

**REVISED ANALYSIS**

Author: Villines and Smyth Analyst: David Scott Bill Number: AB 2041  
 Related Bills: See Legislative History Telephone: 845-5806 Introduced Date: February 17, 2010  
 Amended Date: March 10, 2010  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Health Savings Account Deduction Conformity

- \_\_\_\_\_ REVENUE ESTIMATE CHANGED.
- \_\_\_\_\_ FURTHER CONCERNS IDENTIFIED.
- \_\_\_\_\_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED
- X February 17, 2010 / March 10, 2010, STILL APPLIES.
- X OTHER – See comments below.

**SUMMARY OF BILL**

This bill would allow a deduction on a California personal income tax return for contributions to a Health Savings Account (HSA) similar to the HSA deduction allowed on the federal individual income tax return for the same taxable year.

**SUMMARY OF REVISION**

The “This Bill” section of the department’s analysis is being revised because two items listed in that section were suggested amendments rather than part of the bill.

The original analysis made the following two misstatements:

1. That the penalty would be modified to two and one-half percent.
2. That a \$50 penalty would be imposed for each failure to file an HSA report.

**POSITION**

Pending.

Board Position:	Legislative Director	Date
_____ S      _____ NA      _____ NP		
_____ SA      _____ O      _____ NAR	Brian Putler	04/26/10
_____ N      _____ OUA <u>X</u> PENDING		

## **ANALYSIS**

### THIS BILL (revised)

Starting with taxable year 2010, this bill would conform to the federal HSA provisions, as follows:

1. Allow the same above-the-line deduction for contributions to an HSA by or on behalf of an individual and adopts the rules applicable to the trust itself for the trust to be exempt from tax. In addition, the disqualified distribution penalty applicable to HSAs for California purposes would be the same as the federal rate of 10 percent. Consistent with general conformity policy in other areas, the federal 6-percent excise tax on excess contributions and the federal estate tax provisions are not being conformed to by this bill.
2. Allow the same exclusion from an employee's gross income for the amount of any contributions to an HSA (including salary-reduction contributions made through a cafeteria plan) made on the employee's behalf by their employer.
3. Allow tax-free rollovers from Medical Savings Accounts to be made to HSAs, as well as tax-free rollovers between HSAs, without penalty.

## **LEGISLATIVE STAFF CONTACT**

Legislative Analyst  
David Scott  
(916) 845-5806  
[david.scott@ftb.ca.gov](mailto:david.scott@ftb.ca.gov)

Revenue Manager  
Monica Trefz  
(916) 845-4002  
[monica.trefz@ftb.ca.gov](mailto:monica.trefz@ftb.ca.gov)

Legislative Director  
Brian Putler  
(916) 845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)