



Analysis of Amended Bill

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Sponsor:

Bill Number: AB 1335

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Amended: March 26, 2019

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Related Bills: See Legislative
History

Subject: Financial Aid Returns

Summary

This bill would, under the Administration of Franchise and Income Tax Law (AFITL), allow taxpayers to authorize the Franchise Tax Board (FTB) to share tax return information with the California Student Aid Commission (Commission).

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

Recommendation – No position.

Summary of Amendments

The March 26, 2019, amendments removed provisions related to the Sales and Use Tax Law 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 the bill is to assist students in the financial aid process for postsecondary education.

Effective/Operative Date

This bill would become effective January 1, 2020, and specifically operative for taxable years beginning on or after January 1, 2021.

Federal/State Law

The federal Higher Education Act of 1965 (HEA) requires the Secretary of Education to produce, distribute and process a single common financial reporting form (the Free Application for Federal Student Aid (FAFSA)) to determine a student's eligibility for aid

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under Title IV of the HEA. Under the HEA, the Internal Revenue Service (IRS) is allowed to share data with the U.S. Department of Education in connection with the simplification of financial aid application forms, with the taxpayer's consent. When completing the FAFSA, an applicant may transfer their federal tax information automatically into the form using the IRS Data Retrieval Tool.

Currently, the U.S. Department of Education, Federal Student Aid Office, provides a free early estimate of student's eligibility for federal student aid. The estimate is available before the student completes the FAFSA application.

Current federal law provides that returns and tax information are confidential and may not be disclosed to federal or state agencies or employees except for authorized purposes. Agencies allowed access to federal return information include certain federal and state agencies, such as the FTB. A federal return is defined as any tax return, information return, declaration of estimated tax, or claim for refund under the Internal Revenue Code. Any FTB employee or member responsible for the improper disclosure of federal tax information is subject to criminal prosecution.

Generally, current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits the FTB to release individual tax return information to specific state agencies. Agencies must have a specific reason for requesting the information, including investigating items of income disclosed on any return or report, verifying eligibility for public assistance, locating absent parents to collect child support, or locating abducted children. For some agencies, only limited information may be released, such as the taxpayer's social security number and address.

This Bill

For taxable years beginning on or after January 1, 2021, this bill would, under the AFITL, require the FTB to revise returns required to be filed by individuals and fiduciaries to allow taxpayers to (1) authorize sharing of their return information with the Commission for the purposes of obtaining financial aid estimates for postsecondary education, and (2) specify whether they are requesting financial aid information for themselves, a spouse in the case of joint filers, or a dependent.

The FTB would be required to consult and develop an information sharing agreement with the Commission to facilitate the Commission's requirement to provide taxpayers with financial aid estimates for the financing of postsecondary education.

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.

This bill would require the FTB to provide confidential taxpayer information to the Commission. However, the bill fails to allow the disclosure of such information or prohibit the Commission from further disclosure of confidential taxpayer information. An exception from the general disclosure provisions should be added to the AFITL to specifically allow the FTB to comply with the bill's provision on disclosure of tax information and apply the appropriate disclosure restrictions to the Commission.

This bill is silent as to the specific information from the return that would be shared with the Commission. Taxpayers may be reluctant to share more information than is needed to obtain the financial aid estimate. For clarity and ease of implementation, the author may wish to amend the bill to include the specific return information to be shared (i.e., gross income, taxable income, wages, number of dependents).

The requirement to revise would apply to returns required to be filed by individuals and fiduciaries, which may be more broadly interpreted than the author intends. For clarity and ease of administration it is suggested that the bill be amended to refer to the more commonly used terminology, "forms and instructions." Also, if the inclusion of fiduciary returns is inconsistent with the author's intent, the bill should be amended.

Legislative History

AB 140 (Cervantes, 2019/2020) would allow, under the Education Code, the FTB to recover payments owed to the California Kickstart My Future Loan Forgiveness Program. AB 140 is pending before the Assembly Committee on Appropriations.

AB 101 (Ting, et al., 2017/2018) would have required, under the Government Code, the FTB to provide tax return information to the Scholarshare Investment Board upon request. AB 101 failed passage out of the Senate by the constitutional deadline.

SB 85 (Committee on Budget and Fiscal Review, Chapter 23, statutes of 2017) requires, under the Government Code, the FTB to provide tax return information to the Scholarshare Investment Board upon request.

Program Background

The Commission currently provides information on its website for students regarding financial aid programs available. It also provides links to Net Price Calculators for California Colleges, including public and private universities. The calculations are based on the costs of the institution, and exclude the student's individual financial aid situation.

Other States' Information

The states surveyed 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. Information from these states' personal income tax returns are confidential and cannot be disclosed unless specified in statute. Currently, the laws of these states lack provisions allowing disclosure for purposes of determining eligibility or applying for financial aid for postsecondary education.

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 as amended March 26, 2019, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

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