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UNFINISHED BUSINESS

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Bill No: SB 302  
Author: Padilla (D), et al.  
Amended: 7/17/25  
Vote: 21- Urgency

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SENATE REVENUE AND TAXATION COMMITTEE: 5-0, 3/26/25  
AYES: McNerney, Valladares, Ashby, Grayson, Umberg

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25  
AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab  
NO VOTE RECORDED: Dahle

SENATE FLOOR: 38-0, 5/29/25  
AYES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener  
NO VOTE RECORDED: Limón, Reyes

ASSEMBLY FLOOR: 69-0, 9/10/25 – Roll call not available

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**SUBJECT:** Personal Income Tax Law and Corporation Tax Law: exclusions: environmental credits

**SOURCE:** Author

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**DIGEST:** This bill confirms state law to specific Internal Revenue Code sections added by the Inflation Reduction Act of 2022, relating to renewable energy development.

*Assembly Amendments* (1) alter the bill's effective dates, specifically to delete retroactive application to the 2023 taxable year, instead providing that the bill applies commencing in the 2026 taxable year and ending after the 2030 taxable year, and (2) make conforming changes.

**ANALYSIS:**

Existing federal law:

- 1) Provides that gross income includes all income from any source, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.
- 2) Excludes some items from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, and qualified scholarships, among others.
- 3) Generally allows business taxpayers to deduct from income for state and federal purposes the costs of carrying on a trade or business, so long as they are “ordinary and necessary.”
- 4) Allows investment tax credit for several forms of renewable energy production, including solar energy.
- 5) Determines the credit amount by multiplying the energy percentage, which varies over time and by energy source, by the basis of the energy property when it is placed in service.
- 6) Restricts eligibility of the credit solely to project owners.
- 7) Generally provides that when taxpayers claim refundable credits that exceed their tax liability, or sell credits for consideration, the part of the credit that exceeds liability is considered income.
- 8) Treat state tax credits as assets when determining gain or loss.
- 9) Enacts the Inflation Reduction Act of 2022 (Public Law 116-169), which enacts, among other provisions, Section 6417 of the Internal Revenue Code (IRC) to allow applicable taxpayers, such as states and local agencies, tribal governments, and other tax-exempt entities, to elect to treat certain credits as a payment against their federal income tax liabilities rather than as a nonrefundable credit. Instead of claiming a credit, it is treated as an overpayment of taxes, resulting in a direct cash refund payment to the entity regardless of whether it has a tax liability owed. Provides that these direct cash refund payments for this election are not taxable income, without which these

entities may have a filing requirement when they are traditionally exempt from income tax, except on their unrelated business taxable income.

- 10) Enacts IRC 6418, which provides that any income from transferring certain renewable energy credits must be classified as tax-exempt income. As a result, any income to the seller is excluded from tax, and the purchaser cannot claim a business expense deduction for the cost incurred to acquire the credit.
- 11) Applies the elective payment and credit transfer provisions for the following federal tax credits:
  - a) Energy Credit (IRC §48),
  - b) Clean Electricity Investment Credit (IRC §48E),
  - c) Renewable Electricity Production Credit (IRC §45),
  - d) Clean Electricity Production Credit (IRC §45Y),
  - e) Commercial Clean Vehicle Credit (IRC §45W, but elective pay option only),
  - f) Zero-emission Nuclear Power Production Credit (IRC §45U),
  - g) Advanced Manufacturing Production Credit (IRC §45X),
  - h) Clean Hydrogen Production Credit (IRC §45V),
  - i) Clean Fuel Production Credit (IRC §45Z),
  - j) Carbon Oxide Sequestration Credit (IRC §45Q),
  - k) Credit for Alternative Fuel Vehicle Refueling / Recharging Property (IRC §30C),
  - l) Qualifying Advanced Energy Project Credit (IRC §48C).

Existing state law:

- 1) Does not automatically conform to changes made by Congress to the Internal Revenue Code, except for changes to pension and retirement programs; instead, the Legislature must affirmatively conform state law to federal to ensure consistent treatment for the same items.
- 2) Conforms to the Internal Revenue Code as of January 1, 2015, with modifications (AB 154, Ting, Chapter 359, Statutes of 2015).

- 3) Does not conform to federal investment tax credits for renewable energy production.
- 4) Does not conform to changes made by the Inflation Reduction Act (IRA) to the tax treatment of certain renewable energy credits.

This bill:

- 1) Conforms state law to specific parts of IRC Sections 6417 and 6418, as added by the IRA.
- 2) Excludes payments made to eligible taxpayers under IRC 6417 from income for state tax purposes, and provides that no deduction is allowed for the same payment.
- 3) Provides that income does not include the value of a credit received by a transferee pursuant to IRC 6418.
- 4) Applies beginning in the 2026 taxable year and ending after the 2030 taxable year, and sunsets its provisions on December 1, 2031.
- 5) Makes legislative findings and declarations to support its purposes and to comply with Section 41 of the Revenue & Taxation Code. Specifically, this bill:
  - a) States that its goal is to promote the investment and construction of clean energy projects and clean energy advanced manufacturing facilities in California.
  - b) Sets as its performance indicator data from taxpayers utilizing credits under Sections 6417 and 6418 of the Internal Revenue Code filing in California.
  - c) Directs the Franchise Tax Board (FTB) to report to the Legislature regarding the data on or before November 1, 2029.
- 6) Provides that it takes effect immediately as a tax levy.

