



Bill Analysis

Author: Calderon

Sponsor:

Bill Number: AB 2016

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Introduced: January 29, 2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Student Aid Commission Financial Aid Sharing Agreement

SUMMARY

This bill would, under the Administration of Franchise and Income Tax Laws (AFITL), allow taxpayers to authorize the Franchise Tax Board (FTB) to share specified tax return information with the California Student Aid Commission (Commission) and require the Commission to provide participating taxpayers with financial aid estimates for postsecondary education.

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

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

None noted.

REASON FOR THE BILL

The reason for the bill is to assist students in the financial aid process for postsecondary education.

ANALYSIS

For taxable years beginning on or after January 1, 2022, 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. The information sharing agreement will address the disclosure of all of the following information:

- Adjusted gross income from all sources.
- Family household size.
- Taxable assets.
- Street address.
- Any other financial information necessary to facilitate the provision of Cal Grant financial aid estimates to the taxpayer filing a return.

Effective/Operative Date

This bill would become effective January 1, 2021, and specifically operative for taxable years beginning on or after January 1, 2022.

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 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.

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.

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 uses terms that are undefined, i.e., "any other financial information." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to clearly define the terms.

This bill would require the FTB to enter into an information sharing agreement to address the sharing of "family household size" and "taxable assets," neither of which are items currently shown on Personal Income Tax returns. It is not clear if the author intends that these items be added to Personal Income Tax return forms, possibly requiring another page or schedule for this information and complicating tax preparation.

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.

Technical Considerations

For clarity, the following changes are recommended:

- On page 2, line 14, it is recommended that the phrase "from the California Student Aid Commission," be added after the word "information"
- On page 2, line 23, it is recommend that the phrase "Adjusted gross income from all sources" be replaced with "Adjusted gross income as defined in RTC 17072."
- On page 3, line 12, after "69432.7," add "of the Education Code."

In addition, (b) (1) should be amended to state, "The Franchise Tax Board shall consult and develop an information sharing agreement with the Student Aid Commission to facilitate the provision of Cal Grant financial aid estimates to the taxpayer filing a return required to be filed pursuant to this article, and who authorized the Franchise Tax Board to share return information with the Student Aid Commission pursuant to this section."

Policy Concerns

None noted.

LEGISLATIVE HISTORY

AB 1335 (Calderon, 2019/2020), which is substantially similar to this bill, would have allowed taxpayers to authorize the FTB to share tax return information with the California Student Aid Commission. AB 1335 failed passage out of the Assembly 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

None noted.

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 introduced January 29, 2020, 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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

None noted.

LEGISLATIVE STAFF CONTACT

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