

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Cannella Analyst: William Koch Bill Number: SB 358
Related Bills: See Legislative History Telephone: 845-4372 Introduced Date: February 15, 2011
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/Amounts Provided By State Air Resources Board For Air Pollution Reduction

SUMMARY

This bill would exclude from tax air pollution reduction grants made by the State Air Resources Board.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to ensure California companies receive the full economic benefit of state grants designed to support efforts to exceed the state's rigorous air quality regulations by exempting such grants from state income tax.

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, 2011.

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.

Types of income specifically excluded from gross income under federal and state laws include amounts received as a gift or inheritance, certain compensation for injuries and sickness such as amounts received under a workers' compensation act, qualified scholarships, educational assistance programs, foster care payments, interest received on certain state or federal obligations, and certain federal energy grants provided in lieu of federal energy credits.

Board Position:
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Executive Officer	Date
Geoff Way For Selvi Stanislaus	04/04/11

Current federal and state laws do not specifically exclude from gross income amounts provided by the State Air Resources Board for the purpose of air pollution reduction.

THIS BILL

This bill, under the Personal Income Tax Law and the Corporate Tax Law, would exclude from gross income any amount provided by the State Air Resources Board to any person for the purpose of air pollution reduction.

IMPLEMENTATION CONSIDERATIONS

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

This bill fails to specify how the Franchise Tax Board (FTB) would determine or verify if payments provided by the State Air Resources Board were for the purpose of air pollution reduction. To reduce disputes between the department and taxpayers, as well as to ease administration of this bill, the author may wish to amend the bill to: (1) require the State Air Resources Board to provide certification to taxpayers that a payment is for air pollution reduction, (2) require taxpayers to submit such certification to the FTB upon request, and (3) require the State Air Resources Board to provide the FTB a data file annually containing information relating to the payments and the recipients.

LEGISLATIVE HISTORY

SB 401 (Wolk, Stats. 2010, Ch. 14), among other things, excludes from gross income grants made by the Secretary of the Treasury for specified energy property.

PROGRAM BACKGROUND

The State Air Resources Board oversees a number of programs to reduce air pollution, three of which are the Air Quality Improvement Program, the Carl Moyer Program, and the Goods Movement Emission Reduction Program.

The Air Quality Improvement Program provides monetary grants, in addition to other incentives, to fund clean vehicle and equipment projects, research on biofuels production and the air quality impacts of alternative fuels.

The Carl Moyer Program provides monetary grants to retrofit, repower, or replace heavy-duty engines, equipment and other sources of pollution as an incentive to reduce emissions beyond that required by law.

The Goods Movement Emission Reduction Program provides monetary grants to upgrade equipment used in freight movement along California's trade corridors. Financial incentives are provided to upgrade to cleaner technologies through truck replacement, engine replacement, or retrofit. Projects funded under this program must achieve emission reductions not required by law or regulation.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide an exclusion from income comparable to the exclusion this bill would provide. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB358 For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011 (\$ in Millions)				
2010-11	2011-12	2012-13	2013-14	2014-15
\$0.0	-\$2.6	-\$1.5	-\$1.0	-\$1.0

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: Proponents of this bill may say that companies that are working to comply with California's environmental regulations ahead of schedule and above the minimum requirements should be rewarded—not penalized—for their efforts to meet and exceed air quality standards.

Con: Some taxpayers may say that with the state's current fiscal crisis, additional tax expenditures should be avoided.

POLICY CONCERNS

This bill would create differences between federal and California tax law—amounts provided by the State Air Resources Board for the purpose of air pollution reduction would continue to be taxable by the IRS, thereby increasing the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

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