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**AB-276 Personal income taxes: qualified employer plan: loans: CARES Act.** (2019-2020)

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**Assembly Bill No. 276**

**CHAPTER 62**

An act to amend Section 17085 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[ Approved by Governor September 11, 2020. Filed with Secretary of State September 11, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 276, Friedman. Personal income taxes: qualified employer plan: loans: CARES Act.

The Personal Income Tax Law, in partial conformity with federal income tax law, allows a qualified employer plan, as defined, to provide specified loans to a participant or a beneficiary that are not treated as taxable distributions from the plan if specified conditions are met, including that the maximum amount that a plan may permit as a loan does not exceed (1) the greater of \$10,000 or 50% of the participant's vested account balance, or (2) \$50,000, whichever is less, and that generally the loan be repaid within 5 years.

Existing federal law, the Coronavirus Aid, Relief, and Economic Security Act (federal CARES Act), among other things, in the case of any loan from a qualified employer plan to a qualified individual, as defined, made during the 180-day period beginning on March 27, 2020, increases the maximum amount of a permitted loan to up to (1) the greater of \$10,000 or 100% of a participant's vested account balance or (2) \$100,000, whichever is less, and delays the repayment period for a qualified individual with an outstanding loan for up to one year.

This bill would, for purposes of the Personal Income Tax Law, provide conformity to those qualified employer plan loan provisions of the federal CARES Act.

This bill would take effect immediately as a tax levy.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 17085 of the Revenue and Taxation Code is amended to read:

**17085.** Section 72 of the Internal Revenue Code, relating to annuities, certain proceeds of endowment and life insurance contracts, is modified as follows:

(a) The amendments and transitional rules made by Public Law 99-514 shall be applicable to this part for the same transactions and the same years as they are applicable for federal purposes, except that the repeal of Section 72(d) of the Internal Revenue Code, relating to repeal of special rule for employees' annuities, shall apply only to the following:

(1) Any individual whose annuity starting date is after December 31, 1986.

(2) At the election of the taxpayer, any individual whose annuity starting date is after July 1, 1986, and before January 1, 1987.

(b) The amount of a distribution from an individual retirement account or annuity or employee trust or employee annuity that is includable in gross income for federal purposes shall be reduced for purposes of this part by the lesser of either of the following:

(1) An amount equal to the amount includable in federal gross income for the taxable year.

(2) An amount equal to the basis in the account or annuity allowed by Section 17507 (relating to individual retirement accounts and simplified employee pensions), the increased basis allowed by Sections 17504 and 17506 (relating to plans of self-employed individuals), the increased basis allowed by Section 17501, or the increased basis allowed by Section 17551 that is remaining after adjustment for reductions in gross income under this provision in prior taxable years.

(c) (1) Except as provided in paragraph (2), the amount of the additional tax imposed under this part shall be computed in accordance with Sections 72(m), (q), (t), and (v) of the Internal Revenue Code, as applicable for federal income tax purposes for the same taxable year, using a rate of  $2\frac{1}{2}$  percent, in lieu of the rate provided in those sections.

(2) In the case where Section 72(t)(6) of the Internal Revenue Code, relating to special rules for simple retirement accounts, as applicable for federal income tax purposes for the same taxable year, applies, the rate in paragraph (1) shall be 6 percent in lieu of the  $2\frac{1}{2}$  percent rate specified therein.

(d) Section 72(f)(2) of the Internal Revenue Code shall be applicable without applying the exceptions which immediately follow that paragraph.

(e) The amendments made by Section 844 of the federal Pension Protection Act of 2006 (P.L. 109-280) to Section 72(e) of the Internal Revenue Code, shall not apply.

(f) For purposes of this part, Section 2202(b) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), relating to loans from qualified plans shall apply.

**SEC. 2.** This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.