

AMENDED IN SENATE APRIL 10, 2014  
AMENDED IN SENATE MARCH 24, 2014

**SENATE BILL**

**No. 1035**

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**Introduced by ~~Senator~~ *Senators Huff and Vidak***

February 18, 2014

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An act to amend Sections 17072 and 19184 of, to amend and repeal Sections 17131.4, 17131.5, 17215.1, and 17215.4 of, and to add Sections 17138.5 and 17216 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1035, as amended, Huff. Personal income taxes: health savings accounts.

The Personal Income Tax Law authorizes various deductions in computing income that is subject to tax under that law.

This bill would, for taxable years beginning on and after January 1, 2015, allow a deduction in connection with health savings accounts in conformity with federal law. In general, the deduction would be an amount equal to the aggregate amount paid in cash during the taxable year by, or on behalf of, an eligible individual, as defined, to a health savings account of that individual, as provided. This bill would, for taxable years beginning on and after January 1, 2015, also provide related conformity to that federal law with respect to the allowance of rollovers from Archer Medical Savings Accounts, health flexible spending arrangements, or health reimbursement accounts to a health savings account, and penalties in connection therewith.

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 17072 of the Revenue and Taxation Code  
2 is amended to read:

3 17072. (a) Section 62 of the Internal Revenue Code, relating  
4 to adjusted gross income defined, shall apply, except as otherwise  
5 provided.

6 (b) Section 62(a)(2)(D) of the Internal Revenue Code, relating  
7 to certain expenses of elementary and secondary school teachers,  
8 shall not apply.

9 (c) Section 62(a)(21) of the Internal Revenue Code, relating to  
10 attorneys fees relating to awards to whistleblowers, shall not apply.

11 (d) For taxable years beginning on or after January 1, 2015,  
12 Section 62(a)(19) of the Internal Revenue Code, relating to health  
13 savings accounts, shall apply, as modified by Section 17216.

14 SEC. 2. Section 17131.4 of the Revenue and Taxation Code  
15 is amended to read:

16 17131.4. (a) Section 106(d) of the Internal Revenue Code,  
17 relating to contributions to health savings accounts, shall not apply.

18 (b) This section shall apply to taxable years beginning on or  
19 after January 1, 2005, and before January 1, 2015.

20 (c) This section shall remain in effect only until January 1, 2019,  
21 and as of that date is repealed.

22 SEC. 3. Section 17131.5 of the Revenue and Taxation Code  
23 is amended to read:

24 17131.5. (a) Section 125(d)(2)(D) of the Internal Revenue  
25 Code, relating to the exception for health savings accounts, shall  
26 not apply.

27 (b) This section shall apply to taxable years beginning on or  
28 after January 1, 2005, and before January 1, 2015.

29 (c) This section shall remain in effect only until January 1, 2019,  
30 and as of that date is repealed.

31 SEC. 4. Section 17138.5 is added to the Revenue and Taxation  
32 Code, to read:

33 17138.5. For taxable years beginning on or after January 1,  
34 2015, Section 106 of the Internal Revenue Code, as amended by  
35 Section 302 of the *federal* Tax Relief and Health Care Act of 2006  
36 (Public Law 109-432), relating to health savings accounts, shall  
37 apply, except as otherwise provided.

1 SEC. 5. Section 17215.1 of the Revenue and Taxation Code  
2 is amended to read:

3 17215.1. (a) Section 220(f)(5) of the Internal Revenue Code,  
4 relating to rollover contributions, shall not apply.

5 (b) This section shall apply to taxable years beginning on or  
6 after January 1, 2005, and before January 1, 2015.

7 (c) This section shall remain in effect only until January 1, 2019,  
8 and as of that date is repealed.

9 SEC. 6. Section 17215.4 of the Revenue and Taxation Code  
10 is amended to read:

11 17215.4. (a) Section 223 of the Internal Revenue Code, relating  
12 to health savings accounts, shall not apply.

13 (b) This section shall apply to taxable years beginning on or  
14 after January 1, 2005, and before January 1, 2015.

15 (c) This section shall remain in effect only until January 1, 2019,  
16 and as of that date is repealed.

17 SEC. 7. Section 17216 is added to the Revenue and Taxation  
18 Code, to read:

19 17216. For taxable years beginning on or after January 1, 2015,  
20 all of the following apply:

21 (a) Section 223 of the Internal Revenue Code, relating to health  
22 savings accounts, shall apply, except as otherwise provided.

23 (b) Section 223(e)(1) of the Internal Revenue Code shall be  
24 modified by substituting the phrase “Section 17651” for the phrase  
25 “Section 511 (relating to imposition of tax of unrelated business  
26 income of charitable, etc., organizations),” contained therein.

27 (c) Section 223(f)(4)(A) of the Internal Revenue Code shall be  
28 modified by substituting “2 ½ percent” for “20 percent,” contained  
29 therein.

30 SEC. 8. Section 19184 of the Revenue and Taxation Code is  
31 amended to read:

32 19184. (a) A penalty of fifty dollars (\$50) shall be imposed  
33 for each failure, unless it is shown that the failure is due to  
34 reasonable cause, by any person required to file who fails to file  
35 a report at the time and in the manner required by any of the  
36 following provisions:

37 (1) Subdivision (c) of Section 17507, relating to individual  
38 retirement accounts.

1 (2) Section 220(h) of the Internal Revenue Code, relating to  
2 medical savings accounts for taxable years beginning on or after  
3 January 1, 1997.

4 (3) For taxable years beginning on or after January 1, 2015,  
5 Section 223(h) of the Internal Revenue Code, relating to reports.

6 (4) Subdivision (b) of Section 17140.3 or subdivision (b) of  
7 Section 23711, relating to qualified tuition programs.

8 (5) Subdivision (e) of Section 23712, relating to Coverdell  
9 education savings accounts.

10 (b) (1) Any individual who:

11 (A) Is required to furnish information under Section 17508 as  
12 to the amount designated nondeductible contributions made for  
13 any taxable year, and

14 (B) Overstates the amount of those contributions made for that  
15 taxable year, shall pay a penalty of one hundred dollars (\$100) for  
16 each overstatement unless it is shown that the overstatement is due  
17 to reasonable cause.

18 (2) Any individual who fails to file a form required to be filed  
19 by the Franchise Tax Board under Section 17508 shall pay a  
20 penalty of fifty dollars (\$50) for each failure unless it is shown  
21 that the failure is due to reasonable cause.

22 (c) Article 3 (commencing with Section 19031) of this chapter  
23 (relating to deficiency assessments) shall not apply in respect of  
24 the assessment or collection of any penalty imposed under this  
25 section.

26 SEC. 9. This act provides for a tax levy within the meaning of  
27 Article IV of the Constitution and shall go into immediate effect.