



## **Analysis of Amended Bill**

Author: Hertzberg, et al.

Sponsor:

Bill Number: SB 63

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Introduced January 7, 2019,  
and Amended April 22, 2019

Attorney: Shane Hofeling

Related Bills: See Legislative  
History

**Subject:** Student Loan Debt Relief

### **Summary**

This bill would, under the Personal Income Tax Law, provide an exclusion from gross income for student loans that are forgiven when the borrower is unable to complete a program of study because a school closes or does something wrong.

### **Summary of Amendments**

The bill, as introduced on January 7, 2019, would expand the exclusion from gross income for student loans that are forgiven when the borrower is unable to complete a program of study because a school closes or does something wrong to include closures of Brightwood Colleges.

The April 22, 2019, amendments added several coauthors, expanded eligibility for the proposed exclusion from income for forgiven student loans to also include closures of The Art Institute of California, and made a technical change.

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

**Recommendation – No position.**

### **Reason for the Bill**

The reason for the bill is to provide state tax relief to students who have student loans forgiven as a result of the closures of Brightwood Colleges, The Art Institute of California, and similar closures.

### **Effective/Operative Date**

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for discharges of indebtedness occurring on or after January 1, 2019, and before January 1, 2024.

## **Federal Law**

Individuals who take out student loans are responsible for making loan payments, and if the loan is forgiven, individuals must generally include the amount that was forgiven in their gross income for tax purposes, unless a specific exclusion is provided.

Under Internal Revenue Code (IRC) section 108(f), if a student loan is made by a qualified lender to assist an individual in attending an eligible educational institution, and contains a provision that all or part of the debt will be forgiven if the individual works for a certain period of time in certain professions, then the forgiveness of that loan is excludable from income. In addition, there are other circumstances that can lead to forgiveness of debt.

IRC section 108(f) also provides an income exclusion for amounts received under the National Health Service Corps loan repayment program or certain state loan forgiveness and repayment programs that are intended to provide for the increased availability of health care services in underserved or health professional shortage areas (as determined by the state).

Federal Student Aid, an Office of the U.S. Department of Education, has a program that forgives student loans in a limited number of circumstances,<sup>1</sup> including what's referred to as a closed school discharge, which means a student loan may be forgiven if a student's school closes while they're enrolled and the student cannot complete their program of study because of the closure, or if a student withdraws from the school within 120 days of the school's closure. However, there is no specific exclusion from income for such forgiveness, meaning student loans that are forgiven as a result of a school closure are generally includable in the borrower's income.<sup>2</sup>

## **State Law**

California allows an exclusion from gross income for student loan debt that is cancelled or repaid under the income-based repayment programs administered by the U.S. Department of Education.<sup>3</sup> This exclusion applies to discharges of indebtedness occurring on or after January 1, 2014, and before January 1, 2022.

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<sup>1</sup> Other circumstances in which a student loan may be forgiven include a total and permanent disability discharge, a death discharge, and a false certification of student eligibility or unauthorized payment discharge.

<sup>2</sup> Insolvent individuals may exclude from gross income forgiven student loans to the extent of their insolvency. IRC section 108(a)(1)(B).

<sup>3</sup> Revenue and Taxation Code (R&TC) section 17132.11.

In addition, California allows an exclusion from gross income for discharges of indebtedness occurring on or after January 1, 2015, and before January 1, 2020, that would otherwise result from a student loan forgiven as a result of the closure of Corinthian Colleges and similar closures,<sup>4</sup> or the student successfully asserts that the school did something wrong or failed to do something that it should have done.

### **This Bill**

This bill would, for taxable years beginning on and after January 1, 2019, and before January 1, 2024, provide an exclusion from California gross income for income that would otherwise result from a forgiven student loan of an eligible individual.

A student loan would mean any student obligation note or other debt evidencing a loan to any individual for the purpose of attending a for-profit higher education company or for the purpose of consolidating or refinancing a loan used to attend a for-profit higher education company, which is either a guaranteed student loan, an educational loan, or a loan eligible for consolidation or refinancing under Part B of Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1071 et seq.).

