



## Bill Analysis

Author: Ochoa Bogh

Sponsor:

Bill Number: SB 454

Related Bills: See Legislative  
History

Introduced February 13, 2023,  
and Amended April 25, 2023

### SUBJECT

Deferred Compensation: Retirement amounts: Catch-up Contributions

### SUMMARY

This bill would specifically conform to the federal Consolidated Appropriations Act (CAA), 2023 (Public Law (P.L.) 117-328) provisions that index the Individual Retirement Account (IRA) catch-up limitation amounts and increase the amount of additional elective deferrals of catch-up contribution amounts for specified taxpayers.

### RECOMMENDATION

No position.

### SUMMARY OF AMENDMENTS

The April 25, 2023, amendments removed the provisions of the CAA, 2023 (P.L. 117-328), relating to exceptions to the early withdrawal penalty for distributions after December 31, 2023, from an eligible retirement account for certain emergency expenses and in the case of domestic abuse, 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 conform state law to the federal retirement provisions to ease tax preparation and allow taxpayers to have the same state and federal retirement basis for the increased contribution and catch-up contribution amounts.

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## ANALYSIS

This bill, under the Personal Income Tax Law (PITL), would specifically conform to the following three provisions established under the CAA, 2023 (P.L. 117-328):

- The indexing for the \$1,000 IRAs catch-up limit for individuals aged 50 and older. (CAA, 2023 section 108 of Division T, Internal Revenue Code (IRC) section 219(b)(5)(C).)
- The increase to the catch-up limit amount for applicable employer plans, including simple plans and plans other than simple plans. For plans other than simple plans, for individuals who are age 60 and not age 64 before the close of the taxable year, the limit would be the greater of \$10,000 or 150% more of the regular applicable dollar, which is \$5,000 in 2024. For simple plans, the catch-up limit is increased to the greater of \$5,000 or 150% more of the regular applicable dollar amount, which is \$2,500 in 2025. The applicable dollar amounts would also be adjusted annually for inflation beginning after December 31, 2025. (CAA, 2023 section 109 of Division T, IRC section 414(v).)
- The increase in the applicable dollar amount is part of the equation that sets the limit on additional elective deferrals, so it equals 110% of the amount from 2024. This would also index the applicable dollar amount. (CAA, 2023 section 117 of Division T, IRC section 414(v)(2).)

### *Effective/Operative Date*

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after:

- December 31, 2023, relating to the indexing IRA catch-up limit. (CAA, 2023 section 108 of Division T, IRC section 219(b)(5)(C).)
- December 31, 2024, relating to the higher catch-up limit for individuals who are age 60 and not age 64 before the close of the taxable year. (CAA, 2023 section 109 of Division T, IRC section 414(v).)
- December 31, 2023, relating to additional elective deferrals (CAA, 2023 section 117 of Division T, IRC section 414(v)(2).)

### *Federal/State Law*

#### *Federal Law*

The IRC provides two general vehicles for tax-favored retirement savings: employer-sponsored plans and IRAs. IRC provisions are generally within the jurisdiction of the [Secretary of the Treasury], through his or her delegate, the [Internal Revenue Service].

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The most common type of tax-favored employer-sponsored retirement plan is a qualified retirement plan, which may be a defined contribution plan or a defined benefit plan. A defined contribution plan may include a qualified cash or deferred arrangement under which employees may elect to have plan contributions (elective deferrals) made. The maximum annual amount of elective deferrals that can be made by an employee for a year is \$22,500 (for 2023) or, if less, the employee's compensation. For an employee who attains age 50 by the end of the year, the dollar limit on elective deferrals is increased by \$7,500 (for 2023) (called catch-up contributions). An employee's elective deferrals must be fully vested. An IRC section 401(k) plan may also provide for employer matching and nonelective contributions.

An IRA is generally established by the individual for whom the IRA is maintained. However, in some cases, an employer may establish IRAs on behalf of employees and provide retirement contributions to the IRAs. In addition, IRA treatment may apply to accounts maintained for employees under a trust created by an employer (or an employee association) for the exclusive benefit of employees or their beneficiaries, provided that the trust complies with the relevant IRA requirements and separate accounting is maintained for the interest of each employee or beneficiary (referred to herein as an IRA trust). In that case, the assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust. A SIMPLE IRA plan (or simple retirement account) is an employer-sponsored retirement plan funded with IRAs that also allows employees to make elective deferrals. (IRC section 408(p).) IRC section 401(k) plans and SIMPLE IRA plans may be designed so that the employee will receive cash compensation unless the employee affirmatively elects to make elective deferrals to the plan.

The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount (\$6,500 for 2023); and (2) the amount of the individual's compensation that is includible in gross income for the year. In the case of an individual who attains age 50 by the end of the year, the dollar amount is increased by \$1,000. Beginning in taxable year 2024, the catch-up limit for these individuals is indexed. (CAA, 2023 Section 108.) In the case of a married couple, contributions can be made up to the dollar limit for each spouse, but the total combined contributions cannot be more than the taxable compensation reported on your joint return. The SIMPLE IRA contributions limits for 2023 is \$15,500, and in the case of an individual who attains age 50 and over by the end of the year, a \$3,500 catch-up contribution is allowed.

