

AMENDED IN ASSEMBLY MAY 2, 2007
AMENDED IN ASSEMBLY FEBRUARY 27, 2007
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 85

Introduced by Assembly Member Nakanishi
(Coauthors: Assembly Members Benoit, Gaines, Horton, Jeffries,
Maze, Smyth, and Tran)
(Coauthors: Senators Ackerman, Harman, and Wyland)

December 13, 2006

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

AB 85, as amended, Nakanishi. 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, 2008, and before January 1, 2013, 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 specified employees of the taxpayer. This bill would also require the Franchise Tax Board and the Legislative Analyst to report on the usage and effectiveness of the credit, as specified.

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 17053.77 is added to the Revenue and
2 Taxation Code, to read:

3 17053.77. (a) For each taxable year beginning on or after
4 January 1, 2008, and before January 1, 2013, there shall be allowed
5 as a credit against the “net tax,” as defined in Section 17039, an
6 amount equal to 15 percent of the amount paid or incurred by a
7 qualified taxpayer during the taxable year for qualified health
8 insurance for employees of the taxpayer who perform services in
9 this state and who pay income taxes to the state.

10 (b) For purposes of this section:

11 (1) “Qualified health insurance” means amounts paid on behalf
12 of employees to a high deductible health plan, as defined by Section
13 223(c)(2) of the Internal Revenue Code, or to a health savings
14 account, as defined by Section 223(d) of the Internal Revenue
15 Code.

16 (2) “Qualified taxpayer” means any new small to medium size
17 employer, or any existing small to medium size employer that,
18 during any of the five taxable years immediately preceding the
19 taxable year, has not provided health insurance to employees
20 employed by the employer in this state.

21 (3) For purposes of this paragraph:

22 (A) “Small employer” means a person, as defined in Section
23 7701(a) of the Internal Revenue Code, or a private entity
24 employing, for wages or salary, at least 2 but no more than 19
25 persons.

26 (B) “Medium employer” means a person, as defined in Section
27 7701(a) of the Internal Revenue Code, or a private entity
28 employing, for wages or salary, at least 20 but no more than 199
29 persons.

30 (C) “New small to medium employer” means a small employer
31 or a medium employer ~~created~~ *that began doing business* on or
32 after October 1, 2008.

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

36 (d) On or before December 1, 2011, the Franchise Tax Board
37 shall report to the Legislature on the total number of employers
38 using the credit under this section, the total number of employees

1 who have enrolled in high deductible health plans since the
2 inception of the credit, and the total cost of this credit to the state.

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

7 (f) A qualified taxpayer is only eligible for the credit allowed
8 by this section for the first year in which the credit is claimed and
9 for each of the two consecutive taxable years following the taxable
10 year in which the credit is first claimed.

11 (g) This section shall remain in effect only until December 1,
12 2013, and as of that date is repealed, unless a later enacted statute
13 that is enacted before December 1, 2013, deletes or extends that
14 date.

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

17 23677. (a) For each taxable year beginning on or after January
18 1, 2008, and before January 1, 2013, there shall be allowed as a
19 credit against the “tax,” as defined in Section 23036, an amount
20 equal to 15 percent of the amount paid or incurred by a qualified
21 taxpayer during the taxable year for qualified health insurance for
22 employees of the taxpayer who perform services in this state and
23 who pay income taxes to the state.

24 (b) For purposes of this section:

25 (1) “Qualified health insurance” means amounts paid on behalf
26 of employees to a high deductible health plan, as defined by Section
27 223(c)(2) of the Internal Revenue Code, or to a health savings
28 account, as defined by Section 223(d) of the Internal Revenue
29 Code.

30 (2) “Qualified taxpayer” means any new small to medium size
31 employer, or any existing small to medium size employer that,
32 during any of the five taxable years immediately preceding the
33 taxable year, has not provided health insurance to employees
34 employed by the employer in this state.

35 (3) For purposes of this paragraph:

36 (A) “Small employer” means a person, as defined in Section
37 7701(a) of the Internal Revenue Code, or a private entity
38 employing, for wages or salary, at least 2 but no more than 19
39 persons.

1 (B) “Medium employer” means a person, as defined in Section
2 7701(a) of the Internal Revenue Code, or a private entity
3 employing, for wages or salary, at least 20 but no more than 199
4 persons.

5 (C) “New small to medium employer” means a small employer
6 or a medium employer—~~created~~ *that began doing business* on or
7 after October 1, 2008.

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

11 (d) On or before December 1, 2011, the Franchise Tax Board
12 shall report to the Legislature on the total number of employers
13 using the credit under this section, the total number of employees
14 who have enrolled in high deductible health plans since the
15 inception of the credit, and the total cost of this credit to the state.

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

20 (f) A qualified taxpayer is only eligible for the credit allowed
21 by this section for the first year in which the credit is claimed and
22 for each of the two consecutive taxable years following the taxable
23 year in which the credit is first claimed.

24 (g) This section shall remain in effect only until December 1,
25 2013, and as of that date is repealed, unless a later enacted statute
26 that is enacted before December 1, 2013, deletes or extends that
27 date.

28 SEC. 3. On or before March 1, 2012, the Legislative Analyst
29 shall report to the Legislature on the effectiveness of the tax credits
30 authorized by Sections 17053.77 and 23677 of the Revenue and
31 Taxation Code upon employed Californians’ ability to meet
32 deductible medical expenses incurred under qualified health
33 insurance plans.

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

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