



Summary Analysis of Amended Bill

Author: Gaines

Sponsor:

Bill Number: SB 1218

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Amended: May 10, 2018

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Related Bills: See Prior Analysis

Subject: Qualified Tuition Program Deduction/529 College Savings Plans

Summary

This bill would allow a deduction, under the Personal Income Tax Law, for amounts contributed by a qualified taxpayer to a qualified tuition program.

Recommendation – No position.

Summary of Amendments

The May 10, 2018, amendments reduced the maximum amount of the deduction. Except for the “This Bill” and “Economic Impact” sections, the remainder of the department’s analysis of the bill as introduced February 15, 2018, still applies. The “Implementation Concerns,” “Fiscal Impact,” and “Policy Concerns” sections are restated for convenience.

This Bill

This bill would for taxable years beginning on or after January 1, 2018, allow a qualified taxpayer an income tax deduction equal to the lesser of the amount contributed during the taxable year to a qualified tuition program or the applicable amount, as specified.

The deduction would be allowed as an itemized deduction exclusive of the 2-percent of adjusted gross income floor that generally applies to miscellaneous itemized deductions.

“Qualified taxpayer” would mean an individual who, on behalf of a beneficiary, contributes money to a qualified tuition program and meets all of the other applicable requirements of Section 529 of the Internal Revenue Code.

The allowable deduction would be limited to:

- Six thousand dollars (\$6,000) for spouses filing joint returns, heads of households, and surviving spouses,¹
- Three thousand dollars (\$3,000) for a single individual or a spouse filing separately.

¹ As defined in Revenue and Taxation Code section 17046.

The deduction limitations would be subject to indexing annually for inflation by the Franchise Tax Board for each taxable year beginning on or after January 1, 2019, as specified.

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.

It is unclear whether the deduction would be limited on a per taxpayer, per plan, or per individual contributor basis. Additionally, it is unclear (1) whether amounts transferred or rolled over from another state's Section 529 Plan would qualify for the deduction and (2) how the department could verify that a contribution was made to a qualified tuition program. The lack of guidance could cause disputes between taxpayers and the department and require the department to open up an audit in order to verify the amount of contributions made by taxpayers.

This bill would allow a qualified taxpayer to make a contribution to a Section 529 plan, and generate a deduction even if the funds are immediately withdrawn. If this is contrary to the author's intent, the author may wish to amend the bill to provide a recapture or disallowance provision.

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.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 1218 as Amended on May 10, 2018
For Taxable Years Beginning On or After January 1, 2018
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue
2018-2019	- \$150.0
2019-2020	- \$100.0
2020-2021	- \$100.0

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

Revenue Discussion

Based on Section 529 College Savings Plan data from the College Savings Plan Network, there were approximately 12.9 million Section 529 Plan accounts nationwide in 2016. It is estimated that approximately 10 percent, or 1.4 million, of accounts are held by California taxpayers. The number of accounts is adjusted to reflect changes in the economy over time, resulting in an estimated 1.5 million total accounts in 2018.

Based on TIAA-CREF Financial Services data, approximately 50 percent of account holders make regular annual contributions. This percentage rises to 58 percent in states with deductions or nonrefundable tax credits for contributions. This estimate assumes 60 percent, or 900,000, of the qualifying account holders would make regular contributions. It is further assumed that 60 percent, or 550,000, of the regular contributors would be able to claim the itemized deduction. Assuming an average contribution of \$2,200 per account results in an estimated \$1.3 billion in contribution deductions in taxable year 2018. This amount is then multiplied by an average tax rate of 7.4 percent, resulting in an estimated revenue loss of \$96 million in 2018.

The tax-year estimates are converted to fiscal-year estimates and rounded to arrive at the amounts reflected in the above table.

Policy Concerns

This bill would limit the proposed deduction to taxpayers who itemize deductions. A taxpayer who claims the standard deduction would be ineligible for this deduction.

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.

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

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