

AMENDED IN ASSEMBLY FEBRUARY 18, 2011

AMENDED IN ASSEMBLY JANUARY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 36**

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**Introduced by Assembly Members Perea and Blumenfield**

***(Principal coauthor: Assembly Member Beall)***

(Principal coauthor: Senator Padilla)

***(Coauthor: Assembly Member Hagman)***

December 6, 2010

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An act to amend Section 23701i of, and to add Sections 17131.7 and 17201.1 to, the Revenue and Taxation Code, *and to add Section 938.4 to the Unemployment Insurance Code*, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 36, as amended, Perea. Income *and employment* taxes: federal conformity: Health Care and Education Reconciliation Act of 2010.

The Personal Income Tax Law and the Corporation Tax Law, in specified conformity with federal income tax laws, provide certain gross income exclusions, as specified.

This bill would, under both laws, provide additional conformity with federal income tax laws by adopting specified provisions of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 relating to gross income exclusions for reimbursements for medical care expenses under specified plans for dependents, as specified.

*Existing law excludes from the definition of "wages," for purposes of the unemployment insurance law, remuneration in excess of \$7,000*

*paid to an individual by an employer during any calendar year; with respect to employment. That law also excludes from the definition of “wages” the amount paid by an employer for insurance or annuities, or into a fund to provide for any payment made to or on behalf of an employee or any of his or her dependents under a plan or system, as specified, on account of sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.*

*This bill would, under the unemployment insurance law, provide additional conformity with federal law by adopting specified provisions of the Health Care and Education Reconciliation Act of 2010 relating to an exclusion from wages for amounts expended for medical care.*

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 17131.7 is added to the Revenue and  
2 Taxation Code, to read:

3 17131.7. (a) Section 105(b) of the Internal Revenue Code,  
4 relating to amounts expended for medical care, as amended by  
5 Section 1004(d)(1) of the Health Care and Education Reconciliation  
6 Act of 2010 (Public Law 111-152), shall apply, except as otherwise  
7 provided.

8 (b) This section shall apply in the same manner and to the same  
9 periods as the federal amendments referred to in subdivision (a)  
10 apply for federal purposes, except as otherwise provided.

11 SEC. 2. Section 17201.1 is added to the Revenue and Taxation  
12 Code, to read:

13 17201.1. (a) Section 162(l)(1) of the Internal Revenue Code,  
14 relating to allowance of deduction, as amended by Section  
15 1004(d)(2) of the Health Care and Education Reconciliation Act  
16 of 2010 (Public Law 111-152), shall apply, except as otherwise  
17 provided.

18 (b) Section 162(l)(2)(B) of the Internal Revenue Code, relating  
19 to other coverage, as amended by Section 1004(d)(3) of the Health  
20 Care and Education Reconciliation Act of 2010 (Public Law  
21 111-152), shall apply, except as otherwise provided.

1 (c) This section shall apply in the same manner and to the same  
2 periods as the federal amendments referred to in subdivision (a)  
3 or subdivision (b), respectively, apply for federal purposes, except  
4 as otherwise provided.

5 SEC. 3. Section 23701i of the Revenue and Taxation Code is  
6 amended to read:

7 23701i. (a) A voluntary employees' beneficiary association  
8 described in Section 501(c)(9) of the Internal Revenue Code, as  
9 amended by Section 1004(d)(4) of the Health Care and Education  
10 Reconciliation Act of 2010 (Public Law 111-152).

11 (b) The amendments made to this section by the act adding this  
12 subdivision shall apply in the same manner and to the same periods  
13 as the federal amendments referred to in subdivision (a) apply for  
14 federal purposes.

15 SEC. 4. *Section 938.4 is added to the Unemployment Insurance*  
16 *Code, to read:*

17 938.4. *“Wages” does not include any payment made, or benefit*  
18 *furnished to, or for the benefit of, an employee under Section*  
19 *105(b) of the Internal Revenue Code, relating to amounts expended*  
20 *for medical care, as amended by Section 1004(d)(1) of the Health*  
21 *Care and Education Reconciliation Act of 2010 (Public Law*  
22 *111-152).*

23 ~~SEC. 4.~~

24 SEC. 5. This act provides for a tax levy within the meaning of  
25 Article IV of the Constitution and shall go into immediate effect.