STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Voepel & Bogh

Sponsor:

Related Bills: See Legislative History

Bill Number: AB 1729

Amended: April 18, 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 April 18, 2022, amendments clarified that the gross income exclusion applies to payments on qualified education loans of the employee and does not include payments made on behalf of the employee's spouse or dependent.

The amendments resolved the implementation consideration as discussed in the department's analysis of the bill as amended March 21, 2022.

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.

This bill provides that the exclusion would only be for payments on qualified education loans incurred by the employee for education of the employee, and not loans incurred by the employee for education of the employee's spouse or dependent.

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.

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

None noted.

Technical Considerations

None noted.

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 April 18, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

The Assembly Revenue and Taxation Committee analysis of AB 1729, dated March 31, 2022, lists the following support of the bill.

Support

Society for Human Resource Management

Opposition

Per the Assembly Revenue and Taxation Committee analysis of AB 1729, dated March 31, 2022, there is no opposition for AB 1729 on file.

ARGUMENTS

The Assembly Committee on Revenue and Taxation analysis of AB 1729 dated March 31, 2022, includes the following argument in support of the bill:

Proponents

> The Society of Human Resource Management (SHRM), which states, in part: SHRM believes that a comprehensive and flexible benefits package is an essential tool in recruiting and retaining talented employees, and we are committed to preserving employer-provided education assistance. Current law in California allows an employee to exclude from state income up to $5,250 per year in educational assistance provided by their employer. While providing tax-free educational assistance is an important tool for employers to attract, maintain and build a skilled workforce, it is important that this benefit now be expanded to include student loan repayment. This debt often precludes workers from contributing to personal savings and more importantly, retirement savings plans. According to a 2016 Lending Tree study, 40 percent of Millennials say they have not saved anything for retirement. Considering that Millennials graduate with an average of $37,172 in student loan debt, having an employer that provides a student loan AB 1729 repayment benefit can not only help to mitigate this challenge, but also assist employers as they recruit and retain top talent.

Opponents

None Noted.

LEGISLATIVE CONTACT

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