



Analysis of Original Bill

Author: Salas	Sponsor:	Bill Number: AB 2008
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Attorney: Bruce Langston	Related Bills: See Legislative History	

Subject: Exclusion/Amounts Provided from Carl Moyer Memorial Air Quality Standards Attainment Program to Purchase New Zero or Low Emission Engines

Summary

This bill would, under both the Personal Income Tax Law (PITL), and Corporation Tax Law (CTL), exclude from gross income any income received from the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program).

Recommendation – No position.

Reason for the Bill

The reason for the bill is to allow individuals and corporations to receive the full state benefit of Carl Moyer Program funds.

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, 2018.

Program Background

The Carl Moyer Program, established in 1998 (AB 1368, Villaraigosa), provides monetary grants for cleaner than required engines and emission control devices that reduce toxic particles and smog-forming gases through retrofitting, repowering, or replacing equipment. Since its inception, almost \$1 billion has been granted to equipment owners, and the program continues to provide over \$60 million in grant funding each year. Local air districts administer the programs for their areas.

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.

Current federal and state laws do not specifically exclude Carl Moyer Program grants from gross income.

This Bill

This bill, under the PITL and the CTL, would exclude from gross income any amount provided to a taxpayer pursuant to the Carl Moyer Program relating to the purchase of new zero or low-emission engines.

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 uses terms that are undefined, i.e., "related to the purchase," "new zero or low-emission engines." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. The author may want to amend the bill to clearly define the terms.

This bill fails to specify how the Franchise Tax Board (FTB) would determine or verify if payments provided by the Carl Moyer Program were related to the purchase of new zero or low-emission engines. 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 issuing air district to provide certification to taxpayers that a payment is related to the purchase of new zero or low-emission engines, (2) require taxpayers to submit such certification to the FTB upon request, and (3) require the issuing air district to provide the FTB a data file annually containing information relating to the payments and the recipients.

Legislative History

SB 358 (Cannella, 2011/2012) would have provided an income exclusion for air pollution reduction grants made by the State Air Resources Board. SB 358 failed to pass out of the Senate Governance and Finance Committee by the constitutional deadline.

Other States' Information

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack an exclusion from income comparable to the exclusion this bill would provide. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Fiscal Impact

If the bill is amended to resolve the implementation considerations addressed in this analysis, the department's costs are expected to be minor.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2008 as Introduced February 1, 2018
For Taxable Years Beginning On or After January 1, 2018
Assumed Enactment after June 30, 2018, (\$ in Millions)

Fiscal Year	Revenue
2018-2019	- \$4.5
2019-2020	- \$3.6
2020-2021	- \$3.4

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

Revenue Discussion

Based on data from the Air Resources Board on the Carl Moyer Program, the FTB estimates \$66 million in grants are allocated annually to projects that replace, repower, or purchase new zero or low-emission vehicles. Using an average tax rate of 5 percent, the estimated loss from the exclusion is \$3.3 million annually. The tax year estimates are converted to fiscal-year estimates, and then rounded to arrive at the estimates shown in the above table.

Support/Opposition

Support: None Provided.

Opposition: None Provided.

Arguments

Proponents: Some may argue that providing an income exclusion for amounts provided pursuant to the Carl Moyer Program would accelerate the replacement of higher polluting vehicles with those that exceed current state air quality standards.

Opponents: Some may argue that the cost to the General Fund of the proposed income exclusion would outweigh the benefit of reduced emissions.

Policy Concerns

This bill would allow taxpayers to claim multiple tax benefits for the same item of expense.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of a tax benefit by the Legislature.

This bill would establish an exclusion for which federal law has no counterpart, thus increasing nonconformity.

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