



## **Bill Analysis**

Author: Villapudua & Mathis

Sponsor:

Bill Number: AB 219

Related Bills: See Legislative  
History

Amended: February 23, 2021

### **SUBJECT**

Back-to-School Holiday Week Tax Credit

### **SUMMARY**

This bill, under the Personal Income Tax Law (PITL), would provide a refundable tax credit to qualified taxpayers, as specified, equal to the sales tax collected during the first week of August for purchases of back-to-school items, not to exceed \$2,500 per taxable year, per household.

### **RECOMMENDATION**

No position.

### **SUMMARY OF AMENDMENTS**

The February 23, 2021, amendments removed provisions of the bill related to a sales and use tax exemption for back-to-school purchases 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 relieve the financial burden for families and educators buying school supplies.

### **ANALYSIS**

For taxable years beginning on or after January 1, 2022, and before January 1, 2027, there shall be allowed as a refundable credit against the "net tax," an amount equal to the amount of sales tax collected from a qualified taxpayer during the first week of August of the taxable year for purchases of back-to-school items, not to exceed two thousand five hundred dollars (\$2,500) per taxable year, per household.

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Except for public school educators who purchases back-to-school items for teaching purposes, to be eligible, the qualified taxpayer's household income at the time of filing the tax return must be at or below the federal poverty threshold.

Qualified taxpayers must save their receipts from purchases of back-to-school items made during the first week of August, itemize the taxes collected from the taxpayer on the items, and submit the amount when filing their personal income tax return.

If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, shall be paid from the Tax Relief and Refund Account and refunded to the taxpayer.

For purposes of this section, the following definitions shall apply:

- 1) "Qualified taxpayer" means a parent with a schoolchild, a student attending a postsecondary institution, or an educator.
- 2) "Back-to-school items" means all of the following:
  - A. Articles of clothing with a sales price of one hundred dollars (\$100), or less, per article of clothing.
  - B. A single purchase, with a sales price of one thousand dollars (\$1,000), or less, of computers, computer software, and school computer supplies. Computer, computer software, and school computer supplies do not include furniture and any systems, devices, software, or peripherals designed or intended primarily for recreational use, or video games of a noneducational nature.
  - C. Noncommercial purchases of school supplies, school art supplies, and school instructional material, with a sales price of one hundred dollars (\$100), or less, per item.
  - D. Noncommercial purchases of books with a sales price of not more than one hundred fifty (\$150) per book.
- 3) "Book" means a set of printed sheets bound together and published in a volume with an ISBN number, but does not include magazines, newspapers, periodicals, or any other document printed or offered for sale in a nonbound form.
- 4) "Clothing" means all human wearing apparel suitable for general use, including sandals, shoes, and sneakers. Clothing does not include any of the following:
  - A. Belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; protective equipment; or sport or recreational equipment.
    - "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property, but not suitable for general use. It includes, but is not limited to, all of the

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following: breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welding gloves and masks.

- “Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. It includes, but is not limited to, all of the following: ballet and tap shoes; cleated or spiked athletic shoes; gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf; goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins.
- 5) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
  - 6) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
  - 7) “First week of August” means the week beginning at 12:01 a.m. on the first day of August and ending at 11:59 p.m. on the seventh day of August.
  - 8) “School computer supply” means an item commonly used by a student in a course of study in which a computer is used and includes only the following:
    - A. Computer storage media, including diskettes and compact disks.
    - B. Handheld electronic schedulers, except devices that are cellular phones.
    - C. Personal digital assistants, except devices that are cellular phones.
    - D. Computer printers.
    - E. Printer supplies for computers, including printer paper and printer ink.
  - 9) “School art supply” means an item commonly used by a student in a course of study for artwork and includes only the following:
    - A. Clay and glazes.
    - B. Acrylic paint, tempera paint, and oil paint.
    - C. Paintbrushes for artwork.
    - D. Sketch and drawing pads.
    - E. Watercolors.
  - 10) “School instructional material” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught and includes only the following:
    - A. Reference maps and globes.
    - B. Required textbooks on an official school book list with a sales price of more than one hundred fifty dollars (\$150).

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11) "School supply" means an item commonly used by a student in a course of study and includes only the following: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; expandable, pocket, plastic, and manila folders; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets.

For the purpose of complying with Section 41, the Legislature finds and declares that the goal of this credit is to relieve the financial burden for families and educators buying school supplies.

Notwithstanding Section 19542, the Franchise Tax Board (FTB) would be required to submit to the Legislature a report by January 1, 2026, on the amount of credits used by qualified taxpayers. Any individually identifiable information collected pursuant to this subdivision that is used in the report shall be compiled in an aggregate or anonymized manner to preserve confidentiality.

This section shall remain in effect only until December 1, 2027, and as of that date is repealed.

