



Bill Analysis

Author: Padilla, et al.

Sponsor:

Bill Number: SB 302

Related Bills: See Legislative
History

Amended: March 27, 2025

SUBJECT

Gross Income Exclusion for Payments Made Under Federal Environmental Credit Provisions

SUMMARY

This bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would allow a gross income exclusion for payments received for the sale or transfer of specified federal clean energy credits beginning January 1, 2023.

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The March 27, 2025, amendments added coauthors, modified the Revenue and Taxation Code (RTC) section 41 performance indicators and Franchise Tax Board's (FTB) reporting requirements, made several technical changes, and resolved one of the implementation considerations discussed in the FTB's analysis of the bill as introduced on February 10, 2025. The amendments created a new implementation consideration.

REASON FOR THE BILL

The reason for this bill is to encourage investment in clean energy.

ANALYSIS

This bill would, under the PITL and the CTL, for taxable years beginning on or after January 1, 2023, exclude from gross income a payment received by a taxpayer pursuant to Internal Revenue Code (IRC) section 6417 that elects to treat specified clean energy credits as payments against their federal income tax; a payment received by a taxpayer from a transferee for the transfer of certain specified energy credits pursuant to IRC section 6418, and the value of specified energy credits received by a transferee pursuant to a transfer of specified credits pursuant to IRC section 6418.

This bill would conform to the federal treatment of transferred credits by a partnership or S corporation, regarding a partner's distributive share, rules for basis, and the pass thru rules for shareholders.

This bill would include RTC section 41 requirements that the FTB submit a report to the Legislature on or before November 1, 2029. The report would be required to include data from taxpayers utilizing the credits under IRC sections 6417 and 6418.

Effective/Operative Date

This bill would be effective January 1, 2026, and specifically operative for taxable years beginning on or after January 1, 2023.

Federal/State Law

Federal Law

Existing federal law allows an exclusion from gross income for any payment made to an applicable entity or unrelated party for the purchase of specified clean energy credits. In addition, existing federal law allows an exclusion from gross income any amount received as consideration for a transfer of specified clean energy credits. As part of this law certain tax-exempt entities may treat the purchased specified clean energy credits as an elective payment of federal income tax and therefore refundable. No deduction is allowed for any amount paid in consideration of a transfer of the specified clean energy credits.

The federal elective payment and credit transfer provisions are allowed for the following federal tax credits:

- Energy Credit (IRC section 48)
- Clean Electricity Investment Credit (IRC section 48E)
- Renewable Electricity Production Credit (IRC section 45)
- Clean Electricity Production Credit (IRC section 45Y)
- Commercial Clean Vehicle Credit (IRC section 45W), (applies to elective pay option only)
- Zero-emission Nuclear Power Production Credit (IRC 45U)
- Advanced Manufacturing Production Credit (IRC 45X)
- Clean Hydrogen Production Credit (IRC 45V)
- Clean Fuel Production Credit (IRC 45Z)
- Carbon Oxide Sequestration Credit (IRC 45Q)
- Credit for Alternative Fuel Vehicle Refueling / Recharging Property (IRC 30C)
- Qualifying Advanced Energy Project Credit (IRC 48C)

State Law

No comparable credit provision in state law.

Current tax law provides that information collected from income tax returns is considered confidential and, unless specifically available for other uses, must be used only to administer the income tax laws. The FTB may disclose taxpayer information only in limited circumstances and only to specific agencies as authorized by law. Improper disclosure of federal tax information is punishable as a felony, and improper disclosure of state tax information is punishable as a misdemeanor.

Under existing state law, legislation that would create a new tax expenditure, which includes a credit, a deduction, an exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, detailed performance indicators and data collection requirement measures to allow the Legislature to evaluate the effectiveness of the tax benefit. Legislation that would create an income exclusion, would not require detailed performance indicators and data collection requirement measures if the Legislature determines there is no available data to collect and report.

Implementation Considerations

The FTB has identified the following implementation and policy considerations for purposes of a high-level discussion; additional considerations may be identified as the bill moves through the legislative process. FTB staff is available to work with the author's office to resolve these and other considerations that may be identified.

This bill would require the FTB to report data on taxpayers that utilize federal credits listed under IRC sections 6417 and 6418 (see complete listing above) and file a California income tax return; however, the FTB would not have this data which may create challenges in reporting.

This bill as introduced in the 2025 legislative session would allow taxpayers a gross income exclusion for payments made for taxable years beginning on or after January 1, 2023. If this bill were to be enacted this calendar year, the exclusions allowed by this bill would be considered retroactive to the specified operative date of January 1, 2023. The FTB has already developed the forms and instructions for the 2023 taxable year and many taxpayers have already filed their returns for the 2023 taxable year. Thus, the FTB may incur additional costs to develop additional tax forms and process amended returns for taxpayers that already reported these payments as income. To alleviate these considerations, the author may wish to change the operative date to January 1, 2025.

Technical Considerations

None noted.

Policy Considerations

A bill that authorizes a gross income exclusion is exempt from including information about detailed performance indicators and data collection requirements, if the Legislature determines there is no available data to collect and report. This bill would require detailed performance indicators and data collection requirements. If the author determines there is no available data to collect or report, this information does not need to be included in the bill.

LEGISLATIVE HISTORY

SB 796 (Bradford, et al., Chapter 435, Statutes of 2021) allows for a gross income exclusion for a one-time sale, transfer, or encumbrance of a portion of land within Manhattan State Beach, known as "Peck's Manhattan Beach Tract Block 5" and commonly referred to as "Bruce's Beach."

SB 1191 (Padilla, 2023/2024), similar to this bill, would have allowed a gross income exclusion for payments received for the sale or transfer of specified federal clean energy credits. This bill did not pass out of the Senate by the constitutional deadline.

AB 2928 (Cooper, 2021/2022) would have allowed a gross income exclusion for moneys awarded to a taxpayer pursuant to the Clean Cars 4 All Program. This bill did not pass out of the Assembly Committee on Transportation by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Economic Impact*Revenue Estimate*

This bill as amended March 27, 2025, does not affect the revenue impact of this bill. The revenue estimate as introduced on February 10, 2025, still applies.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Senate Revenue and Taxation Committee Report, March 21, 2025.

Support:

Advanced Energy United
American Clean Power - California
American Council on Renewable Energy (ACORE)
California Chamber of Commerce
California Efficiency Demand Management Council
California Energy Storage Alliance
California Taxpayers Association
Center for Energy Efficiency and Renewable Technologies
Clean Power Campaign
Clearway Energy Group LLC
Council on State Taxation
EDF Renewables
Family Business Association of California
Fluence
Independent Energy Producers Association
Invenergy, LLC
Kern County Taxpayers Association
Large Scale Solar Association
Marin Clean Energy (MCE)
Orange County Taxpayers Association
San Diego Community Power
Silicon Valley Leadership Group
Solano County Taxpayers Association
Solar Energy Industries Association
State Building & Construction Trades Council of California
The California Wind Energy Association (CALWEA)
Wellhead Electric Company, INC.

Opposition

None on file.

ARGUMENTS

None on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov