RESOLUTION 07-05-2017 (REVISED AS AMENDED)

DIGEST

Taxation: Tax Credit for Interest Paid on Student Loans

Adds Revenue and Taxation Code section 17061.6 to create a new tax credit for interest paid for student loans.

RESOLUTIONS COMMITTEE ANALYSIS

History:

No similar resolutions found.

Reasons:

This resolution adds Revenue and Taxation Code section 17061.6 to create a new tax credit for interest paid for student loans. As amended, the ambiguity about adding a California tax credit in addition to the IRS tax deduction is removed. This resolution adds a nonrefundable credit for California residents, and enables California residents who qualify for both the Federal student loan tax deduction and this new California tax credit to choose only one.

Under current law, California allows a tax deduction for student loan interest payments. California Revenue Code section 17201, subdivision (b) provides: “Part VII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code [namely 17 U.S.C. § 211 et seq.], relating to additional itemized deductions for individuals, shall apply, except as otherwise provided.” The federal tax deduction for student loan interest is governed by 17 U.S.C. § 221, which falls within Part VII of Subchapter B of Chapter 1 of Subtitle A of the Internal Revenue Code, and therefore falls within the purview of Revenue and Taxation Code section 17201, subdivision (b).

The Resolutions Committee initially recommended disapproval of this resolution. The full Conference voted to approve.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to add Revenue and Taxation Code section 17061.6 to read as follows:

§ 17061.6

(a) In the case of an individual, there shall be allowed a nonrefundable credit against his or her “net tax,” as defined in Section 17039, for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

(b) For purposes of this section:

(1) The term “qualified education loan” means any indebtedness incurred by the taxpayer solely to pay higher education expenses:

(A) which are incurred on behalf of the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term "qualified education loan" shall not include any indebtedness owed to a person who is related (within the meaning of Sections 267(b) or 707(b)(1) of the Internal Revenue Code) to the taxpayer or to any person by reason of a loan under any qualified employer plan (as defined in Section 72(p)(4) of the Internal Revenue Code) or under any contract referred to in Section 72(p)(5) of the Internal Revenue Code.

(2) The term "eligible student" has the meaning given such term by Section 25A(b)(3) of the Internal Revenue Code.

(3) The term "dependent" has the meaning given such term by Section 152 of the Internal Revenue Code (determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof).

(c) Section 221 of the Internal Revenue Code, relating to deductions of interest of education loans, shall not apply under section 17291, subdivision (b) of this code.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Bernardino County Bar Association

STATEMENT OF REASONS

The Problem: According to the Institute for College Access & Success (TICAS), from 2004 to 2014, the average debt at graduation rose at more than twice the rate of inflation. TICAS also reports that, according to data collected in 2015, the proportion of those with debt in California is 55% and the average education debt is $21,382. The interest rates for these education loans are substantial and can be as high as 8.5%. Because borrowers pay this interest with post-income tax dollars, this represents a substantial financial burden for borrowers who are, in many cases, young graduates who want to get married, buy a house, and have a family. Meanwhile, this is a problem for all Californians because, if the increased burden of education loan payments causes the younger generation to be unable to become homeowners, this will negatively impact the real estate market and economy at large.

The Solution: This proposed resolution would alleviate some of the burden of education loans by providing a tax credit for any amounts paid towards education loan interest. Although this would not completely cure the broader, national problem of education loan inflation, doing so would mitigate the burden of student loans, incentivize graduates to do live and work in California, and increase home ownership in California. Although the proposed resolution may lower tax revenues because of the tax credit, the potential loss in revenue would be offset by strengthening the overall economy.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

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