



Bill Analysis

Author: Padilla, et al.

Sponsor:

Bill Number: SB 302

Related Bills: See Legislative
History

Amended: July 17, 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), for taxable years beginning on or after January 1, 2026, and before January 1, 2031, would allow a gross income exclusion for taxpayers that elect to receive a direct payment from the Internal Revenue Service (IRS) or receive payment from the transfer of specified federal clean energy tax credits.

RECOMMENDATION

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

SUMMARY OF AMENDMENTS

The July 17, 2025, amendments removed the retroactive application of the exclusion, added an operative date and sunset date, removed the gift of public funds language, and added that the bill would be effective immediately as a tax levy. The July 17 amendments resolved one of the implementation considerations discussed in the Franchise Tax Board's (FTB) analysis of the bill as amended March 27, 2025.

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, 2026, and before January 1, 2031, 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 a payment received from an election pursuant to IRC section 6417 or a payment received from a transferred credit pursuant to IRC section 6418 by a partnership or S corporation, regarding a partner's distributive share, rules for basis, and the pass thru rules for shareholders.

This exclusion would be repealed on December 1, 2031.

This bill would include Revenue and Taxation Code (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

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2026, and before January 1, 2031.

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)

The recently enacted One Big Beautiful Bill Act of 2025 includes provisions that would schedule the repeal of and modify several clean energy credit programs.

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 currently excluded include amounts received as a gift or inheritance, certain compensation for injuries and sickness, educational assistance programs, foster care payments, interest received on certain state or federal obligations, and qualified scholarships.

Under current California law, sold or purchased tax credits are treated as capital assets. The seller would have capital gains income for the amount received as consideration for the transfer of the credit. The buyer could have capital gains income to the extent that the federal credit utilized exceeds the purchase price paid. In California, all capital gains are taxed as ordinary income.

There is no comparable credit provision in state law.

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.

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), under the Public Resources Code, 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, under the PITL and the CTL, 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), under the PITL, 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 anticipates minimal costs to implement this bill.

ECONOMIC IMPACT

Revenue Estimate

Estimating the revenue impact of conforming to the exclusion from gross income for the election to receive a refund payment or conforming to the exclusion from gross income for the payment received by a transferor and the related gain from the discounted price of the credit on by the transferee cannot be predicted. To determine the magnitude of the income exclusion, both the dollar amount of the transaction and the frequency of transactions by California business would need to be known. Because it is difficult to predict the frequency and the value of future credit transfers, the revenue impact is unknown. However, should 15 percent of all transactions include a California business, the estimated impact to the General Fund could be a loss of up to \$280 million. However, this loss is expected to decrease over time as the modifications made to green energy credits by Public Law 119-21, the One Big Beautiful Bill Act, take effect.

Revenue Discussion

The revenue impact from conforming to the gross income exclusion for the payment received by a transferor of a credit and the gain from the discounted price of the credit depends on several factors: the price of the transaction, the type of businesses involved in the transaction, their domicile, and their profitability. If the entities involved in the transaction are both California businesses with similar attributes, such as profitability, apportionment factors, and marginal tax rates, then the exclusion of income for the transferor and the transferee would result in a revenue loss of up to \$280 million. However, if the tax attributes on the entities involved in the transaction differ, then the transfer could reduce the revenue loss depending on the situation.

For example, if a California business transfers a credit to a non-California business that has a California filing requirement, then the impact of the gross income exclusion would depend on the California business's profitability and their apportionment factor. The exclusion would reduce income subject to apportionment and would result in a revenue loss for the state. However, if that business were in a loss position, the exclusion would not impact the taxpayer's income subject to apportionment and would not change the amount of tax due, but it could increase the amount of net operating loss carryover available to the taxpayer in future years.

If both entities are profitable California C-corporations, then their respective apportionment factors would determine the revenue impact of the transaction. If the transferor has a higher apportionment factor than the transferee, then the transaction's revenue loss would be greater than if the transferee had a greater apportionment factor than the transferer.

Because these transactions are relatively new, very little data is currently available. However, the FTB identified several articles indicating the U.S. transfer market could result in up to \$23 billion a year in credit transfers. If 15 percent of these transactions, or \$3.5 billion, were completed by California businesses with differing apportionment factors or entity types, the estimated impact to the General Fund could be a revenue loss of up to \$280 million. It should be noted that the revenue loss is expected to decrease over time as the modifications made to green energy credits by Public Law 119-21, the One Big Beautiful Bill Act, take effect. However, due to the factors discussed above, the actual revenue impact is unknown.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

The Assembly Floor Committee Report, dated September 2, 2025.

Support

None on file.

Opposition

None on file.

ARGUMENTS

The Assembly Floor Committee Report, dated September 2, 2025.

Proponents

This bill is supported by a coalition of electric generation companies, business organizations, and environmental advocates, noting in part:

In 2022, as part of the Biden administration's IRA, the federal government extended and established various tax credits to incentivize the production of clean energy and encourage businesses to develop projects that meet strong labor standards. The IRA also allowed taxpayers to transfer and sell

specified federal environmental tax credits they generate, and specified income generated from the transfer of credits is not included in a taxpayer's gross income for tax purposes.

California does not conform to the federal government's treatment of environmental tax credits. Under existing law, any sales of these environmental tax credits are included in the seller's gross income and are not deductible by the purchaser. A majority of states have conformed to the federal rules regarding the non-taxability of transferred or sold environmental credits, making California's tax code particularly punitive to clean energy businesses.

Opponents

None on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov