ASSEMBLY, No. 2620

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

SYNOPSIS

Establishes certain exclusions and credits under gross income and corporation business taxes for contributions to lifelong learning accounts.

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing certain exclusions and credits under the gross income and corporation business taxes for use of lifelong learning accounts, supplementing Title 54A of the New Jersey Statutes and P.L.1945, c.162.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. The gross income of an eligible taxpayer for a taxable year shall not include an amount of up to $2,500 of employer contributions to a lifelong learning account of the eligible taxpayer.

b. Gross income shall not include earnings that accrue on the balance of a lifelong learning account to the eligible taxpayer for the taxable year, except as provided in subsection c. of this section.

c. (1) Gross income of a taxpayer shall include qualified and nonqualified distributions from a lifelong learning account of the taxpayer for the taxable year of distribution. Provided further, the exclusions allowed pursuant to N.J.S.54A:6-10 and N.J.S.54A:6-15 shall not apply to any distributions from a lifelong learning account.

(2) Notwithstanding paragraph (1) of this subsection, gross income of an eligible taxpayer for a taxable year shall not include:

(a) a distribution of contributions for the taxable year made in excess of the annual $2,500 limit for lifelong learning account contributions, provided that the earnings thereto are also distributed and reported as gross income, or

(b) a distribution from the lifelong learning account of a taxpayer that is contributed to a lifelong learning account of the taxpayer within 60 days of distribution, provided that this subparagraph shall not apply to a distribution occurring within 365 days of a prior distribution which was excluded from gross income pursuant to this subparagraph.

d. If a taxpayer makes a nonqualified distribution from the taxpayer's lifelong learning account the taxpayer shall be subject to a penalty in the form of additional tax liability due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1, for the taxable year of the distribution. The amount of the additional tax liability shall be five percent of the amount of the nonqualified distribution.

This subsection shall not apply to nonqualified distributions incident to death, disability, divorce, separation pursuant to a "qualified domestic relations order" as defined by subsection (p) of section 414 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.414), or a taxpayer who has attained the age of 71 as of the first day of the taxable year. Excluded employer contributions shall be allocated to the distribution on a pro rata basis between the amount of the distribution and the amount remaining in the account.

e. As used in this section:

"Disability" means becoming disabled and being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.

"Eligible taxpayer" means a taxpayer that as of the first day of the taxable year has attained the age of 18 but not yet attained the age of 71 and is the beneficiary for whom the lifelong learning account has been established.

"Lifelong learning account" means an account created or organized, for the exclusive benefit of the taxpayer, in New Jersey as a lifelong learning account, which designation means that the account is to be used exclusively for the purpose of making qualified distributions. To qualify as a lifelong learning account the account shall be administered in adherence to the following requirements: all contributions shall be made in an amount of money; all contributions to lifelong learning accounts of a taxpayer for a taxable year shall not exceed $2,500, except as to contributions which are made from funds distributed from a lifelong learning account of the taxpayer within 60 days of the contribution, provided that the distribution is not occurring within 365 days of a prior distribution excluded from gross income pursuant to subparagraph (b) of paragraph (2) of subsection c. of this section; the trustee of the lifelong learning account shall be a bank or other entity that demonstrates to the satisfaction of the director that the lifelong learning account shall be administered in adherence to the requirements of this section; an eligible taxpayer's interest in the account balance is nonforfeitable; the trustee of the lifelong learning account shall not invest the account's assets in life insurance contracts or "collectibles," as that term is defined pursuant to subsection (m) of section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account assets shall not be commingled with other property except in a common trust fund or common investment fund; and requirements that the director deems to be necessary to implement P.L.   , c.   (C.   ) (pending before the Legislature as this bill), which the director shall adopt by regulation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

"Nonqualified distribution" means a distribution from a lifelong learning account that is not used for qualified education expenses. A nonqualified distribution shall not include a distribution of contributions for the taxable year made in excess of the annual $2,500 limit for lifelong learning account contributions, provided that the earnings thereto are also distributed and reported as gross income. A nonqualified distribution shall not include a distribution from the lifelong learning account of a taxpayer that is contributed to a lifelong learning account of the taxpayer within 60 days of distribution, provided that the distribution is not occurring within 365 days of a prior distribution excluded from gross income pursuant to subparagraph (b) of paragraph (2) of subsection c. of this section.

"Qualified distribution" means a distribution from a lifelong learning account that is used for qualified education expenses.

