



## **Bill Analysis**

Author: Voepel

Sponsor:

Bill Number: AB 1729

Related Bills: See Legislative  
History

Introduced: January 31, 2022  
Amended: March 21, 2022

## **SUBJECT**

Gross Income Exclusion for Qualified Education Loan

## **SUMMARY**

This bill, under the Personal Income Tax Law, would allow a gross income exclusion for education loan payments made by an employer on an employee's behalf, remove an obsolete provision, and make other nonsubstantive, technical changes.

## **RECOMMENDATION**

No position.

## **SUMMARY OF AMENDMENTS**

The March 21, 2022, amendments modified the bill's specified operative date for the exclusion applicable to payments made on qualified education loans and made other nonsubstantive changes.

## **REASON FOR THE BILL**

The reason for this bill is to assist taxpayers with student loan debt by making education loan payments made by an employer on behalf of their employee tax-free to the employee.

## **ANALYSIS**

This bill would allow a gross income exclusion for education loan payments paid or incurred by an employer to an employee or lender for principal or interest on the employee's qualified education loan, as defined by Internal Revenue Code (IRC) section 221, relating to interest on education loans. This bill would apply to payments made by an employer beginning on or after January 1, 2023, and before January 1, 2026. The exclusion would be limited to \$5,250 per calendar year.

For purposes of complying with Revenue and Taxation Code (RTC) section 41, the effectiveness of the income exclusion would be measured by the decrease in student loan defaults and increase in timely repayment of student loans by Californians.

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### *Effective/Operative Date*

As a tax levy, this bill would be effective immediately upon enactment and operative for payments made by an employer beginning on and after January 1, 2023, and before January 1, 2026.

### *Federal/State Law*

#### *Federal Law*

Existing federal law, (IRC section 127) provides an exclusion of up to \$5,250 per year from gross income of an employee, for educational assistance furnished pursuant to an educational assistance program by an employer, for expenses incurred by, or on behalf of, an employee for education of the employee. In December 2020, the definition of educational assistance was amended to include, in the case of payments made before January 1, 2026, the payment by an employer of principal or interest on any qualified education loan incurred by the employee for education of the employee.

#### *State Law*

California has a stand-alone law that provides an exclusion for employer-provided educational benefits that is similar to IRC section 127. Under this provision, state law excludes from an employee's gross income amounts paid by their employer for educational assistance, to the employee, pursuant to an educational assistance program up to \$5,250 per calendar year. California does not conform to the expanded federal definition of educational assistance, and, therefore, does not include education loan payments in the definition of educational assistance as explained above.

### *Implementation Considerations*

The bill would define a qualified education loan by reference to IRC 221, which states that indebtedness incurred by the taxpayer for qualified higher education expenses, include expenses incurred on behalf of the taxpayer (employee), their spouse, or their dependent. Therefore, using this definition would allow a taxpayer to exclude amounts paid by their employer for education loans, which may have been incurred for the benefit of the employee's spouse and dependents. If this is contrary to the author's intent, this bill should be amended to include the language from IRC section 127(c)(1)(b) that limits the expenses to amounts incurred by the employee for education of the employee.

### *Technical Considerations*

None noted.

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*Policy Considerations*

None noted.

**LEGISLATIVE HISTORY**

AB 511 (Alquist, Chapter 107, Statutes of 2000), among other things, added amounts paid or incurred by an employer for an employee to take graduate level courses as payments that may be excluded, up to \$5,250 per calendar year, from the employee's gross income. This exclusion applies to any course or education taken at the graduate level beginning on or after January 1, 2000.

AB 2478 (Voepel, et al., 2017/2018) would have provided a gross income exclusion for employer education loan payments made on an employee's behalf. AB 2478 did not pass out of the Assembly Appropriations Committee.

**PROGRAM BACKGROUND**

None noted.

**FISCAL IMPACT**

The department's costs to implement this bill have yet to be determined. As the bill continues to move 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 AB 1729 as Amended March 21, 2022  
Assumed Enactment after June 30, 2022

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2022-2023	-\$34
2023-2024	-\$60
2024-2025	-\$60

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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**LEGAL IMPACT**

None noted.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

To be determined.

**ARGUMENTS**

To be determined.

**LEGISLATIVE CONTACT**

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