

ASSEMBLY BILL

No. 1510

Introduced by Assembly Member Garrick

January 12, 2012

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

AB 1510, as introduced, Garrick. Income tax: 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, 2013, 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, 2013, 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:

SECTION 1. Section 17072 of the Revenue and Taxation Code is amended to read:

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

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

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

(d) *The deduction allowed by Section 17216, relating to health savings accounts, is allowed in computing adjusted gross income.*

(e) *The amendments made to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 2013.*

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

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

(b) *This section shall apply to taxable years beginning on or after January 1, 2005, and before January 1, 2013.*

(c) *This section shall remain in effect only until January 1, 2018, and as of that date is repealed.*

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

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

(b) *This section shall apply to taxable years beginning on or after January 1, 2005, and before January 1, 2013.*

(c) *This section shall remain in effect only until January 1, 2018, and as of that date is repealed.*

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

17138.5. For taxable years beginning on or after January 1, 2013, Section 106 of the Internal Revenue Code, as amended by Section 302 of the Tax Relief and Health Care Act of 2006 (Public

1 Law 109-432), relating to health savings accounts, shall apply,
2 except as otherwise provided.

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

6 17215.1. (a) Section 220(f)(5) of the Internal Revenue Code,
7 relating to rollover contributions, shall not apply.

8 (b) *This section shall apply to taxable years beginning on or*
9 *after January 1, 2005, and before January 1, 2013.*

10 (c) *This section shall remain in effect only until January 1, 2018,*
11 *and as of that date is repealed.*

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

14 17215.4. (a) Section 223 of the Internal Revenue Code,
15 relating to health savings accounts, shall not apply.

16 (b) *This section shall apply to taxable years beginning on or*
17 *after January 1, 2005, and before January 1, 2013.*

18 (c) *This section shall remain in effect only until January 1, 2018,*
19 *and as of that date is repealed.*

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

22 17216. For taxable years beginning on or after January 1, 2013,
23 all of the following apply:

24 (a) Section 223 of the Internal Revenue Code, as added by
25 Section 1201 of the Medicare Prescription Drug, Improvement,
26 and Modernization Act of 2003 (Public Law 108-173), and as
27 amended by Title III of the Tax Relief and Health Care Act of
28 2006 (Public Law 109-432), relating to health savings accounts,
29 shall apply, except as otherwise provided.

30 (b) Section 223(e)(1) of the Internal Revenue Code, as added
31 by Section 1201 of the Medicare Prescription Drug, Improvement,
32 and Modernization Act of 2003 (Public Law 108-173), shall be
33 modified by substituting the phrase “Section 17651” for the phrase
34 “Section 511 (relating to imposition of tax of unrelated business
35 income of charitable, etc., organizations),” contained therein.

36 (c) Section 223(f)(4)(A) of the Internal Revenue Code, as added
37 by Section 1201 of the Medicare Prescription Drug, Improvement,
38 and Modernization Act of 2003 (Public Law 108-173), shall be
39 modified by substituting “2 ½ percent” for “10 percent,” contained
40 therein.

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

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

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

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

(3) *Section 223(h) of the Internal Revenue Code, as added by Section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), relating to health savings accounts.*

~~(3)~~

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

~~(4)~~

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

(b) (1) Any individual who:

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

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

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

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

1 *(d) The amendments made to this section by the act adding this*
2 *subdivision shall apply to taxable years beginning on or after*
3 *January 1, 2013.*

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

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