"Qualified education expense" means an amount paid by an eligible taxpayer for expenses incurred and required for instructional courses, training courses, and apprenticeship programs for the eligible taxpayer or the eligible taxpayer's spouse. Qualified education expenses shall include, but are not limited to, expenses incurred and required for instructional courses, training courses, and apprenticeship programs which are paid on account of books, equipment, fees, information technology devices, supplies, tools, and tuition. Qualified education expenses shall not include amounts paid for any course or program taken for recreational or leisure purposes.

2. a. (1) An eligible taxpayer shall be allowed a credit against the tax liability imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1, for the taxable year for contributions made by the eligible taxpayer to a lifelong learning account of the eligible taxpayer for the taxable year. Creditable contributions shall not include contributions to a lifelong learning account of the taxpayer of amounts distributed from a lifelong learning account of the taxpayer, as determined by the director.

(2) (a) For an eligible taxpayer filing as a married individual filing separately, or an unmarried individual, other than individuals filing as head of household or as a surviving spouse, pursuant to subsection b. of N.J.S.54A:2-1, for the first $500 of contributions for the taxable year the credit shall be in an amount equal to 50 percent of the contribution.

(b) For eligible taxpayers filing as married individuals jointly, individuals filing as a head of household, or individuals filing as a surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, for the first $1,000 of contributions for the taxable year the credit shall be in an amount equal to 50 percent of the contribution.

(3) (a) For an eligible taxpayer filing as a married individual filing separately, or an unmarried individual, other than individuals filing as head of household or as a surviving spouse, pursuant to subsection b. of N.J.S.54A:2-1, for contributions in excess of $500 for the taxable year the credit shall be in an amount equal to 25 percent of the contribution.

(b) For eligible taxpayers filing as married individuals jointly, individuals filing as a head of household, or individuals filing as a surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, for contributions in excess of $1,000 for the taxable year the credit shall be in an amount equal to 25 percent of the contribution.

b. (1) The maximum amount of contributions of an eligible taxpayer taken into account for a taxable year as creditable pursuant to subsection a. of this section shall be determined pursuant to paragraphs (2), (3), and (4) of this subsection.

(2) An eligible taxpayer filing as a married individual filing separately, or an unmarried individual, other than individuals filing as head of household or as a surviving spouse, pursuant to subsection b. of N.J.S.54A:2-1, with total gross income for a taxable year in excess of $100,000 shall reduce a maximum creditable contribution limit of $2,500 by the percentage calculated by dividing the amount of the eligible taxpayer's gross income for the taxable year that is in excess of $100,000, but not exceeding $120,000, by $20,000. No credit shall be allowed for contributions made by an eligible taxpayer filing as a married individual filing separately, or an unmarried individual, other than individuals filing as head of household or as a surviving spouse, pursuant to subsection b. of N.J.S.54A:2-1, with total gross income for a taxable year in excess of $120,000.

(3) Eligible taxpayers filing as married individuals jointly, individuals filing as a head of household, or individuals filing as a surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, with total gross income for a taxable year in excess of $200,000 shall: (a) in the case of married individuals filing jointly, each of whom has contributed to that individual's lifelong learning account reduce a maximum creditable contribution limit of $5,000, (b) in the case of individuals filing as a head of household, or individuals filing as a surviving spouse pursuant to subsection a. of N.J.S.54A:2-1 reduce a maximum creditable contribution limit of $2,500, by the percentage calculated by dividing the amount of the eligible taxpayer's gross income for the taxable year that is in excess of $200,000, but not exceeding $240,000, by $40,000. No credit shall be allowed for contributions made by eligible taxpayers filing as married individuals jointly, individuals filing as a head of household, or individuals filing as a surviving spouse pursuant to subsection a. of N.J.S.54A:2-1, with total gross income for a taxable year in excess of $240,000.

(4) The maximum creditable contribution limit determined pursuant to paragraphs (2) and (3) of this subsection shall be reduced by the amount of employer contributions made to an eligible taxpayer's lifelong learning account which are excluded from gross income pursuant to subsection a. of section 2 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill).

c. The order in which credits allowed pursuant to this section and any other credits shall be applied against the tax liability imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by the director. If any amount of credit allowed pursuant to this section remains after the application of credit to tax liability imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that amount of credit shall be an overpayment for the purposes of N.J.S.54A:9-7, except that subsection (f) of N.J.S.54A:9-7 shall not apply.

d. As used in this section:

"Eligible taxpayer" means a taxpayer that as of the first day of the taxable year has attained the age of 18 but not yet attained the age of 71 and is the beneficiary for whom the lifelong learning account has been established.

