

**SENATE BILL**

**No. 11**

---

---

**Introduced by Senator Harman**

October 11, 2007

---

---

An act to add and repeal Sections 17053.77 and 23677 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, as introduced, Harman. Income and corporation taxes: credit: health savings account.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2008, and before January 1, 2014, in an amount equal to 15% of the amount paid or incurred by a qualified taxpayer, as defined, during the taxable year for qualified health insurance, as defined, for employees of the taxpayer. This bill would require the Legislative Analyst to report to the Legislature on or before March 1, 2013, on the effectiveness of the credit, 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. Section 17053.77 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.77. (a) For each taxable year beginning on or after  
2 January 1, 2008, and before January 1, 2014, there shall be allowed  
3 as a credit against the “net tax,” as defined in Section 17039, an  
4 amount equal to 15 percent of the amount paid or incurred by a  
5 qualified taxpayer during the taxable year for qualified health  
6 insurance for employees of the taxpayer who perform services in  
7 this state.

8 (b) For purposes of this section:

9 (1) “Qualified health insurance” means amounts paid on behalf  
10 of employees to a high deductible health plan, as defined by Section  
11 223(c)(2) of the Internal Revenue Code, or to a health savings  
12 account, as defined by Section 223(d) of the Internal Revenue  
13 Code.

14 (2) “Qualified taxpayer” means any small to medium size  
15 employer, or any small to medium size employer that, during the  
16 five taxable years immediately preceding the taxable year, has not  
17 provided health insurance to employees employed by the employer  
18 in this state.

19 (3) For purposes of this paragraph:

20 (A) “Small employer” means a person, as defined in Section  
21 7701(a) of the Internal Revenue Code, employing, for wages or  
22 salary, at least two but no more than 50 persons.

23 (B) “Medium employer” means a person, as defined in Section  
24 7701(a) of the Internal Revenue Code, employing, for wages or  
25 salary, at least 51 but no more than 250 persons.

26 (c) The credit allowed by this section shall be in lieu of any  
27 deduction to which the taxpayer otherwise may be entitled for  
28 expenses on which a credit under this section is claimed.

29 (d) On or before September 1, 2012, the Franchise Tax Board  
30 shall report to the Legislature on the usage of the credit under this  
31 section.

32 (e) In the case where the credit allowed by this section exceeds  
33 the “net tax,” the excess may be carried over to reduce the “net  
34 tax” in the following year, and succeeding years if necessary, until  
35 the credit is exhausted.

36 (f) This section shall remain in effect only until January 1, 2014,  
37 and as of that date is repealed, unless a later enacted statute that  
38 is enacted before January 1, 2014, deletes or extends that date.

39 SEC. 2. Section 23677 is added to the Revenue and Taxation  
40 Code, to read:

1 23677. (a) For each taxable year beginning on or after January  
2 1, 2008, and before January 1, 2014, there shall be allowed as a  
3 credit against the “tax,” as defined in Section 23036, an amount  
4 equal to 15 percent of the amount paid or incurred by a qualified  
5 taxpayer during the taxable year for qualified health insurance for  
6 employees of the taxpayer who perform services in this state.

7 (b) For purposes of this section:

8 (1) “Qualified health insurance” means amounts paid on behalf  
9 of employees to a high deductible health plan, as defined by Section  
10 223(c)(2) of the Internal Revenue Code, or to a health savings  
11 account, as defined by Section 223(d) of the Internal Revenue  
12 Code.

13 (2) “Qualified taxpayer” means any small to medium size  
14 employer, or any small to medium size employer that, during the  
15 five taxable years immediately preceding the taxable year, has not  
16 provided health insurance to employees employed by the employer  
17 in this state.

18 (3) For purposes of this paragraph:

19 (A) “Small employer” means a person, as defined in Section  
20 7701(a) of the Internal Revenue Code, employing, for wages or  
21 salary, at least two but no more than 50 persons.

22 (B) “Medium employer” means a person, as defined in Section  
23 7701(a) of the Internal Revenue Code, employing, for wages or  
24 salary, at least 51 but no more than 250 persons.

25 (c) The credit allowed by this section shall be in lieu of any  
26 deduction to which the taxpayer otherwise may be entitled for  
27 expenses on which a credit under this section is claimed.

28 (d) On or before September 1, 2012, the Franchise Tax Board  
29 shall report to the Legislature on the usage of the credit under this  
30 section.

31 (e) In the case where the credit allowed by this section exceeds  
32 the “tax,” the excess may be carried over to reduce the “tax” in  
33 the following year, and succeeding years if necessary, until the  
34 credit is exhausted.

35 (f) This section shall remain in effect only until January 1, 2014,  
36 and as of that date is repealed, unless a later enacted statute that  
37 is enacted before January 1, 2014, deletes or extends that date.

38 SEC. 3. On or before March 1, 2013, the Legislative Analyst  
39 shall report to the Legislature on the effectiveness of the tax credit

- 1 upon employed Californians' ability to meet deductible medical
- 2 expenses incurred under qualified health insurance plans.
- 3 SEC. 4. This act provides for a tax levy within the meaning of
- 4 Article IV of the Constitution and shall go into immediate effect.

O