#### *Effective/Operative Date*

As an appropriation, this bill would be effective immediately upon enactment, and specifically operative for taxable years beginning on or after January 1, 2022, and before January 1, 2027.

#### *Federal/State Law*

There are no federal or state income tax laws comparable to the provisions of this bill.

#### *Implementation Considerations*

The department has identified the following implementation considerations, and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill uses terms that are undefined, such as, "educator," "schoolchild," and "noncommercial purchase." In addition, the author may want to clarify whether "educator" would include full and part time educators, as well as paid or unpaid (voluntary) educators, and would sales tax be paid with respect to noncommercial purchases. The absence of definitions to clarify these terms could lead to disputes. For clarity, it is recommended that the bill be amended to define these terms.

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To be eligible for this credit, a qualified taxpayer's household income must be at or below the federal poverty threshold. However, there is an exception for public school educators. The effect of the poverty threshold is that all public school educators are eligible for the credit, while non-public school educators must be at or below the poverty threshold in order to be eligible for the credit. If this is contrary to the author's intent, the author may wish to amend the bill.

The bill provides that, except for public school educators, to be eligible, a qualified taxpayer's household income "at the time of filing the tax return" must be at or below the federal poverty threshold. This would be problematic for the department to implement as it would require the FTB to ascertain household income at the time when the return is filed as opposed to the end of the taxable year. In addition, "household income" is an undefined term and FTB would not have access to this data. The author may want to amend the bill to provide that the test for eligibility would be based on the taxpayer's income for the taxable year, and that the poverty threshold be a comparable of the taxpayer's adjusted gross income or taxable income to poverty levels.

The bill would require taxpayers to itemize the taxes collected and submit the amount with their tax return. To avoid fraudulent claims, the author may want to consider adding a provision requiring a qualified taxpayer to complete a form, itemize claimed expenses, in the form and manner as prescribed by the FTB, and furnish the actual receipts to the FTB upon request.

The bill is silent regarding whether the refundable portion of the tax credit would be excluded from gross income for California income tax purposes.

#### *Technical Considerations*

Sales tax is generally owed by retailers that pass the tax onto purchasers as "sales tax reimbursement." For clarity, the author may consider amending the bill to allow the credit for "sales tax reimbursement paid" or "the amount charged as sales tax to and paid" by a qualified taxpayer.

The FTB would be required to submit to the Legislature a report providing the amount of credits "used" by qualified taxpayers. For consistency of terminology, the following change is recommended: On page 7, line 16, the term "used" should be replaced with "claimed".

#### *Policy Considerations*

This bill provides that qualified taxpayers would only include the "parents" of the schoolchild. However, legal guardians can be responsible for these expenses as well. If the author's intent is to include legal guardians, the author may want to amend the bill.

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This bill would allow a credit for sales tax but not use tax. If the author's intent is to allow a credit for either sales tax reimbursement or use tax added to purchases of these items, the bill should be amended to also include use tax.

With improved technology and general availability, the author may wish to expand the definition of "book" to include e-books and "computer storage media" to include USB storage devices and cloud storage.

Historically, refundable credits (such as the state renter's credit, the federal Earned Income Tax Credit, and the federal credit for gasoline used for farming) have had significant problems with invalid and fraudulent returns. The author may want to instead provide that the credit can be applied in the current taxable year with any excess to be carried forward until exhausted.

## **LEGISLATIVE HISTORY**

AB 250 (Choi, 2021/2022) would, under the PITL, allow qualified teachers a credit of up to \$200 for the purchase of instructional materials and classroom supplies. AB 250 is currently in the committee process.

AB 742 (Calderon, 2021/2022) would, under the Administration of Franchise and Income Tax Law (AFITL), modify provisions of the School Supplies for Homeless Children Fund. AB 742 is currently in the committee process.

AB 1789 (Santigo, et al., Chapter 1789, Statutes of 2016), under the AFITL, extended the effective and repeal dates for the School Supplies for Homeless Children Fund to appear as a voluntary tax contribution fund on personal income tax returns to January 1, 2022.

AB 348 (Choi & Flora, 2019/2020), similar to AB 250 (Choi, 2021/2022), would have allowed a credit for amounts paid or incurred by a qualified teacher during the taxable year for instructional materials and classroom supplies, not to exceed \$200 for each taxable year beginning on or after January 1, 2020. AB 348 did not pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

AB 337 (Jones-Sawyer, et al., 2015/2016) would have created a tax credit for unreimbursed costs paid by qualified teachers for instructional materials and school supplies. AB 337 did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

## **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 would result in the following revenue loss:

Estimated Revenue Impact of AB 219 as Amended on February 23, 2021  
Assumed Enactment after June 30, 2021

(\$ in Millions)

Fiscal Year	Revenue
2022-2023	-\$70
2023-2024	-\$70
2024-2025	-\$75

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**

To be determined.

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**LEGISLATIVE CONTACT**

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