

Author: Senate Committee on Budget and Fiscal Review Analyst: Scott McFarlane Bill Number: SB 852

Related Bills: See Legislative History Telephone: 845-6075 Amended Date: October 7, 2010

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Exclusion / In-Home Supportive Services (IHSS) Supplementary Payments

**SUMMARY**

Under the Personal Income Tax Law (PITL), this bill would exclude from gross income any In-Home Supportive Services (IHSS) supplementary payment.

**SUMMARY OF AMENDMENTS**

The bill as introduced on January 11, 2010, was a spot bill for changes relating to the Budget Act of 2010.

The October 7, 2010, amendments would make numerous changes to laws that are not administered by the Franchise Tax Board (FTB), including changes to the Civil Code, the Family Code, the Health and Safety Code, non-income tax parts of the Revenue and Taxation Code, and the Welfare and Institutions Code. This bill would make one change to the Revenue and Taxation Code that would affect the PITL administered by the FTB—the gross income exclusion of IHSS supplementary payments. Thus, this analysis is limited to income tax effects of the provisions relating to the gross income exclusion of IHSS supplementary payments.

**PURPOSE OF THE BILL**

The purpose of the bill is to make changes necessary for the implementation of the Budget Act of 2010.

**EFFECTIVE/OPERATIVE DATE**

As an urgency measure, this bill would be effective immediately. The provision that would exclude IHSS supplemental payments from gross income would be operative for taxable years beginning on or after January 1, 2010.

**POSITION**

Pending.

Board Position:	Department Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA	Patrice Gau-Johnson for	11/09/10
<input type="checkbox"/> N	Selvi Stanislaus	
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

## **ANALYSIS**

### FEDERAL/STATE LAW

Gross income means all income from whatever source derived, unless specifically excluded by law.<sup>1</sup>

### THIS BILL

#### Sales Tax on IHSS Providers

This bill would impose sales tax on the gross receipts of the sales of IHSS sold at retail in this state.

#### IHSS Supplementary Payment

This bill would require that IHSS providers be paid a supplementary payment. The supplementary payment would be equal to the IHSS sales tax, plus any Social Security and Medicare payroll withholdings that are increased due to the supplementary payment.

#### Gross-Income Exclusion

This bill would exclude from gross income, for California income tax purposes, IHSS supplementary payments.

## **LEGISLATIVE HISTORY**

AB 1612 (2009/2010, Assembly Committee on Budget), is identical to this bill. That bill was enrolled on October 13, 2010.

## **FISCAL IMPACT**

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

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<sup>1</sup> Revenue and Taxation Code section 17071.

**ECONOMIC IMPACT**

Revenue Estimate

Estimated Revenue Impact SB 852, as Amended October 7, 2010 For Taxable Years Beginning On or After January 1, 2010		
2010-11	2011-12	2012-13
\$0	\$0	\$0

Revenue Discussion

The supplemental payment and the income exclusion are designed to hold IHSS providers financially harmless for the new sales tax this bill would impose on IHSS providers. The supplemental payment would restore an IHSS provider's wages, and the income exclusion would prevent an IHSS provider from incurring additional state income tax on the supplemental payment. As a result, the gross income exclusion for IHSS provider supplemental payments would have no revenue impact.

**LEGISLATIVE STAFF CONTACT**

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