An individual would be an eligible individual for a taxable year if any of the following apply during the taxable year:

- The individual is granted a discharge of any student loan pursuant to a discharge agreement.
- The individual is granted a discharge of any student loan pursuant to:
  - Subdivision (c) of Section 685.206 of Title 34 of the Code of Federal Regulations, as it read January 1, 2019, because the individual successfully asserts that the school did something wrong or failed to do something that it should have done; or
  - Paragraph (1) of subdivision (a) of Section 685.214 of Title 34 of the Code of Federal Regulations, as it read January 1, 2019, because the individual could not complete a program of study due to the school closing.
- The individual attended a Brightwood College school on or before December 5, 2018, is granted a discharge of any student loan made in connection with attending that school that is otherwise ineligible for discharge.
- The individual attended a location of The Art Institute of California and is granted a discharge of any student loan made in connection with attending that school that is otherwise ineligible for discharge.

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<sup>4</sup> R&TC section 17144.7.

This bill would remain in effect until December 1, 2024, and be repealed as of that date.

### **Legislative History**

AB 461 (Muratsuchi, Chapter 525, Statutes of 2017), for taxable years beginning on or after January 1, 2017, and before January 1, 2022, excludes from gross income student loan debt that is forgiven or repaid under the income-based and other repayment programs administered by the U.S. Department of Education.

SB 150 (Nguyen, et al., Chapter 650, Statutes of 2015) excludes from gross income several types of student loan debt that is discharged on or after January 1, 2015, and before January 1, 2020, including debt that is discharged, pursuant to discharge agreements between certain schools that closed, or other situations in which a student could not complete a program of study due to a school closing or doing something wrong.

AB 1055 (Baker, et al., 2015/2016) would have provided an exclusion from gross income for student loans that were forgiven when the borrower was blind or disabled. AB 1055 failed to pass by the constitutional deadline.

SB 1271 (Evans & Leno, Chapter 841, Statutes of 2014), for taxable years beginning on or after January 1, 2014, excludes from gross income student loan debt that is forgiven or repaid under the income-based repayment programs administered by the U.S. Department of Education.

### **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. *Florida* does not impose a personal income tax, thus a comparison to *Florida* is not applicable. A review of the remaining states' laws found that none provide an exclusion from gross income for income resulting from a student loan forgiven because a school closes or does something wrong.

### **Fiscal Impact**

This bill would not significantly impact the department's costs.

## Economic Impact

### Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 63 as Amended April 24, 2019  
Assumed Enactment after June 30, 2019

<b>Fiscal Year</b>	<b>Revenue</b>
2019-2020	-\$450,000
2020-2021	-\$500,000
2021-2022	-\$300,000

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.

### Revenue Discussion

Based on data from the Department of Education and other research, it is estimated that California borrowers would have approximately \$25 million of student loans forgiven in 2019 because a school closes or does something wrong.

Because California law currently allows an exclusion from gross income for discharges of indebtedness occurring on or after January 1, 2015, and before January 1, 2020, it is estimated that eight percent of the 2019 discharges would be subject to the provisions of this proposal and the remainder would be excluded under current law.

It is estimated that 20 percent of those forgiven student loans would be attributable to borrowers who are insolvent, thus excludable from income under current law. Of the remaining forgiven student loans, it is assumed that borrowers eligible for this bill's exclusion would have an average tax rate of 3 percent, resulting in an estimated \$50,000 revenue loss for the 2019 tax year,<sup>5</sup> increasing to \$700,000 in the 2020 tax year and decreasing each year thereafter.

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<sup>5</sup> If there are subsequent closures of larger schools that impact borrowers in this state before January 1, 2024, this bill could result in substantial additional revenue losses as a result of such closures.

The tax year estimates are then converted to fiscal years and rounded to arrive at the amounts shown in the above table.

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