Under federal law, a catch-up contribution is an elective deferral made by an individual who is 50 or older to a 401(k) plan, 403(b) plan, governmental 457(b) plan, a SIMPLE 401(k), or SIMPLE IRA. The catch-up contribution is made by a catch-up eligible participant that exceeds the statutory limit, plan imposed limit or the actual deferral percentage (ADP) limit. (IRC section 414 (v).) Beginning in taxable year 2024, the

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applicable dollar amount catch-up limit for defined contribution plans other than simple plans for individuals who are age 60 and not age 64 before the close of the taxable year would be increased to the greater of \$10,000 or 150% more of the regular applicable dollar amount in 2024. For simple plans, the catch-up limit is increased to the greater of \$5,000 or 150% more of the regular applicable dollar amount in 2025. These amounts would also be adjusted annually for inflation beginning after December 31, 2025. (CAA, 2023, section 109.) Additionally, for taxable years beginning after December 31, 2023, the applicable dollar amount, which is part of the equation that sets the limit on additional elective deferrals, will be increased to 110% of the dollar amount from 2024. This would also index the applicable dollar amount. (CAA, 2023, section 117.)

### *State Law*

California conforms, under the PITL, to the allowance of retirement savings deductions under IRC section 219, as of the "specified date" of January 1, 2015 (Revenue and Taxation Code (RTC) section 17201(b)), with the modification that any references to "compensation" or "earned income" for purposes of computing federal limitations on the deductions for qualified retirement contributions, shall apply also to California for the same taxable year. (RTC section 17203.) California does not conform to the indexing to the \$1,000 IRA catch-up limit for individuals aged 50 or older as amended under CAA, 2023 section 108.

California conforms, under the PITL and the Corporation Tax Law (CTL), by reference to Subchapter D of Chapter 1 of Subtitle A of the IRC, relating to deferred compensation, consisting of Part I, relating to pension, profit-sharing, stock bonus plans, etc. (IRC sections 401 through 420), under RTC sections 17501 and 24601 as of the "specified date" of January 1, 2015. RTC sections 17501(b) and 24601(b) specifically provide that federal changes to Part I of Subchapter D of Chapter 1 of Subtitle A of the IRC, relating to deferred compensation, consisting of IRC sections 401 through 420, automatically apply without regard to taxable year to the same extent as applicable for federal income tax purposes and adopt all changes made to those IRC sections without regard to the "specified date" contained in RTC sections 17024.5 and 23051.5. In other words, the PITL and CTL automatically conform to federal changes made to IRC sections 401(k), 414, and 408. However, RTC section 17501(c) limits the amount of elective deferrals that can be excluded under IRC section 414(v) to the amount excludable under the IRC provisions in effect as of January 1, 2010.

### *Implementation Considerations*

As a tax levy, this bill would be operative for taxable years beginning on or after January 1, 2023. However, each of the federal provisions have different operative dates that determine when the taxpayer and employer can make these contributions. The IRA indexing and increases to contribution amounts, including catch-up

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contributions for employers, are operative for taxable years beginning after December 31, 2023 (tax year 2024 and after). The catch-up contributions for qualified deferred compensation plans and SIMPLE IRA plans for individuals between the ages of 60 and 63 are operative for taxable years beginning after December 31, 2024, (tax years 2025 and after) and those amounts would be adjusted annually for inflation beginning after December 31, 2025, (tax years 2026 and after). For clarity and consistency with federal law, the author may wish to amend the bill to add operative dates for each provision that would correspond to the federal effective date.

### *Technical Considerations*

It is recommended that the reference to IRC sections 401(k) and 408(p)(2) within Section 17501.8(a)(3) be removed because California automatically conforms, under the PITL, to these provisions.

### *Policy Considerations*

None noted.

## **LEGISLATIVE HISTORY**

AB 91 (Burke, et al., Chapter 39, Statutes of 2019) made changes conforming to federal law, including the Achieving a Better Life Experience (ABLE) Accounts Increased Contributions and IRC section 529 Account Rollovers.

AB 154 (Ting, Chapter 359, Statutes of 2015) changed California's general "specified date" of conformity to federal income tax laws from January 1, 2009, to January 1, 2015, for taxable years beginning on or after January 1, 2015.

SB 401 (Wolk, Chapter 14, Statutes of 2010), under the PITL, changed the specified conformity date from January 1, 2005, to January 1, 2009, for taxable years beginning on or after January 1, 2010. This changed the specified date that state law automatically conformed to all federal changes from January 1, 2005, through December 31, 2008, to IRC sections that had been previously incorporated by reference.

## **PROGRAM BACKGROUND**

None noted.

## **FISCAL IMPACT**

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

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**ECONOMIC IMPACT**

*Revenue Estimate*

Provision 1: Section 108 of Division T

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 454 as Amended April 25, 2023  
 For Taxable Years Beginning After December 31, 2023  
 Assumed Enactment after June 30, 2023

*(\$ in Millions)*

<b>Fiscal Year</b>	<b>Revenue</b>
2023-2024	-\$0.45
2024-2025	-\$0.8
2025-2026	-\$0.9

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.

Provision 2: Section 109 of Division T

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 454 as Amended April 25, 2023  
 For Taxable Years Beginning After December 31, 2024  
 Assumed Enactment after June 30, 2023

*(\$ in Millions)*

<b>Fiscal Year</b>	<b>Revenue</b>
2023-2024	\$0.0
2024-2025	-\$0.7
2025-2026	-\$1.9

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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Provision 3: Section 117 of Division T

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 454 as Amended April 25, 2023  
For Taxable Years Beginning After December 31, 2023  
Assumed Enactment after June 30, 2023

(\$ in Millions)

Fiscal Year	Revenue
2023-2024	-\$2.3
2024-2025	-\$4.0
2025-2026	-\$4.0

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**

As per the Senate Governance and Finance Committee analysis of SB 454, dated April 28, 2023, the California Society of Enrolled Agents support this bill, and no opposition was received.

**ARGUMENTS**

As per the same analysis dated April 28, 2023, no proponents or opponents were noted.

**LEGISLATIVE CONTACT**

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