Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Cannella, et al.	Analyst:	William Koch	Bill Number:	SB 358
Related Bills:	See Prior Analysis	Telephone:	845-4372	Amended Date:	January 4, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Exclusion & Basis Adjustment/Amounts Provided By State Air Resources Board, Air Pollution Control Districts, And Air Quality Management Districts For Air Pollution Reduction

SUMMARY

This bill would exclude from gross income air pollution reduction grants made by the State Air Resources Board, air pollution control districts, and air quality management districts.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The January 4, 2012, amendments:

- Define “air pollution control district” and “air quality management district.”
- Require certification of amounts provided for air pollution reduction, as specified.
- Revise the provisions that would require a basis adjustment for property purchased with air pollution reduction grants.

As a result of the January 4, 2012, amendments, the “This Bill,” “Implementation Considerations,” and “Economic Impact” sections of the department’s analysis of this bill as amended May 23, 2011, have been revised. The “Policy Concerns” section remains and is restated for convenience and the “Effective/Operative Date” section has been updated. The remainder of the department’s analysis of this bill as amended May 23, 2011, still applies.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2012.

Board Position:			Interim Legislative Director	Date
______ S	______ NA	__X__ NP		
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THIS BILL

This bill, under the Personal Income Tax Law and the Corporation Tax Law, would exclude from gross income any amount provided by the State Air Resources Board, air pollution control districts, and air quality management districts to any person for the purpose of air pollution reduction. The basis of property for determining gain or loss on the sale or disposition, as well as for determining depreciation, would be reduced to the extent the property was acquired with any amount excluded from gross income under this bill.

This bill would require the State Air Resources Board, air pollution control districts, and air quality management districts to certify to taxpayers the amount provided to the taxpayer for the purpose of air pollution reduction. Taxpayers, upon request from the Franchise Tax Board (FTB), would be required to provide a copy of such certification to the FTB. The State Air Resource Board, air pollution control districts, and air quality management districts would also be required, on an annual basis, to provide the FTB a list of taxpayers and amounts granted to each taxpayer for air pollution reduction.

This bill would define “air pollution control district” and “air quality management district” as any district created or continued in existence pursuant to the provisions of Part 3, of Division 26 of the Health and Safety Code.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill would require the State Air Resources Board, air pollution control districts, and air quality management districts, to provide the FTB a list of taxpayers and amounts granted to each taxpayer; however the bill fails to specify the method or format of providing such information. To ensure the FTB receives this information in a manner in which the department would be able to utilize, the author may wish to amend the bill to require the information be provided to the FTB in the format and manner as specified by the FTB.

In addition, the provisions of the bill that would require a basis adjustment for property purchased with air pollution reduction grants should be amended to reference both sections of law that provide for the income exclusion of such amounts in order to prevent disputes between the department and taxpayers, such as S corporations and partnerships that pass income, deductions, and credits along to shareholders and partners.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 358 As Amended January 4, 2012 For Taxable Years Beginning On or After January 1, 2012 Enactment Assumed After June 30, 2012 ($ in Millions)			
2011-12	2012-13	2013-14	2014-15
$0.0	-$8.0	-$2.4	-$1.6

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

POLICY CONCERNS

This bill would create differences between federal and California tax law. Amounts provided by the State Air Resources Board, air pollution control districts, and air quality management districts for the purpose of air pollution reduction would continue to be generally taxable by the IRS. In addition, the basis of property purchased with such amounts would be different for federal and state tax purposes. These differences would increase the complexity of California tax return preparation.

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