

AMENDED IN SENATE APRIL 29, 1999

AMENDED IN SENATE APRIL 15, 1999

AMENDED IN SENATE MARCH 10, 1999

SENATE BILL

No. 42

Introduced by Senator Speier

December 7, 1998

An act to add Section 10754.1 to, and to amend ~~Sections 17273 and 23221~~ *Section 17273* of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 42, as amended, Speier. ~~Income and bank and corporation Vehicle license fees: income taxes: minimum franchise tax: health insurance.~~

~~The Bank and Corporation Tax Law provides that a corporation that incorporates under the laws of this state or qualifies to transact interstate business in this state shall prepay a specified minimum franchise tax, except as provided.~~

~~This bill would exclude a qualified new corporation from that prepayment provision.~~

The Vehicle License Fee Law permanently offsets the amount of the vehicle license fee by 25%, and would, depending upon whether estimates of General Fund revenues for certain fiscal years meet or exceed certain amounts, provide for the implementation of similar, superseding offsets of 35%, 46.5%, 55%, and 67.5% to apply to specified future calendar years.

This bill would require that each of these estimates of General Fund revenues include an amount that is equal to the amount of additional revenue that the Department of Finance estimates would be deposited in the General Fund for the relevant fiscal year ~~in the absence of the amendment by this bill of the minimum franchise tax provisions.~~

The Personal Income Tax Law, by reference to specified federal statutes, for taxable years beginning on or after January 1, 1999, allows a deduction for 40% of the amount paid or incurred during the taxable year by a self-employed individual for insurance that constitutes medical care for the taxpayer and his or her spouse and dependents. Existing federal law incrementally increases that deduction to certain percentage rates. Under federal law, a 60% deduction is allowed for taxable years beginning in calendar year 1999 through 2001, a 70% deduction is allowed for taxable years beginning in calendar year 2002, and a 100% deduction is allowed for taxable years beginning in calendar year 2003 or thereafter.

This bill would conform the deduction allowed under the Personal Income Tax Law to the applicable federal percentage of the amount paid or incurred for taxable years beginning on or after January 1, 1999.

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 10754.1 is added to the Revenue
 2 and Taxation Code, to read:
 3 10754.1. Notwithstanding any other provision of law,
 4 each General Fund revenue forecast required by
 5 subdivision (b) of Section 10754, or any successor to that
 6 subdivision, shall include an amount that is estimated by
 7 the Department of Finance to be the amount of
 8 additional revenue that would be deposited in the
 9 General Fund for the relevant fiscal year ~~in the absence~~
 10 ~~of the amendment of Section 23221 by the act adding this~~
 11 ~~section.~~



1 SEC. 2. Section 17273 of the Revenue and Taxation
2 Code is amended to read:

3 17273. For each taxable year beginning on or after
4 January 1, 1999, Section 162(l)(1) of the Internal
5 Revenue Code, relating to applicable percentage, is
6 modified to provide that Section 2002 of the Taxpayer
7 Relief Act of 1997 (P.L. 105-34), relating to ~~phase~~ *phase*
8 *in* of a 100-percent deduction for health insurance, shall
9 apply.

10 ~~SEC. 3. Section 23221 of the Revenue and Taxation~~
11 ~~Code is amended to read:~~

12 ~~23221. (a) Except as provided under subdivision (b),~~
13 ~~a corporation which incorporates under the laws of this~~
14 ~~state or qualifies to transact intrastate business in this~~
15 ~~state shall thereupon prepay the minimum tax provided~~
16 ~~in Section 23153, except that any credit union shall~~
17 ~~thereupon prepay a tax of twenty-five dollars (\$25). The~~
18 ~~prepayment shall be made to the Secretary of State with~~
19 ~~the filing of the articles of incorporation or the statement~~
20 ~~and designation by a foreign corporation. The Secretary~~
21 ~~of State shall transmit the amount of the prepayment to~~
22 ~~the Franchise Tax Board. The Franchise Tax Board shall~~
23 ~~certify to the Secretary of State on an individual or class~~
24 ~~basis those domestic or foreign corporations which are~~
25 ~~exempt from prepayment or for which prepayment to~~
26 ~~the Secretary of State is waived.~~

