AMENDED IN SENATE APRIL 1, 2009

SENATE BILL No. 347

Introduced by Senator Harman

February 25, 2009

~~An act relating to taxation.~~ *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 347, as amended, Harman. ~~Personal income taxes.~~ *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, 2009, and before January 1, 2015, 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, 2014, on the effectiveness of the credit, as specified.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law imposes taxes on income and provides definitions of specified terms for purposes of that law.~~

~~This bill would express the intent of the Legislature to enact legislation to amend that law.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.77 is added to the Revenue and Taxation Code, to read:

17053.77. (a) For each taxable year beginning on or after January 1, 2009, and before January 1, 2015, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 15 percent of the amount paid or incurred by a qualified taxpayer during the taxable year for qualified health insurance for employees of the taxpayer who perform services in this state.

(b) For purposes of this section:

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

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

(3) For purposes of this paragraph:

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

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

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

(d) On or before September 1, 2013, the Franchise Tax Board shall report to the Legislature on the usage of the credit under this section.

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

(f) This section shall remain in effect only until December 1, 2015.

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

23677. (a) For each taxable year beginning on or after January 1, 2009, and before January 1, 2015, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to 15 percent of the amount paid or incurred by a qualified taxpayer during the taxable year for qualified health insurance for employees of the taxpayer who perform services in this state.

(b) For purposes of this section:

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

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

(3) For purposes of this paragraph:

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

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

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

(d) On or before September 1, 2013, the Franchise Tax Board shall report to the Legislature on the usage of the credit under this section.

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

(f) This section shall remain in effect only until December 1, 2015.

SEC. 3. On or before March 1, 2014, the Legislative Analyst shall report to the Legislature on the effectiveness of the tax credit upon employed Californians' ability to meet deductible medical expenses incurred under qualified health insurance plans.

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

~~SECTION 1. It is the intent of the Legislature to enact legislation to amend the Personal Income Tax Law.~~

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