AMENDED IN ASSEMBLY APRIL 1, 2014

california legislature—2013–14 regular session

ASSEMBLY BILL No. 1831

Introduced by Assembly Member Conway

February 18, 2014

An act to amend Section 17072 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

legislative counsel's digest

AB 1831, as amended, Conway. ~~Personal~~ *California Health Insurance Fairness Act: personal* income tax: deduction: medical insurance.

The Personal Income Tax Law provides for various deductions in computing the income that is subject to the taxes imposed by that law including *in modified conformity with federal tax law,* a deduction for that portion of medical expenses that is more than ~~10%, or for certain taxpayers~~ 7.5%~~,~~ of adjusted gross income. Self-employed individuals may deduct health insurance premiums for medical expenses incurred by the taxpayer in lieu of the itemized deduction for medical expenses.

This bill, for taxable years beginning on or after January 1, 2014, would allow a deduction from gross income under the Personal Income Tax Law for the amounts paid or incurred by a taxpayer during the taxable year for medical insurance for medical care, as defined, and for transportation for and essential to that medical care, as provided. The bill would not allow as an itemized ~~deduction, and~~ *deduction, an* amount allowed as a deduction from gross income as provided in the bill.

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. This act shall be known, and may be cited, as the California Health Insurance Fairness Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) In 2010, Congress passed the Affordable Care Act, commonly known as "Obamacare," which mandates that individuals obtain health insurance. This mandate is known as the individual mandate.

(b) Under Obamacare, all Californians are forced to obtain health insurance by March of 2014.

(c) Under both federal and state tax laws, employer-paid insurance benefits are excluded from taxation and paid for with pretaxable income.

(d) According to the Kaiser Family Foundation, four million Californians do not get their health insurance paid for by their employers and, in order to meet the federal mandate, they will have to obtain health insurance or face a penalty imposed by the IRS of up to 1 percent of their 2014 income, 2 percent of their 2015 income, and 2.5 percent of their 2016 income. Tax penalties for uninsured children are one-half of the penalty for an adult.

(e) Individuals and families with an income in 2014 that is between 138 percent and 400 percent of the poverty level will be able to purchase health insurance through Covered California and will receive a tax subsidy to offset all or part of the health insurance premium. If the individual's or family's income is less than these percentages, that individual or family may qualify for Medi-Cal.

(f) The Kaiser Family Foundation estimates that 52 percent of Americans who buy individual insurance today would not be eligible for subsidies to help offset the cost of health care. The 48 percent that do receive subsidies would receive an average of $5,548 per year, which would only cover 66 percent of the cost. Most individuals will face higher premiums and higher taxes to pay for those subsidies that others will receive.

(g) Around 1.2 million Californians do not receive employer-paid health insurance and are not eligible for Medi-Cal or other taxpayer paid insurance programs and must purchase their health insurance directly from an insurer. Individuals and families must buy their health insurance with after-tax dollars if

they are ineligible for a subsidy or the subsidy does not cover the full cost of the insurance, making their health insurance more expensive.

(h) Under existing California law, a taxpayer is able to deduct medical expenses, including the cost of purchasing health insurance, that exceed 7.5 percent of their adjusted gross income. Any medical expense below 7.5 percent of their income is not tax deductible. Only taxpayers that itemize their deductions can take the deduction. Because that threshold is so high, many taxpayers do not get any tax benefit, thus making the cost of their insurance more expensive.

(i) Bringing the threshold from 7.5 percent down to 0 percent will level the playing field between those who receive insurance from an employer and those purchasing it in the individual market. It would also reduce the number of uninsured and, accordingly, would reduce the costs associated with providing health care to the uninsured.

~~SECTION 1.~~

SEC. 3. 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) Section 62(a) of the Internal Revenue Code is modified to additionally provide that the amount allowed as a deduction under Section 213(d)(1)(D) of the Internal Revenue Code shall be allowed as a deduction for purposes of computing adjusted gross income, except as otherwise provided.

(1) For purposes of this subdivision, Section 213(d)(1)(D) of the Internal Revenue Code is modified to provide that the phrases "(including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged)" and "or for any qualified long-term care insurance contract (as defined in section 7702B(b))" shall not apply.

(2) Any amount allowed as a deduction under this subdivision shall not be allowed as an itemized deduction under Section 63 of the Internal Revenue Code, relating to taxable income defined, as applicable, for purposes of this part.

(3) This subdivision shall apply to taxable years beginning on or after January 1, 2014.

~~*SEC. 2.*~~

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

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