not exceed the qualified disability expenses of the beneficiary during the taxable year.

Existing federal and state laws allow a tax credit for employment-related costs of care for a qualifying individual. A qualifying individual is defined as a dependent of the taxpayer that is under the age of 13 or a dependent or spouse who is physically or mentally unable to care for themselves. Employment-related expenses are generally defined as those expenses incurred to enable gainful employment.

THIS BILL

This bill would, under the Education Code, create the CalKIDS Savings Trust Fund, a savings program administered by the State Treasury through CalKIDS savings accounts to help families save for the costs of child care, education, or other enrichment activities that will prepare the beneficiary for the future or higher education. These moneys may also be used to take care of elderly dependents.

This bill would, under the PITL, allow for taxable years beginning on or after January 1, 2018, an exclusion from gross income for moneys deposited into a CalKIDS savings account pursuant to the savings program established by this bill.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill lacks administrative details necessary to administer the bill's provisions. For example:

- The bill fails to specify the amount of the exclusion, the maximum amount that may be deposited into a CalKIDS savings account, or who may contribute to the account.
- The bill lacks a reporting mechanism for the department to verify the amount of the exclusion.
- The bill currently uses the term "exclusion" which relates to an item of income received by a taxpayer, rather than an item paid by a taxpayer. If the author intends that the person depositing amounts into the account receive a reduction in taxable income, the bill should be amended to provide a "deduction" from gross income for such deposits.
- Because the bill fails to specify otherwise, earnings with respect to amounts deposited would be subject to income tax in the year received or credited to the account.

For clarity and ease of administration, it is recommended that the bill be amended.

LEGISLATIVE HISTORY

SB 752 (Dutton, et al, 2007/2008) would have established the California Kids Investment and Development Savings (KIDS) Account Act that would have allowed a \$500 savings account for children born in California after a specified date. SB 752 failed to pass by the constitutional deadline.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a tax-advantaged account comparable to the account that would be allowed by this bill; however, all of the states surveyed offer tax-advantaged qualified tuition programs and ABLE accounts. The laws of these states were selected due to their similarities to California's economy, business entity types, and tax laws.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

A revenue estimate cannot be completed until the implementation considerations discussed above have been resolved.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that the tax incentive offered by this bill would encourage savings for future education costs.

Opponents: Some may argue that the tax incentive that would be allowed by this bill would be overly broad and would result in revenue losses, which have to be paid for with higher taxes or reductions in services.

POLICY CONCERNS

This bill would create differences between federal and California tax law, thereby increasing the complexity of California tax return preparation.

This bill fails to limit the amount that may be deposited into a CalKIDS account. Tax benefits that could potentially be quite costly are sometimes limited, for example, either on a per-account, per-beneficiary, or per-taxpayer basis.

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same moneys deposited into a CalKIDS account.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of a tax benefit by the Legislature.

LEGISLATIVE STAFF CONTACT

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