

Introduced by Senator Moorlach
(Coauthor: Senator Huff)
(Coauthors: Assembly Members Baker and Lackey)

February 19, 2016

An act to amend Section 17072 of, and to add and repeal Sections 17208 and 17208.2 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1437, as introduced, Moorlach. Personal income taxes: deductions: education expenses: education savings accounts.

The Personal Income Tax Law, in modified conformity with federal income tax laws, allows various deductions from gross income in computing adjusted gross income under that law, including deductions for payments to individual retirement accounts, alimony payments, and interest on educational loans.

This bill, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, would allow a deduction in computing adjusted gross income for those amounts contributed to a Coverdell education savings account, up to \$750 per taxable year, as provided. The bill, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, would also allow a deduction in computing adjusted gross income, not to exceed \$2,500, for the cost of education-related expenses of the taxpayer's dependent child or children attending public or private school, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) While ensuring that quality education for all of California's
4 schoolchildren is a shared responsibility of the general public, it
5 is foremost the duty of individual parents.

6 (b) Providing tax relief for citizens who shoulder an extra weight
7 in pursuit of the common good has long been considered sound
8 public policy.

9 (c) Every school year, kindergarten and grades 1 to 12, inclusive,
10 parents across California pay at their own expense to obtain vital
11 educational resources and services that are essential to those
12 children entrusted to their parents' care.

13 (d) Financial pressures weighing upon California families have
14 also made it difficult to ensure for their children a quality
15 elementary and secondary education while at the same time
16 generating funds for college.

17 (e) State education tax relief can help empower and engage low-
18 and middle-income families in personally caring for their own
19 schoolchildren's kindergarten through high school learning needs
20 and generate funds for college.

21 SEC. 2. Section 17072 of the Revenue and Taxation Code is
22 amended to read:

23 17072. (a) Section 62 of the Internal Revenue Code, relating
24 to adjusted gross income defined, shall apply, except as otherwise
25 provided.

26 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating
27 to certain expenses of elementary and secondary school teachers,
28 shall not apply.

29 (c) Section 62(a)(21) of the Internal Revenue Code, relating to
30 attorneys fees relating to awards to whistleblowers, shall not apply.

31 (d) *Section 62(a) of the Internal Revenue Code is modified to*
32 *provide that the deduction under Section 17208 shall be allowed*
33 *in determining adjusted gross income.*

34 (e) *Section 62(a) of the Internal Revenue Code is modified to*
35 *provide that the deduction under Section 17208.2 shall be allowed*
36 *in determining adjusted gross income.*

37 SEC. 3. Section 17208 is added to the Revenue and Taxation
38 Code, to read:

17208. (a) Notwithstanding any other provision of this part or Part 11 (commencing with Section 23001) to the contrary, for each taxable year beginning on or after January 1, 2016, and before January 1, 2021, a deduction shall be allowed for an amount contributed by a taxpayer during the taxable year to a Coverdell education savings account, not to exceed seven hundred fifty dollars (\$750) per taxable year, except as otherwise provided in this section.

(b) For purposes of this section, “Coverdell education savings account” shall have the same meaning as that term is defined by Section 530 of the Internal Revenue Code, as modified by Section 23712.

(c) For purposes of applying Section 530 of the Internal Revenue Code, relating to Coverdell education savings accounts, the basis of the Coverdell education savings account shall be reduced by any amount deducted pursuant to this section.

(d) This section shall be repealed on December 1, 2021.

SEC. 4. Section 17208.2 is added to the Revenue and Taxation Code, to read:

17208.2. (a) For each taxable year beginning on or after January 1, 2016, and before January 1, 2021, there shall be allowed as a deduction an amount equal to the qualified amount that was paid or incurred for qualified education-related expenses for one or more dependent children by a qualified taxpayer during the taxable year.

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

(1) “Dependent children” means one or more children, as defined in Section 152(f)(1) of the Internal Revenue Code, relating to child defined, who meet all of the following requirements:

(A) Attend kindergarten or any of grades 1 to 12, inclusive, in California at a public, charter, or private school that has a current private school affidavit on file with the State Department of Education in the taxable year.

(B) Are deemed a full-time pupil in accordance with the compulsory education requirements of Sections 48200 or 48222 of the Education Code.

(C) Are under 21 years of age at the end of the school year.

(D) Meet the requirements of Section 152(c)(1)(D) and (E) of the Internal Revenue Code.

1 (E) Are claimed as the dependent children on the original, timely
2 filed return of the qualified taxpayer.

3 (2) “Qualified amount” means the amount paid or incurred for
4 qualified education-related expenses, not to exceed the amount
5 specified in subdivision (c).

6 (3) (A) “Qualified education-related expenses” means the
7 kindergarten or any of grades 1 to 12, inclusive, costs of any of
8 the following: the rental or purchase of educational equipment
9 required for classes during the regular school day; computers,
10 computer hardware, and educational computer software used to
11 learn academic subjects; fees for college courses at public
12 institutions or independent nonprofit colleges, or for summer school
13 courses that satisfy high school graduation requirements;
14 psychoeducational diagnostic evaluations to assess the cognitive
15 and academic abilities of dependent children; special education
16 and related services for dependent children who have an
17 individualized education program or its equivalent; out-of-school
18 enrichment programs, tutoring, and summer programs that are
19 academic in nature; and public transportation or third-party
20 transportation expenses for traveling directly to and from school.

21 (B) “Qualified education-related expenses” shall not include
22 any expenses for the items described in subparagraph (A) that also
23 are used in a trade or business.

24 (4) “Qualified taxpayer” means a parent or legal guardian of
25 one or more dependent children who meet all of the following
26 requirements:

27 (A) Both the dependent children and the parent or guardian
28 reside in California when the qualified education-related expenses
29 are paid or incurred.

30 (B) (i) The household income does not exceed 250 percent of
31 the federal Income Eligibility Guidelines published by the Food
32 and Nutrition Service of the United States Department of
33 Agriculture for use in determining eligibility for reduced price
34 meals.

35 (ii) “Household income” means adjusted gross income as defined
36 in Section 62 of the Internal Revenue Code.

37 (c) The total deduction allowed under this section to a qualified
38 taxpayer shall not exceed two thousand five hundred dollars
39 (\$2,500) in a taxable year. If more than one qualified taxpayer may
40 be allowed this deduction for dependent children, including a

1 qualified taxpayer filing a joint return, the sum of all deductions
2 allowed under this section for those dependent children shall not
3 exceed two thousand five hundred dollars (\$2,500) in a taxable
4 year.

5 (d) (1) The Franchise Tax Board may prescribe rules, standards,
6 criteria, guidelines, procedures, determinations, or notices
7 necessary or appropriate to carry out the purposes of this section.

8 (2) The Administrative Procedure Act (Chapter 3.5
9 (commencing with Section 11340) of Part 1 of Division 3 of Title
10 2 of the Government Code) shall not apply to any rule, standard,
11 criterion, guideline, procedure, determination, or notice established
12 or issued by the Franchise Tax Board pursuant to this section.

13 (e) This section shall be repealed on December 1, 2021.

14 SEC. 5. This act provides for a tax levy within the meaning of
15 Article IV of the Constitution and shall go into immediate effect.