

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Gomez Analyst: Jane Raboy Bill Number: AB 2434
Related Bills: See Legislative History Telephone: 845-5718 Introduced Date: February 21, 2014
Attorney: Bruce Langston Sponsor:

SUBJECT: Exclusion of Rebate Incentives for Expenses to Participate in Water or Energy Conservation Program

SUMMARY

This bill would, under the Personal Income Tax Law and Corporation Tax Law, exclude from gross income amounts received for participation in a water or energy conservation program.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for this bill is to encourage participation in water or energy conservation programs.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately and operative for taxable years beginning on or after January 1, 2014.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state law allows taxpayers to exclude from gross income any subsidy provided (directly or indirectly) by a public utility to customers for the purchase or installation of any energy conservation measure. An "energy conservation measure" is any installation or modification primarily designed to reduce consumption of electricity or natural gas or improve the management of energy demand in a dwelling unit as defined by federal law.

Existing state law provides that amounts received as a rebate from a local water or energy agency or supplier for expenses paid or incurred by a taxpayer for the purchase or installation of a water conservation water closet, water and energy efficient clothes washer, or plumbing device necessary to serve the recycled water uses are treated as a refund or price adjustment of amounts payable to that agency or supplier.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR) and Executive Officer (Selvi Stanislaus) and Date (4/4/14).

Existing state law also provides any amounts received as a rebate, voucher, or other financial incentive issued by the California Energy Commission, the Public Utility Commission, or a local publicly owned electric utility for any expenses paid or incurred by a taxpayer for the installation of thermal system, solar system, wind energy system device, or fuel cell generating system, are excluded from gross income.

In general, in order to be excluded from gross income and treated as a refund or price adjustment of amounts payable, a rebate must be based on or related to the cost of the property; the rebate must be received from someone having a reasonable connection to the sale of the property such as the manufacturer, distributor, or seller and installer; and the rebate must not represent payment or compensation for services.

### THIS BILL

This bill would exclude from gross income any amount received as a rebate, voucher, or other financial incentive issued by a local water or energy agency or supplier for expenses incurred to participate in a water or energy conservation program.

### IMPLEMENTATION CONSIDERATIONS

This bill uses phrases and terms that are undefined, i.e., "local water", "energy agency", "supplier", "expenses to participate", and "water or energy conservation program". The absence of definitions to clarify these phrases and terms could lead to disputes with taxpayers and would complicate the administration of this exclusion.

### TECHNICAL CONSIDERATIONS

Page 2, line 5, and page 2, line 11, replace "incurred" with "paid or incurred" to specify that the expenses would apply to costs that are either paid or incurred, thus providing for both cash-basis and accrual-basis accounting methods

### **LEGISLATIVE HISTORY**

AB 1968 (Nation, Chapter 843, Statutes of 2002), excludes from gross income any type of rebate, voucher, or other financial incentive received for the purchase or installation of a thermal energy system, a solar energy system, or a wind energy system.

AB 952 (Kelley, Chapter 212, Statutes of 2001), excludes from gross income any amount received as a rebate from a local water agency or supplier for the purchase of a conservation water closet.

### **OTHER STATES' INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Massachusetts* allows a homeowner to exclude from gross income the value of public utility subsidies received for the purchase or installation of energy conservation measures.

Review of *Florida, Illinois, Michigan, Minnesota, and New York* laws found no comparable exclusions from gross income.

**FISCAL IMPACT**

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

**ECONOMIC IMPACT**

Revenue Estimate

Estimated Revenue Impact of AB 2434 As Introduced February 21, 2014 For Taxable Years Beginning On or After January 1, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$3	- \$2	- \$2

This analysis 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**

Proponents: Supporters may argue that enacting a statute that expressly states that a rebate is nontaxable allows for easier tax compliance.

Opponents: Some may argue that enacting a statute that expressly states that a rebate is nontaxable adds complexity to tax law by increasing the list of exclusion items from gross income.

**LEGISLATIVE STAFF CONTACT**

Jane Raboy  
Legislative Analyst, FTB  
(916) 845-5718  
[jane.raboy@ftb.ca.gov](mailto:jane.raboy@ftb.ca.gov)

Mandy Hayes  
Revenue Manager, FTB  
(916) 845-5125  
[mandy.hayes@ftb.ca.gov](mailto:mandy.hayes@ftb.ca.gov)

Jahna Carlson  
Asst. Legislative Director, FTB  
(916) 845-5683  
[jahna.carlson@ftb.ca.gov](mailto:jahna.carlson@ftb.ca.gov)