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AB-136 Personal Income Tax Law: deductions: charitable contributions: business expenses. (2019-2020)

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Assembly Bill No. 136

CHAPTER 511

An act to add Section 17275.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 04, 2019. Filed with Secretary of State October 04, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 136, Quirk-Silva. Personal Income Tax Law: deductions: charitable contributions: business expenses.

The Personal Income Tax Law, in specified conformity to federal income tax laws, allows a charitable contribution deduction and a deduction for certain business expenses in computing tax liability.

This bill, for taxable years beginning on or after January 1, 2014, would disallow a charitable contribution deduction for contributions made to a postsecondary institution or to the Key Worldwide Foundation, and a deduction for certain business expenses related to a payment to the Edge College and Career Network, LLC, by taxpayers who meet specified conditions, including that they are named in any of several specified criminal complaints. The bill would also state the Legislature's intent to alert the Franchise Tax Board to certain potentially unlawful deductions.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature to alert the Franchise Tax Board to unlawful deductions that may have been taken in connection with contributions and payments made to the Key Worldwide Foundation and the Edge College and Career Network, LLC. In addition to those potentially unlawful deductions taken by individuals on their personal income tax returns, there may have been unlawful deductions taken by corporations on their corporate income tax returns.

SEC. 2. Section 17275.4 is added to the Revenue and Taxation Code, to read:

17275.4. (a) For taxable years beginning on or after January 1, 2014, a deduction for a charitable contribution to an educational organization that is a postsecondary institution or to the Key Worldwide Foundation, pursuant to Section 170 of the Internal Revenue Code, relating to charitable, etc., contributions and gifts, and a deduction for a business expense related to a payment

to the Edge College and Career Network, LLC, pursuant to Section 162 of the Internal Revenue Code, relating to trade or business expenses, shall not be allowed to a taxpayer who meets all of the following conditions:

(1) They are charged as a defendant in any of the following criminal complaints filed in the United States District Court for the District of Massachusetts:

- (A) Criminal Complaint #19-CR-10081-IT.
- (B) Criminal Complaint #19-CR-10078-RWZ.
- (C) Criminal Complaint #19-CR-10075-MLW.
- (D) Criminal Complaint #19-CR-10074-NMG.
- (E) Criminal Complaint #19-cr-10079-RWZ.
- (F) Criminal Complaint #1:19-cr-10117.
- (G) Criminal Complaint #1:19-cr-10115.
- (H) Criminal Complaint #19-cr-10131.
- (I) Criminal Complaint #1:19-cr-10116.
- (J) Criminal Complaint #1-19-cr-10080.

(2) There is a final determination of their guilt with regard to a violation of any offense of Title 18 of the United States Code arising out of that criminal complaint.

(3) There is a finding that they took the deduction unlawfully pursuant to the final determination of guilt described in paragraph (2), or pursuant to a determination by the Franchise Tax Board.

(b) For purposes of this section, "final determination of guilt" means that the defendant has been convicted by verdict of a jury, accepted and recorded by the court, by a finding of the court in a case where a jury has been waived, or by a plea of guilty, and that the defendant has exhausted all appellate remedies.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.