"Lifelong learning account" means an account created or organized, for the exclusive benefit of the taxpayer, in New Jersey as a lifelong learning account, which designation means that the account is to be used exclusively for the purpose of making qualified distributions. To qualify as a lifelong learning account the account shall be administered in adherence to the following requirements: all contributions shall be made in an amount of money; all contributions to lifelong learning accounts of a taxpayer for a taxable year shall not exceed $2,500, except as to contributions which are made from funds distributed from a lifelong learning account of the taxpayer within 60 days of the contribution, provided that the distribution is not occurring within 365 days of a prior distribution excluded from gross income pursuant to subparagraph (b) of paragraph (2) of subsection c. of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill); the trustee of the lifelong learning account shall be a bank or other entity that demonstrates to the satisfaction of the director that the lifelong learning account shall be administered in adherence to the requirements of this section; an eligible taxpayer's interest in the account balance is nonforfeitable; the trustee of the lifelong learning account shall not invest the account's assets in life insurance contracts or "collectibles," as that term is defined pursuant to subsection (m) of section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account assets shall not be commingled with other property except in a common trust fund or common investment fund; and requirements that the director deems to be necessary to implement P.L. , c. (C.) (pending before the Legislature as this bill), which the director shall adopt by regulation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

"Qualified distribution" means a distribution from a lifelong learning account that is used for qualified education expenses.

"Qualified education expense" means an amount paid by an eligible taxpayer for expenses incurred and required for instructional courses, training courses, and apprenticeship programs for the eligible taxpayer or the eligible taxpayer's spouse. Qualified education expenses shall include, but are not limited to, expenses incurred and required for instructional courses, training courses, and apprenticeship programs which are paid on account of books, equipment, fees, information technology devices, supplies, tools, and tuition. Qualified education expenses shall not include amounts paid for any course or program taken for recreational or leisure purposes.

3. a. An eligible employer taxpayer shall be allowed a credit against the tax liability imposed for a privilege period pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 25 percent of a contribution made by the eligible employer taxpayer to a lifelong learning account of a qualified employee.

b. Per qualified employee, the maximum amount of contribution that an eligible employer taxpayer shall be allowed as a creditable contribution per privilege period is $2,500.

c. If an eligible employer taxpayer that is a small business is allowed a credit pursuant to subsection a. of this section for the privilege period, the eligible employer taxpayer shall be allowed an additional credit amount for qualified administrative costs associated with the credit allowed pursuant to subsection a. of this section for the privilege period. The additional credit amount shall be limited to an amount equal to 50 percent of qualified administrative costs for the privilege period, but not exceeding $500 of credit for the privilege period. An eligible employer taxpayer shall only qualify for an additional credit amount pursuant to this subsection for the first and second privilege periods for which the eligible employer taxpayer is allowed a credit pursuant to subsection a. of this section.

d. The order in which credits allowed pursuant to this section and any other credits shall be applied against the tax liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall be determined by the director. If any amount of credit allowed pursuant to this section remains after the application of credit to tax liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that amount of unused credit shall be allowed as a deduction against entire net income, as determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), for the privilege period immediately following the privilege period for which the credit was allowed.

e. As used in this section:

"Eligible employer taxpayer" means a taxpayer with one or more qualified employees.

"Lifelong learning account" means an account created or organized, for the exclusive benefit of the qualified employee, in New Jersey as a lifelong learning account, which designation means that the account is to be used exclusively for the purpose of making qualified distributions. To qualify as a lifelong learning account the account shall be administered in adherence to the following requirements: all contributions shall be made in an amount of money; all contributions to lifelong learning accounts of a qualified employee for a taxable year shall not exceed $2,500, except as to contributions which are made from funds distributed from a lifelong learning account of the qualified employee within 60 days of the contribution, provided that the distribution is not occurring within 365 days of a prior distribution excluded from gross income pursuant to subparagraph (b) of paragraph (2) of subsection c. of section 1 of P.L. , c. (C.) (pending before the Legislature as this bill); the trustee of the lifelong learning account shall be a bank or other entity that demonstrates to the satisfaction of the director that the lifelong learning account shall be administered in adherence to the requirements of this section; a qualified employee's interest in the account balance is nonforfeitable; the trustee of the lifelong learning account shall not invest the account's assets in life insurance contracts or "collectibles," as that term is defined pursuant to subsection (m) of section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account assets shall not be commingled with other property except in a common trust fund or common investment fund; and requirements that the director deems to be necessary to implement P.L. , c. (C.) (pending before the Legislature as this bill), which the director shall adopt by regulation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

"Qualified distribution" means a distribution from a lifelong learning account that is used for qualified education expenses.

