



Bill Analysis

Author: Borgeas and Caballero, at al.

Sponsor:

Bill Number: SB 74

Related Bills: See Legislative History

Amended: February 2, 2021 and March 11, 2021

SUBJECT

Keep California Working Act

SUMMARY

This bill would create the Keep California Working Grant Program administered by the Office of Small Business Advocate (CalOSBA) within the Governor's Office of Business and Economic Development. The CalOSBA would award grants to small businesses and nonprofit entities applicants that meet specific criteria. Grants would be excluded from gross income.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

The February 2, 2021, amendments added the provisions related to the exclusion of awarded grants from gross income.

The March 11, 2021, amendments added several co-authors, applicable tax years, and information on the specific goals, purposes, and objectives of the exclusion.

This is the department's first analysis of the bill and only addresses the provisions that impact the department.

REASON FOR THE BILL

The reason for this bill is to provide grants to help California small businesses and non-profits that have sustained financial losses due to COVID-19.

ANALYSIS

Under the Personal Income Tax Law and Corporation Tax Law, this bill would specifically exclude from gross income any amounts awarded as a grant under the Keep California Working Grant Program for taxable years beginning on or after January 1, 2021, and before January 1, 2023.

This bill, in compliance with RTC section 41, would specify the following:

- The purpose of the tax expenditure allowed by the California gross income exclusion (Revenue and Taxation Code (RTC) sections 17131.14 and 24311) is to provide financial assistance to small businesses and nonprofits who may have faced economic disruptions resulting from the COVID-19 pandemic.
- Franchise Tax Board (FTB), for taxable years beginning on or after January 1, 2021, and before January 1, 2023, would be required to determine the income brackets of individuals who claimed the exclusion. Notwithstanding RTC section 19542, the FTB would be required to provide this information annually to the Legislature, in compliance with Government Code section 9795. This information will assist the Legislature to determine if the exclusion is assisting small businesses and nonprofits recover from the economic effects of the pandemic.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2021.

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.

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

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.

The author may wish to add language to allow CalOSBA to share information with FTB to verify the applicant and amount of grant issued.

Personal income tax returns may be filed, with extension, until October 15. Corporate returns may be filed even later, depending on when the taxpayer's fiscal year ends. The department generally processes returns within six months of receipt. If the author's intent is to have each report contain complete information for the taxable year, the due date of the report should be changed. For instance, the return due date for corporate taxpayers with fiscal years beginning December 1, 2019, and ending November 30, 2020, is March 15, 2020, and with extension, September 15, 2020. The department would complete processing of these returns by March 2021. Thus, the earliest that data from these corporate returns could be included in a report would be approximately June 2021.

Technical Considerations

Because the exclusion also applies to corporations, partnerships, limited liability companies, the reporting requirement should be amended to replace the term "individuals" with "persons" as defined under RTC section 17007.

Policy Considerations

These grants can be used for some of the following expenses: payroll costs, rent, and insurance. Normally these type of business expenses can be taken, as deductions against income. However, if these grants are excluded from gross income those business expenses deductions may not be allowed. The author may wish to amend the bill to allow the deductions.

LEGISLATIVE HISTORY

SB 87 (Caballero, Ch. 7, Stat. 2021) establishes the Small Business COVID-19 Relief Grant Program ("Grant Program") under the CalOSBA. This law also exempts grants from gross income for state purposes and provides authority to FTB to collect any grants recaptured by the CalOSBA.

PROGRAM BACKGROUND

Not applicable.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 74 as Amended on March 11, 2021
Assumed Enactment after June 30, 2021

(\$ in Millions)

Fiscal Year	Revenue
2021-2022	-\$120
2022-2023	-\$2.8
2023-2024	-\$0

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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