

SUMMARY ANALYSIS OF AMENDED BILL

Author: Villines and Smyth Analyst: David Scott Bill Number: AB 2041
 Related Bills: See Prior Analysis Telephone: 845-5806 Amended Date: May 11, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Health Savings Account Deduction Conformity

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended March 10, 2010.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 10, 2010, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would allow a deduction on a California personal income tax return for contributions to a Health Savings Account (HSA).

SUMMARY OF AMENDMENTS

The May 11, 2010, amendments made various changes, including adopting the technical amendments proposed in the department’s analysis of the bill as amended March 10, 2010. In addition, the amendments would conform California Revenue and Taxation Code to the 2010 Federal health care bill provisions by limiting the amount of reimbursement to flexible spending accounts, removing over-the-counter drugs from eligible reimbursement, and changing the amount of the penalty on distributions for non-qualified medical expenses.

As a result of the amendments, the “This Bill” and "Revenue Estimate" as provided in the analysis of the bill as amended March 10, 2010, have been revised. The remainder of that analysis still applies.

| | | |
|---|----------------------|----------|
| Board Position: | Legislative Director | Date |
| <input type="checkbox"/> S | Brian Putler | 06/08/10 |
| <input type="checkbox"/> NA | | |
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| <input checked="" type="checkbox"/> PENDING | | |

POSITION

Pending.

ANALYSIS

THIS BILL

Starting with taxable year 2010, this bill would conform to the federal HSA provisions, including provisions of the 2010 Health Care Acts, 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.
2. Modify the disqualified distribution penalty applicable to HSAs for California purposes to be two and one half percent instead of the pre-2010 federal rate of 10 percent for taxable year 2010. For taxable years beginning in 2011, the bill adopts the pre-2010 federal penalty 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.
3. 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.
4. Allow tax-free rollovers from Medical Savings Accounts to be made to HSAs, as well as tax-free rollovers between HSAs, without penalty.
5. Adopt the same \$50 penalty for failure to make required reports.
6. Adopt the Federal limitation of \$2,500 on the amount reimbursable for Flexible Spending Accounts (FSAs).
7. Adopt the Federal FSA disallowance of over-the-counter drugs as being reimbursable medicine, unless prescribed by a doctor.

ECONOMIC IMPACT

Revenue Estimate

| Estimated Revenue Impact of AB 2041 (RN 10-10959) For Tax Years Beginning On or After 01/01/2010 Enactment Assumed By September 30, 2010 | | | |
|--|------------|------------|------------|
| | 2010-11 | 2011-12 | 2012-13 |
| HSA (\$ in Millions) | -\$65 | -\$55 | -\$65 |
| HSA Penalty | +\$150,000 | +\$100,000 | +\$100,000 |

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

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