



Analysis of Amended Bill

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Sponsor:

Bill Number: AB 3060

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Amended: March 22, 2018

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Related Bills: See Legislative
History

Subject: Employer Educational Assistance Deduction

Summary

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow a deduction for amounts paid or incurred by employers for the educational assistance of full-time employees.

Recommendation – No position.

Summary of Amendments

The March 22, 2018, amendments removed provisions of the bill related to the Health and Safety Code, relating to disease prevention, and replaced them with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

Reason for the Bill

The reason for this bill is to increase the educational assistance offered by employers to full-time employees.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2019.

Federal/State Law

Current federal and state laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.¹

Federal and state laws allow for the deduction of certain expenses, from gross income, when calculating annual gross income (AGI) for individuals, such as moving expenses and interest on education loans, certain ordinary and necessary trade and business expenses, losses from the sale or exchange of certain property, contributions for pension, profit-sharing and annuity plans of self-employed individuals, retirement savings, and alimony. Thus, taxpayers with these types of expenses receive the benefit of the deduction, regardless of whether the taxpayer itemizes deductions or uses the standard deduction. These are known as above-the-line deductions.

State law allows various deductions when calculating the net income for corporations, banks, or financial institutions subject to the corporation franchise or income tax.

State law² defines the term “educational assistance” as the payment by an employer of expenses incurred by or on behalf of an employee for the employee’s education, and includes, but is not limited to, payments for books, supplies, equipment, tuition, and fees, and similar payments. It specifically excludes payments for: tools or supplies that may be retained by the employee after completion of the course; meals, lodging, or transportation; course or education involving sports, games, or hobbies; any course or education taken, during the period of June 30, 1996, to January 1, 2000, at the graduate level of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree.

State law³ defines the term “educational assistance program” as an employer’s written plan to provide employees with educational assistance. The program, which need not be funded, must: (1) not discriminate in favor of highly-compensated employees; (2) not have more than five percent of educational benefits for the year be provided for owners, including their spouses or dependents; and (3) not provide employees with a choice between educational assistance and other remuneration includable in gross income. Reasonable notification of the availability and terms of the program must be provided.

¹ Internal Revenue Code (IRC) section 162; Revenue and Taxation Code (R&TC) section 17201

² R&TC section 17151(b)(1).

³ R&TC section 17151(b)(2).

This Bill

For taxable years beginning on or after January 1, 2019, this bill would, under the PITL as an above-the-line deduction, and under the CTL, allow a deduction for amounts paid or incurred by an employer for the educational assistance of full-time employees pursuant to an educational assistance program.

The terms “educational assistance” and “educational assistance program” would be defined by reference to R&TC section 17151.

“Full-time employee” would be defined as an individual who meets either of the following:

- Is paid wages for services not less than an average of 40 hours per week.
- Is a salaried employee and was paid compensation during the taxable year for full-time employment, as defined in the Labor Code.

Implementation Considerations

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

This bill would allow a deduction to employers for the educational assistance of full-time employees. The deduction would be allowed for employers that are individuals and employers that are corporations or other business entities. Current state and federal law allows taxpayers that are engaged in a trade or business to deduct ordinary and necessary business expenses. Is it the author’s intent to provide a deduction to employers for educational assistance in addition to the deduction allowed for ordinary and necessary business expenses?

Legislative History

AB 2478 (Voepel, 2017/2018) would exclude from an employee’s gross income the amount of principal or interest on certain educational loans paid or incurred by the employer, as specified. AB 2478 is currently referred to the Assembly Revenue and Taxation Committee.

AB 1371 (Lackey, 2015/2016) would have, under the PITL, allowed an above-the-line deduction for certain education-related expenses. AB 1371 failed to pass by the constitutional deadline.

SB 1148 (Stone, 2015/2016) would have, under the PITL, allowed an above-the-line deduction for certain education-related expenses. SB 1148 failed to pass by the constitutional deadline.

Other States’ Information

The states surveyed include *Florida, 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 generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Fiscal Impact

This bill would not significantly impact the department's costs, because the deductions this bill would allow are currently allowed under existing law.

Economic Impact

Revenue Estimate

This bill, as amended on March 22, 2018, would not impact state income or franchise tax revenue.

Revenue Discussion

Under current law, employers are generally allowed to deduct educational assistance benefits for their employees as business expenses. This estimate assumes the educational expenses paid by the employer are ordinary and necessary and qualify as business expenses. Therefore, this bill would not impact state income or franchise tax revenue.

Support/Opposition

Support: None provided.

Opposition: None provided.

Arguments

Proponents: Some would argue that allowing employers to deduct payments made for their employees' educational expenses would improve the ability of California businesses to recruit and retain workers.

Opponents: Some would argue that this bill is unnecessary because business entities are already allowed to deduct these expenses.

Policy Concerns

Existing law allows employers that are engaged in a trade or business to deduct ordinary and necessary business expenses. It is unclear that this bill is necessary for employers to deduct educational assistance expenses.

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