"Qualified education expense" means an amount paid by a qualified employee for expenses incurred and required for instructional courses, training courses, and apprenticeship programs for the qualified employee or the qualified employee's spouse. Qualified education expenses shall include, but are not limited to, expenses incurred and required for instructional courses, training courses, and apprenticeship programs which are paid on account of books, equipment, fees, information technology devices, supplies, tools, and tuition. Qualified education expenses shall not include amounts paid for any course or program taken for recreational or leisure purposes.

"Qualified employee" means an individual that as of the first day of the privilege period has attained the age of 18 but not yet attained the age of 71 and is the beneficiary for whom the lifelong learning account has been established.

"Small business" means a taxpayer that for the privilege period has no more than 100 employees, each of which receives no less than $5,000 of annual compensation.

4. a. An eligible employer taxpayer shall be allowed a credit against the tax liability imposed for a taxable year pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 25 percent of a contribution made by the eligible

employer taxpayer to a qualified employee's lifelong learning account.

b. Per employee, the maximum amount of contribution that an eligible employer taxpayer shall be allowed as a creditable contribution per taxable year is $2,500.

c. If an eligible employer taxpayer that is a small business is allowed a credit pursuant to subsection a. of this section for the taxable year, the eligible employer taxpayer shall be allowed an additional credit amount for qualified administrative costs associated with the credit allowed pursuant to subsection a. of this section for the taxable year. The additional credit amount shall be limited to an amount equal to 50 percent of qualified administrative costs for the taxable year, but not exceeding $500 of credit for the taxable year. An eligible employer taxpayer shall only qualify for an additional credit amount pursuant to this subsection for the first and second taxable years for which the eligible employer taxpayer is allowed a credit pursuant to subsection a. of this section.

d. The order in which credits allowed pursuant to this section and any other credits shall be applied against the tax liability imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by the director. If any amount of credit allowed pursuant to this section remains after the application of credit to tax liability imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., that amount of unused credit shall be allowed as a deduction against gross income, as determined pursuant to N.J.S.54A:5-1, for the taxable year immediately following the taxable year for which the credit was allowed.

e. An eligible employer taxpayer that is a business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit directly under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a distributive share of partnership income, shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year, except as otherwise provided by law.

An eligible employer taxpayer that is a New Jersey S Corporation shall not be allowed a credit directly under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year, except as otherwise provided by law.

f. As used in this section:

"Eligible employer taxpayer" means a taxpayer with one or more qualified employees.

"Lifelong learning account" means an account created or organized, for the exclusive benefit of the qualified employee, in New Jersey as a lifelong learning account, which designation means that the account is to be used exclusively for the purpose of making qualified distributions. To qualify as a lifelong learning account the account shall be administered in adherence to the following requirements: all contributions shall be made in an amount of money; all contributions to lifelong learning accounts of a qualified employee for a taxable year shall not exceed $2,500, except as to contributions which are made from funds distributed from a lifelong learning account of the qualified employee within 60 days of the contribution, provided that the distribution is not occurring within 365 days of a prior distribution excluded from gross income pursuant to subparagraph (b) of paragraph (2) of subsection c. of section 1 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill); the trustee of the lifelong learning account shall be a bank or other entity that demonstrates to the satisfaction of the director that the lifelong learning account shall be administered in adherence to the requirements of this section; a qualified employee's interest in the account balance is nonforfeitable; the trustee of the lifelong learning account shall not invest the account's assets in life insurance contracts or "collectibles," as that term is defined pursuant to subsection (m) of section 408 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.408); lifelong learning account assets shall not be commingled with other property except in a common trust fund or common investment fund; and requirements that the director deems to be necessary to implement P.L.   , c.   (C.   ) (pending before the Legislature as this bill), which the director shall adopt by regulation in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

"Qualified distribution" means a distribution from a lifelong learning account that is used for qualified education expenses.

"Qualified education expense" means an amount paid by an eligible taxpayer for expenses incurred and required for instructional courses, training courses, and apprenticeship programs for the eligible taxpayer or the eligible taxpayer's spouse. Qualified education expenses shall include, but are not limited to, expenses incurred and required for instructional courses, training courses, and apprenticeship programs which are paid on account of books, equipment, fees, information technology devices, supplies, tools, and tuition. Qualified education expenses shall not include amounts paid for any course or program taken for recreational or leisure purposes.

"Qualified employee" means an individual that as of the first day of the taxable year has attained the age of 18 but not yet attained the age of 71 and is the beneficiary for whom the lifelong learning account has been established.

