

AB 1968 (Nation) – Tax Exclusions – Energy Conservation Incentives

As Amended March 20, 2002

Recommendation: Support if amended. We should support this bill because it would continue the use of renewable energy sources and reduce dependence on less reliable and non-renewable conventional energy sources. Proposed technical amendments are provided below.

Summary: The bill would add Sections 17138.1 and 24308.1 to the Revenue and Taxation Code, by allowing exclusion from gross income--under both the Personal Income Tax Law and Bank and Corporation Tax Law—for vouchers, rebates and other financial incentives received from the California Energy Commission (CEC) and the Commission. The bill provides that gross income shall not include vouchers, rebates, and other financial incentives received from the named government agencies for any expenses incurred by taxpayers for the purchase or installation of specified devices designed to serve all or part of taxpayers' electric or thermal load.

Analysis: Under this bill, rebates, vouchers, and other financial incentives issued by the CEC and the Commission would be excluded from gross income for the purchase or installation of the following:

1. Thermal systems as defined in Section 25600 of the Public Resources Code.
2. A solar system as define in Section 25600 of the Public Resources Code.
3. A wind energy device that produces electricity.

Energy Division (ED) believes this bill could spur additional sales in solar, thermal, and wind devices that would replace conventional devices. The bill does not create further administrative burdens for the Commission on renewable energy matters because program funding and administration is performed by the utilities. The Commission is charged with grant award and monitoring responsibilities.

According to ED staff, the Internal Revenue Service (IRS) has not determined whether the same tax treatment will be granted to the conservation incentives offered by the California Public Utilities Commission (Commission). The CEC is awaiting the IRS ruling on this matter. If the IRS rules that these financial incentives are taxable, this could affect the public participation level in the conservation programs.

If the bill passes as it written and the IRS rules that the incentives are taxable, this could also affect the participation level statewide since Federal tax rates are higher than State and because the rebate amounts run, on average, into several thousand dollars. For example, the average residential customers rebate amount surpasses \$10,000, and commercial customers, average more than \$30,000. The utilities would have to issue Form 1099s (Miscellaneous Income) to those customers that received the financial incentives.

- The total annual amount that would be excluded from gross income for state tax purposes is about \$100 million. That amount is to continue until 2004 unless increased by the statute.

This bill lacks definitions or cross references for wind energy and fuel cell generating systems. Further, the bill does not require that the device actually reduce the taxpayer's electricity or thermal load, nor does it require that the property be placed in service in California. The Commission should require these amendments as a condition for its support.

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Date: April 8, 2002

Bill Language

BILL NUMBER: AB 1968 AMENDED

BILL TEXT

AMENDED IN ASSEMBLY MARCH 20, 2002

INTRODUCED BY Assembly Member Nation

FEBRUARY 14, 2002

An act to add Sections 17138.1 and 24308.1 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1968, as amended, Nation. Income taxes: exclusions: energy conservation rebates.

The Personal Income Tax Law provides an exclusion from gross income for any amount received as a rebate from a local water agency or supplier for the purchase of a water conservation water closet.

This bill would allow an exclusion from gross income under both the Personal Income Tax Law and the Bank and Corporation Tax Law with respect to vouchers, rebates, or other financial incentives received from ~~either~~ the California Energy Commission ~~or~~ , the Public Utilities Commission , or a local publicly owned utility, as defined, for the purchase or installation of specified systems designed to serve all or a part of a taxpayer's electric or thermal load.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17138.1 is added to the Revenue and Taxation Code, to read:

17138.1. Gross income does not include any amount received as a rebate, voucher, or other financial incentive issued by the California Energy ~~Commission or the Public Utilities~~

~~Commission~~ *Commission, the Public Utility Commission, or a local publicly owned electric utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code,* for any expenses paid or incurred by a taxpayer for the purchase or installation of any of the following devices designed to serve all or part of that taxpayer's electrical or thermal load:

- (a) A thermal system ~~as~~ as defined in Section 25600 of the Public Resources Code.
- (b) A solar system as defined in Section 25600 of the Public Resources Code.
- (c) A wind energy system device that produces electricity.
- (d) *A fuel cell generating system that produces electricity.*

SEC. 2. Section 24308.1 is added to the Revenue and Taxation Code, to read:

24308.1. Gross income does not include any amount received as a rebate, voucher, or other financial incentive issued by the California Energy ~~Commission or the Public Utilities Commission~~ *Commission, the Public Utility Commission, or a local publicly owned electric utility, as defined in subdivision (d) of Section 9604 of the Public Utilities Code,* for any expenses paid or incurred by a taxpayer for the purchase or installation of any of the following devices designed to serve all or part of that taxpayer's electrical or thermal load:

- (a) A thermal system ~~as~~ as defined in Section 25600 of the Public Resources Code.
- (b) A solar system as defined in Section 25600 of the Public Resources Code.
- (c) A wind energy system device that produces electricity.
- (d) *A fuel cell generating system that produces electricity.*

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.