

**ANALYSIS OF AMENDED BILL**

Author: Florez Analyst: David Scott Bill Number: SB 362  
 Related Bills: See Legislative History Telephone: 845-5806 Amended Date: February 23, 2010  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Exclusion/Amounts Received From Sale Of Victory Garden Wine

**SUMMARY**

The bill would exclude from gross income any amount received from the sale of wine in this state produced by a licensed victory microvintner or the sale of fruit, nuts, and produce grown and sold by a licensed victory garden grower.

This bill also would make changes to the Business and Professions Code and the Food and Agricultural Code. These changes do not affect the department and are not discussed in this analysis.

**SUMMARY OF AMENDMENTS**

The February 23, 2010, amendments added provisions to the Revenue and Taxation Code that would exclude amounts received from the sale of wine by a licensed microvintner, or the sale of fruits, nuts, or vegetables by a victory garden grower from gross income.

This is the department's first analysis of this bill.

**PURPOSE OF THE BILL**

The purpose of the bill appears to be to encourage and develop local microvintners and community-based food gardens.

**EFFECTIVE/OPERATIVE DATE**

This bill would become effective January 1, 2011, and would apply to taxable years beginning on or after that date.

**POSITION**

Pending.

Board Position:	Department Director	Date
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## **ANALYSIS**

### FEDERAL/STATE LAW

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Existing federal and state laws also provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

### THIS BILL

This bill would provide victory microvintners a gross income exclusion<sup>1</sup> for any amount received from the sale of wine, and would provide a victory garden grower a gross income exclusion<sup>2</sup> for any amounts received for the sale of certain fruits, nuts, or vegetables.

A victory microvintner would be defined as a person who makes less than 200 gallons of wine per year from grapes grown primarily by a victory garden grower and sells the wine in a limited geographic area. A victory garden grower would be defined as a person who grows fruit, nuts, or vegetables in a garden smaller than one acre and sells their products in a limited geographic area.

## **OTHER STATES' INFORMATION**

Three other states, known to have a significant wine making industry, (New York, Oregon, and Washington) do not have any laws pertaining to microvintners or victory garden growers.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

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<sup>1</sup> The gross-income exclusion would apply under personal income tax law and corporate income tax law.

<sup>2</sup> Ibid.

## **ECONOMIC IMPACT**

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 362 For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After September 30, 2010 (\$ in thousands)		
2010-11	2011-12	2012-13
-\$4	-\$14	-\$16

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

## **ARGUMENTS/POLICY CONCERNS**

Because this bill would exclude from state gross income any amount received from the sale of wine in this state produced by a licensed victory microvintner or produce sold by a licensed victory garden grower, which would be includable for federal gross income, this bill would create differences between federal and California tax law. Such differences increase the complexity of California tax return preparation.

## **LEGISLATIVE STAFF CONTACT**

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