"Small business" means a taxpayer that for the taxable year has no more than 100 employees, each of which receives no less than $5,000 of annual compensation.

5. This act shall take effect immediately and apply to privilege periods and taxable years beginning on or after the January 1 next following the date of enactment.

STATEMENT

This bill establishes certain tax exclusions and credits for the use of lifelong learning accounts (account) in order to finance worker training and education. Generally, the bill consists of four parts: gross income tax (GIT) exclusions for employer-provided account contributions and account earnings; a GIT credit for personal account contributions; GIT and corporation business tax (CBT) credits for employers making account contributions for their employees; and administrative provisions concerning the maintenance of the accounts.

The bill allows a taxpayer to exclude from taxable gross income, employer contributions to the taxpayer's account of up to $2,500 per year and earnings on account balances. Generally, distributions from an account are treated as taxable income under the GIT, except in the case of certain account rollovers and account adjustments made due to excess contributions.

The bill provides a GIT credit for a taxpayer's own contributions to the taxpayer's account. Generally, the credit is for 50 percent of a taxpayer's first $500 of account contributions, or $1,000 for taxpayers filing jointly, and 25 percent for the taxpayer's account contributions exceeding $500, or $1,000 for taxpayers filing jointly. The maximum creditable contribution amount varies based on the taxpayer's filing status and annual income level. Generally, individual filers are allowed a maximum creditable contribution of $2,500, which is reduced by $1 for each $8 earned over $100,000. Creditable contributions are not allowed for individual filers with $120,000 of annual income or more. Generally, joint filers are allowed a maximum creditable contribution of $5,000 in the case of married individuals each of whom contributes to a lifelong learning account, which is reduced by $1 for each $8 earned over $200,000. Creditable contributions are not allowed for joint filers with $240,000 of annual income or more. Maximum creditable contributions are reduced by the amount of any employer-provided account contributions, which are excluded from the taxpayer's taxable income by this bill. Generally, the maximum credit amount is $750 for individuals and $1,500 for joint filers. Depending upon a taxpayer's liability and order of application of other potential credits, the GIT credit for taxpayer account contributions is refundable. The bill grants the Director of the Division of Taxation the authority to preclude rollovers between accounts from qualifying for credit.

The bill allows GIT and CBT credits for employers making account contributions for their employees in an amount equal to 25 percent of account contributions. Per employee and per tax year, annual account contributions may not exceed $2,500.

Small business employers are allowed an additional credit amount for 50 percent of the administrative costs associated with the credit for the tax year, but not exceeding $500 of credit for the tax year. The bill defines a small business as a taxpayer with no more than 100 employees, each with no less than $5,000 of annual compensation. The small business administrative cost credit is allowed only for the first and second tax years for which the employer is allowed the employer-provided employee account contribution credit. Both the employer-provided employee account contribution credit and the small business administrative cost credit are nonrefundable, but the amount of an unused credit may be carried forward one tax year and used as a deduction.

The bill establishes certain requirements for the maintenance and use of the accounts. Accounts must be created or organized in New Jersey and for the exclusive benefit of the account beneficiary. For a tax year, total contributions, from whatever source, to lifelong learning accounts of a taxpayer may not exceed $2,500, except as to account rollovers. Account trustees must be a bank or other entity that demonstrates to the Director of the Division of Taxation that accounts will be maintained in accordance with the bill. An account beneficiary's interest in the account balance is nonforfeitable. The bill prohibits a trustee from investing account assets in life insurance contracts or collectibles and prohibits account assets from being commingled with other property, except as to common trust or investment funds. The bill gives the Director of the Division of Taxation rulemaking authority with regard to further account requirements.

Generally, the bill restricts qualified use of accounts to taxpayers that are 18 to 70 years of age. Account funds are to be distributed for qualified education expenses incurred by the taxpayer or the taxpayer's spouse. Qualified education expenses are amounts paid and required for instructional courses, training courses, and apprenticeship programs, which include, but are not limited to, books, equipment, fees, information technology devices, supplies, tools, and tuition. Qualified education expenses do not include amounts paid for courses or programs taken for recreational or leisure purposes.

The bill includes a penalty for nonqualified distributions in the form of additional tax liability in the amount of five percent of the nonqualified distribution. The bill's nonqualified distribution penalty does not apply to distributions on account of death, disability, divorce, or attaining the age of 71 as of the first day of the taxable year. The bill also contains exemptions from the nonqualified distribution penalties for distributions that are rollovers between accounts and account adjustments made due to excess annual account contributions.