27 ~~(b) (1) For income years commencing on or after~~
28 ~~January 1, 1997, and before January 1, 1999, the amount~~
29 ~~payable by a qualified new corporation under subdivision~~
30 ~~(a) shall be six hundred dollars (\$600).~~

31 ~~(2) For income years commencing on or after January~~
32 ~~1, 1999, and before January 1, 2000, the amount payable~~
33 ~~by a qualified new corporation under subdivision (a) shall~~
34 ~~be three hundred dollars (\$300).~~

35 ~~(3) For income years commencing on or after January~~
36 ~~1, 2000, no amount shall be payable by a qualified new~~
37 ~~corporation under subdivision (a).~~

38 ~~(c) For purposes of this section, “qualified new~~
39 ~~corporation” means a corporation that begins operation~~
40 ~~at or after the time of its incorporation and that~~



1 reasonably estimates that, for the income year, it will have
2 both gross receipts, less returns and allowances
3 reportable to this state, of one million dollars (\$1,000,000)
4 or less and a tax liability under Section 23151 that does not
5 exceed eight hundred dollars (\$800). “Qualified new
6 corporation” does not include any corporation that began
7 business operations as a single proprietorship, a
8 partnership, or any other form of business entity prior to
9 its incorporation.

10 (1) The determination of gross receipts of a
11 corporation, for purposes of this section, shall be made by
12 including the gross receipts of each member of the
13 commonly controlled group, as defined in Section 25105,
14 of which the bank or corporation is a member.

15 (2) “Gross receipts, less returns and allowances
16 reportable to this state,” means the sum of the gross
17 receipts from the production of business income, as
18 defined in subdivision (a) of Section 25120, and the gross
19 receipts from the production of nonbusiness income, as
20 defined in subdivision (d) of Section 25120.

21 (d) Subdivision (b) shall not apply to any corporation
22 if 50 percent or more of its stock is, or will be upon the
23 initial issuance of stock, owned by another corporation.

24 (e) (1) For income years commencing on or after
25 January 1, 1997, and before January 1, 1999, if a
26 corporation paid six hundred dollars (\$600) under
27 paragraph (1) of subdivision (b), but for its first income
28 year the corporation’s tax liability under Section 23151
29 exceeds eight hundred dollars (\$800), or the
30 corporation’s gross receipts, as determined under
31 paragraph (2) of subdivision (e), exceed one million
32 dollars (\$1,000,000), an additional tax in an amount equal
33 to two hundred dollars (\$200) shall be due and payable by
34 the corporation on the due date of its return, without
35 regard to extension, for its first income year.

36 (2) For income years commencing on or after January
37 1, 1999, and before January 1, 2000, if a corporation paid
38 three hundred dollars (\$300) under paragraph (2) of
39 subdivision (b), but for its first income year the
40 corporation’s tax liability under Section 23151 exceeds



1 ~~eight hundred dollars (\$800), or the corporation's gross~~
2 ~~receipts, as determined under paragraphs (1) and (2) of~~
3 ~~subdivision (c), exceed one million dollars (\$1,000,000);~~
4 ~~an additional tax in an amount equal to five hundred~~
5 ~~dollars (\$500) shall be due and payable by the corporation~~
6 ~~on the due date of its return, without regard to extension;~~
7 ~~for its first income year.~~

8 ~~(3) For income years commencing on or after January~~
9 ~~1, 2000, if a corporation paid no amount under paragraph~~
10 ~~(3) of subdivision (b), but for its first income year the~~
11 ~~corporation's tax liability under Section 23151 exceeds~~
12 ~~eight hundred dollars (\$800) or the corporation's gross~~
13 ~~receipts, as determined under paragraphs (1) and (2) of~~
14 ~~subdivision (c), exceed one million dollars (\$1,000,000);~~
15 ~~an additional tax in an amount equal to eight hundred~~
16 ~~dollars (\$800) shall be due and payable by the corporation~~
17 ~~on the due date of its return, without regard to extension;~~
18 ~~for its first income year.~~

19 ~~(f) The amendments made by the act adding this~~
20 ~~subdivision shall apply to income years commencing on~~
21 ~~or after January 1, 1999, and before January 1, 2000.~~

22 ~~SEC. 4.~~ This act provides for a tax levy within the
23 meaning of Article IV of the Constitution and shall go into
24 immediate effect.

