

Author: McGuire Analyst: Jessica Deitchman Bill Number: SB 289
Related Bills: See Prior Telephone: 845-6310 Amended Date April 5, 2017
Analysis Attorney: Bruce Langston Sponsor: _____

SUBJECT: Exclusion/Earned Income from Indian Country in This State

SUMMARY

This bill would, under the Personal Income Tax Law, exclude certain earned income from gross income of an eligible taxpayer, as defined.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

The April 5, 2017, amendments adopted the technical amendments suggested in the department's analysis of the bill as introduced February 9, 2017, resolving all of the technical considerations. Except for the "This Bill" and "Technical Considerations" sections, the remainder of that analysis still applies. The "Fiscal Impact" and "Economic Impact" sections have been restated for convenience.

THIS BILL

For taxable years beginning on or after January 1, 2017, this bill would exclude from gross income the earned income of an eligible taxpayer.

The bill would define the following terms:

- "Earned Income" has the same meaning as provided in the Earned Income Credit provision (Section 32(c)(2)) of the Internal Revenue Code, as modified to substitute the phrase "but only if such amounts would have been otherwise properly includable in gross income for the taxable year without regard to subdivision (a) and only to the extent that the earned income is derived from sources within Indian country in this state" for the phrase "but only if such amounts are includable in gross income for the taxable year." "Eligible taxpayer" means an individual who is a member of a federally recognized Indian tribe in this state who resides within Indian country in this state.
- "Indian country" has the same meaning as provided in Section 30101.7¹

¹ "Indian country" shall have the same meaning as provided in Section 1151 of Title 18 of the United States Code, and includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

This bill would exclude earned income as defined above. However, any per capita distributions received by an individual not residing on their tribe's reservation would remain includable in gross income.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

| Estimated Revenue Impact of SB 289 As Amended April 5, 2017 Assumed Enactment After June 30, 2017 (\$ in Millions) | | |
|---|---------|---------|
| 2017-18 | 2018-19 | 2019-20 |
| - \$1.6 | - \$1.0 | - \$1.0 |

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

Revenue Discussion

This bill would allow American Indian tribal members living in Indian Country, whether their own or another tribe's reservation, to exclude from gross income their earned income that is derived from sources within any Indian Country in California.

Based on 2015 Census data for Native Americans in California, there are approximately 325,000 individuals in the labor force. Of those individuals, it is assumed 10,000 would reside in Indian Country. Of those, it is assumed that 10 percent, or 1,000, would reside in another tribe's Indian Country and would earn income sourced from Indian Country that would be excluded from income under this bill.

Using US Census data, it is estimated that the average earned income derived from sources within Indian Country in California for the California Native American population is approximately \$20,000. This results in an estimated \$20 million that would be eligible for the income exclusion in 2015. The estimate is then adjusted to reflect changes in the economy over time, resulting in an estimated \$25 million in 2017. An average tax rate of 4 percent is then applied resulting in an estimated revenue loss of \$1 million in 2017.

The tax year estimates are converted to fiscal years, and then rounded to arrive at the amounts reflected in the table above.

SUPPORT/OPPOSITION²

Support: Blue Lake Rancheria, California Nations Indian Gaming Association, California Taxpayers Association, Dry Cree Rancheria of Pomo Indians, Tule River Indian Tribe of California, United Auburn Indian Community of Auburn Rancheria.

Opposition: None provided.

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² As provided in the Senate Governance and Finance Committee Analysis dated 3/24/2017.