



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-340 Golden State Scholarshare Trust: Personal Income Tax Law: gross income: deductions. (2021-2022)

SHARE THIS:  

Date Published: 10/07/2021 10:00 AM

Assembly Bill No. 340

CHAPTER 557

An act to amend Section 69980 of the Education Code, and to amend Sections 17140 and 17140.3 of, and to add Section 17201.7 to, the Revenue and Taxation Code, relating to student financial aid.

[Approved by Governor October 06, 2021. Filed with Secretary of State October 06, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 340, Ward. Golden State Scholarshare Trust: Personal Income Tax Law: gross income: deductions.

Existing law, known as the Golden State Scholarshare Trust Act, establishes the Golden State Scholarshare College Savings Trust, under the administration of the Scholarshare Investment Board, to provide financial aid for postsecondary education costs of participating students. Existing law defines "qualified higher education expenses" for purposes of the Golden State Scholarshare Trust Act to mean the expenses of attendance at an institution of higher education, as specified.

This bill would add expenses associated with participation in a registered apprenticeship program and payment on the principal or interest of a qualified education loan to the definition of "qualified higher education expenses."

The Personal Income Tax Law, in conformity with federal income tax law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income. That law excludes from gross income distributions from a qualified tuition program, as defined, for qualified higher education expenses. Existing federal law, the Further Consolidated Appropriations Act, 2020, expanded the definition of "qualified higher education expenses" to include expenses associated with registered apprenticeship programs and payment on the principal or interest of a qualified education loan. The act also made coordinating changes related to the deduction of interest paid on a qualified education loan.

This bill would, for taxable years beginning on or after January 1, 2021, conform state tax law to those changes relating to qualified higher education expenses made by the act.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 69980 of the Education Code is amended to read:

69980. As used in this article, the following terms have the following meanings, unless the context requires otherwise:

(a) "Administrative fund" means the funds used to administer this article.

(b) "Beneficiary" has the same meaning as "designated beneficiary," as provided in paragraph (1) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as it is amended from time to time, if, as determined by the board, the amendment is consistent with the purposes of this article.

(c) "Benefits" means the payment of higher education expenses on behalf of a beneficiary by the Scholarshare trust during the beneficiary's attendance at an institution of higher education.

(d) "Board" means the Scholarshare Investment Board established pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 69984.

(e) "Golden State Scholarshare College Savings Trust" or "Scholarshare trust" means the trust created pursuant to this article.

(f) "Executive director" means the administrator of the Scholarshare trust appointed by the board to administer and manage the Scholarshare trust.

(g) "Institution of higher education" has the same meaning as "eligible educational institution," as provided in paragraph (5) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as it is amended from time to time, if, as determined by the board, the amendment is consistent with the purposes of this article.

(h) "Investment manager" means a manager contracted to perform functions delegated by the board. "Investment management" means the functions performed by a manager contracted to perform functions delegated by the board.

(i) "Participant" means an individual, trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act (Part 9 (commencing with Section 3900) of Division 4 of the Probate Code) or similar provisions adopted by another state, a state or local government agency, or a legal representative of a participant who has entered into a participation agreement pursuant to this article. "Participant" also means an account owner.

(j) "Participation agreement" means an agreement between a participant and the Scholarshare trust, pursuant to this article.

(k) "Program fund" means the program fund established by this article, which shall be held as a separate fund within the Scholarshare trust.

(l) "Qualified higher education expenses" means the expenses of attendance at an institution of higher education as provided in paragraph (3) of subsection (e), expenses associated with participation in a registered apprenticeship program as provided in paragraph (8) of subsection (c), and payment on the principal or interest of a qualified education loan as provided in paragraph (9) of subsection (c), of Section 529 of the Internal Revenue Code of 1986, as it is amended from time to time, if, as determined by the board, the amendment is consistent with the purposes of this article, and as determined and certified by the institution of higher education in the same manner as prescribed in Title IV of the Higher Education Act of 1965 (20 U.S.C. Sec. 1087l, as amended).

(m) "Tuition and fees" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment.

SEC. 2. Section 17140 of the Revenue and Taxation Code is amended to read:

17140. (a) For purposes of this section, the following terms have the following meanings as provided in the Golden State Scholarshare Trust Act (Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code):

(1) "Beneficiary" has the meaning set forth in subdivision (c) of Section 69980 of the Education Code.

(2) "Benefit" has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) "Participant" has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) "Participation agreement" has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) "Scholarshare trust" has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) For taxable years beginning on or after January 1, 1998, and before January 1, 2002, except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary shall not be includable as gross income of that beneficiary.

(c) For taxable years beginning on or after January 1, 1998, and before January 1, 2002:

(1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:

(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.

(B) All distributions during a taxable year shall be treated as one distribution.

(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee's minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

(3) For purposes of this subdivision, "distribution" includes any benefit furnished to a beneficiary under a participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(4) (A) Paragraph (1) shall not apply to that portion of any distribution that, within 60 days of distribution, is transferred to the credit of another beneficiary under the Scholarshare trust who is a "member of the family," as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(B) Any change in the beneficiary of an interest in the Scholarshare trust shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a "member of the family," as that term is used in Section 529(e)(2) of the Internal Revenue Code, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34), of the former beneficiary of that Scholarshare trust.