## **Background**

Much like recipients of credits to construct low-income rental housing, many renewable energy developers do not have sufficient tax liability to fully utilize tax credits or depreciation deductions. As a result, they often form tax equity investment partnerships that transfer the credits and depreciation rights to

investors, along with an income interest, in exchange for a cash equity investment and ownership rights.

When federal and state law allows a taxpayer a credit against state taxes, it is not considered income to the extent the taxpayer uses it to reduce their tax liability. However, when taxpayers claim refundable credits that exceed their tax liability, or sell credits for consideration, the part of the credit that exceeds liability *is* considered income. The IRS reasons that taxpayers have an accession to wealth when selling credits they cannot use.

Additionally, federal and state tax law treat state tax credits as assets when determining gain or loss. As with other assets, taxpayers subtract the amount realized at the sale of an asset from its adjusted basis (usually its cost). If the difference is positive, the taxpayer has a taxable capital gain equal to the difference; if negative, they have a capital loss of that amount. As a result, if a taxpayer purchases a tax credit at a discount, they generally have a taxable gain.

Because California has not yet conformed to the changes the IRA made to the tax treatment of certain renewable energy credits, renewable energy developers must include the proceeds of the sale of tax credits as income, while purchasers can claim business expense deductions for amounts paid to purchase them, which is the opposite of federal law. Additionally, the U.S. Department of Treasury issued regulations to implement IRCs 6417 and 6418 which provided that taxpayers acquiring IRA credits did not have a taxable gain when claiming a transferred credit, even if the credit was purchased at a discount. Unless and until California conforms to IRCs 6417 and 6418, purchasers and transferees must include any difference between the amount of the credit and its purchase price as a taxable gain.

### **Related/Prior Legislation**

SB 711 (McNerney) of the current year updates the conformity date to the IRC set by the Revenue & Taxation Code from January 1, 2015, to January 1, 2025, and then either specifically decouples, or enacts modified conformity with, specific changes made by Congress to the IRC.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee:

- This bill would result in a General Fund (GF) revenue loss of an unknown, but definitely significant, amount, the magnitude of which depends on the

dollar amount and frequency of the excluded payments. By decreasing PIT and CT revenue, this bill also likely decreases Proposition 98 GF spending by approximately 40% of the GF revenue loss (the exact amount depends on the specific amount of the annual Proposition 98 guarantee).

- FTB notes that the recent creation of the federal elective payment and transferability provisions for IRA tax credits means there is little data regarding market participants and participants' potential tax burden to the state. However, initial data suggests a market of up to \$23 billion in credit transfers annually. Assuming 15% of such market transactions are completed by California businesses with varying tax attributes, FTB estimates revenue loss of up to \$280 million resulting from excluding elective payments and credit transfers from gross income. However, this revenue loss is expected to decrease over time, as recent reductions to certain IRA tax credits signed into law by the Trump Administration begin to take effect.
- Costs of an unknown amount to FTB to administer the exclusion and prepare the report (GF). New tax expenditures generally result in absorbable administrative costs to FTB, but the shifting federal landscape may make this exclusion more complex to administer.

**SUPPORT:** (Verified 9/3/25)

Advanced Energy United  
 AES Clean Energy  
 American Clean Power - California  
 American Council on Renewable Energy  
 Avantus  
 California Chamber of Commerce  
 California Community Choice Association  
 California Efficiency + Demand Management Council  
 California Energy Storage Alliance  
 California Independent Energy Producers Association  
 California Retailers Association  
 California Taxpayers Association  
 California Wind Energy Association  
 Center for Energy Efficiency and Renewable Technologies  
 Clean Power Campaign  
 Clearway Energy Group, LLC  
 Coalition for Renewable Natural Gas  
 Council on State Taxation

EDF Renewables North America, Inc.  
ENGIE North America  
Environmental Defense Fund  
Family Business Association of California  
Fluence Energy, Inc.  
Independent Energy Producers Association  
Intersect Power  
Invenergy, LLC  
Kern County Taxpayers Association  
Large Scale Solar Association  
Marin Clean Energy  
MN8 Energy, LLC  
Natural Resources Defense Council  
NextEra Energy Resources Project Management, Inc.  
Orange County Taxpayers Association  
RWE Clean Energy  
San Diego Community Power  
San Jose Clean Energy  
Silicon Valley Leadership Group  
Solano County Taxpayers Association  
Solar Energy Industries Association  
State Building & Construction Trades Council of California  
Utility Reform Network; the  
Wellhead Electric Company, Inc.

**OPPOSITION:** (Verified 9/3/25)

None received

**ARGUMENTS IN SUPPORT:** According to the author, “the Federal Inflation Reduction Act (IRA) includes several clean energy investment incentives to accelerate our transition from fossil fuels. These incentives are necessary to spur clean energy development and make renewable projects possible. Currently, California law needs to conform with the new federal tax code for project developers to access those critical federal credits. If developers are unable to fully utilize these incentives, clean energy projects in California will cost more to build leading to higher ratepayer costs. California cannot afford to put extra costs on

clean energy and ultimately to ratepayers and needs to conform our tax code with the IRA to unlock millions in federal tax incentives and bring down the costs of California's clean energy."

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9/10/25 15:11:53

**\*\*\*\* END \*\*\*\***