(d) For taxable years beginning on or after January 1, 2002, Sections 529(c) and 529(e) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors and to other definitions and special rules, respectively, shall apply, except as otherwise provided in Part 11 (commencing with Section 23001) and this part.

(e) (1) The amendments made by Section 302(a)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(e) of the Internal Revenue Code, relating to other definitions and special rules, shall apply except as otherwise provided.

(2) The amendments made by Section 302(b)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3) of the Internal Revenue Code, relating to distributions, shall apply, except as otherwise provided.

(3) The amendments made by Section 302(c)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3)(D) of the Internal Revenue Code, relating to special rule for contributions of refunded amounts, shall apply, except as otherwise provided.

(f) (1) The amendments made by Section 11025(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c)(3)(C) of the Internal Revenue Code, relating to change in beneficiaries or programs, shall apply, except as otherwise provided.

(2) (A) The amendments made by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors, shall not apply, except as otherwise provided.

(B) The amendments made by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(e)(3)(A) of the Internal Revenue Code, relating to qualified higher education expenses, shall not apply, except as otherwise provided.

(C) In the case of any distribution made under Section 529(e)(3)(A) of the Internal Revenue Code, as amended by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), that would be treated for federal income tax purposes as a "qualified higher education expense" under Section 529(c)(7) of the Internal Revenue Code, as added by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97), the amount of that distribution shall, notwithstanding anything in

Section 529 of the Internal Revenue Code to the contrary, be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code.

(D) Any distribution includable in the gross income of a distributee under subparagraph (C) shall not affect the exempt status of the qualified tuition program under Section 529 of the Internal Revenue Code for purposes of this part.

(g) (1) For taxable years beginning on or after January 1, 2021, the amendments made by Section 302(a) of Division O of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) to Section 529(c)(8) of the Internal Revenue Code, relating to distributions for certain expenses associated with registered apprenticeship programs, shall apply.

(2) For taxable years beginning on or after January 1, 2021, the amendments made by Section 302(b)(1) of Division O of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) to Section 529(c)(9) of the Internal Revenue Code, relating to distributions for qualified education loan repayments, shall apply.

SEC. 3. Section 17140.3 of the Revenue and Taxation Code is amended to read:

17140.3. Section 529 of the Internal Revenue Code, relating to qualified state tuition programs, shall apply, except as otherwise provided.

(a) Section 529(a) of the Internal Revenue Code is modified as follows:

(1) By substituting the phrase “under this part and Part 11 (commencing with Section 23001)” in lieu of the phrase “under this subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “Section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section 529(d) of the Internal Revenue Code shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

(c) (1) The amendments made by Section 302(a)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(e) of the Internal Revenue Code, relating to other definitions and special rules, shall apply except as otherwise provided.

(2) The amendments made by Section 302(b)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3) of the Internal Revenue Code, relating to distributions, shall apply, except as otherwise provided.

(3) The amendments made by Section 302(c)(1) of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113) to Section 529(c)(3)(D) of the Internal Revenue Code, relating to special rule for contributions of refunded amounts, shall apply, except as otherwise provided.

(d) (1) The amendments made by Section 11025(a) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c)(3)(C) of the Internal Revenue Code, relating to change in beneficiaries or programs, shall apply, except as otherwise provided.

(2) (A) The amendments made by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(c) of the Internal Revenue Code, relating to tax treatment of designated beneficiaries and contributors, shall not apply, except as otherwise provided.

(B) The amendments made by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97) to Section 529(e)(3)(A) of the Internal Revenue Code, relating to qualified higher education expenses, shall not apply, except as otherwise provided.

(C) In the case of any distribution made under Section 529(e)(3)(A) of the Internal Revenue Code, as amended by Section 11032(a)(2) of the Tax Cuts and Jobs Act (Public Law 115-97), that would be treated for federal income tax purposes as a “qualified higher education expense” under Section 529(c)(7) of the Internal Revenue Code, as added by Section 11032(a)(1) of the Tax Cuts and Jobs Act (Public Law 115-97), the amount of that distribution shall, notwithstanding anything in Section 529 of the Internal Revenue Code to the contrary, be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code.

(D) Any distribution includable in the gross income of a distributee under subparagraph (C) shall not affect the exempt status of the qualified tuition program under Section 529 of the Internal Revenue Code for purposes of this part.

(e) (1) For taxable years beginning on or after January 1, 2021, the amendments made by Section 302(a) of Division O of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) to Section 529(c)(8) of the Internal Revenue Code, relating to distributions for certain expenses associated with registered apprenticeship programs, shall apply.

(2) For taxable years beginning on or after January 1, 2021, the amendments made by Section 302(b)(1) of Division O of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) to Section 529(c)(9) of the Internal Revenue Code, relating to distributions for qualified education loan repayments, shall apply.

SEC. 4. Section 17201.7 is added to the Revenue and Taxation Code, to read:

17201.7. The amendments made by Section 302(b)(2) of Division O of the Further Consolidated Appropriations Act, 2020 (Public Law 116-94) to Section 221(e)(1) of the Internal Revenue Code, relating to coordination with deduction for student loan interest, shall apply.