AB-88 One-time stimulus and grant payments: garnishment: exclusion from gross income. (2021-2022)

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Assembly Bill No. 88

CHAPTER 12

An act to amend Section 17131.11 of the Revenue and Taxation Code, to amend Sections 8150 and 8151 of, and to add Chapter 4.6 (commencing with Section 8152) to Division 8 of, the Welfare and Institutions Code, relating to COVID-19 relief, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor March 17, 2021. Filed with Secretary of State March 17, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 88, Committee on Budget. One-time stimulus and grant payments: garnishment: exclusion from gross income.

Existing law requires the Controller to make a one-time Golden State Stimulus payment to each qualified recipient, as defined, of an applicable amount, as specified, and authorizes the Controller to make the payment in a form and manner determined by the Franchise Tax Board, as specified. Existing law also requires the State Department of Social Services to make a one-time grant payment (Golden State Grant payment) to qualified grant recipients, as defined, of $600, as specified.

This bill would, except as provided, make both payments automatically exempt from a garnishment order, as defined, and would require a financial institution to employ a certain procedure to identify a deposit exempt pursuant to that provision. The bill would prohibit a financial institution that attempts to comply with those provisions in good faith from being subject to liability, as specified. The bill would also further clarify the definition of “qualified recipient” for purposes of the Golden State Stimulus payment and a “grant recipient” eligible to receive a Golden State Grant payment.

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the taxpayer’s taxable income for the taxable year, but, in modified conformity with federal income tax laws, allows various exclusions from gross income. Existing law requires a bill authorizing a new tax expenditure, defined to include exclusions from income, to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements.

This bill would exclude the Golden State Grant payment from gross income for personal income tax purposes. The bill would also include additional information required for any bill authorizing a new tax expenditure.

The bill would appropriate $100,000 from the General Fund to augment Schedule (1) of Item 7730-001-0001 of the 2020 Budget Act for the Franchise Tax Board to be allocated to existing California Earned Income Tax Credit outreach contracts to provide increased awareness of the Golden State Stimulus and would exempt, for the purpose of providing timely distribution of funds for Golden State Stimulus awareness, the Franchise Tax Board and its administrative partner, the Department of Community Services and Development, from all provisions of state contracting law governing the amendment of contracts.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 17131.11 of the Revenue and Taxation Code is amended to read:

17131.11. Gross income does not include any payments received by an individual pursuant to Section 8150 or 8151 of the Welfare and Institutions Code.

SEC. 2. Section 8150 of the Welfare and Institutions Code is amended to read:

8150. (a) The Controller shall make a one-time Golden State Stimulus tax refund payment in the applicable amount to each qualified recipient. A qualified recipient shall not receive more than one payment of the applicable amount. The payments may be made in the form and manner determined by the Franchise Tax Board.

(b) For purposes of this section, the following definitions shall apply:

(1) "Applicable amount" means the following:

(A) In the case of a qualified recipient who meets the criteria of only one of clause (i) or clause (ii) of subparagraph (A) of paragraph (3), six hundred dollars ($600).

(B) In the case of a qualified recipient who meets the criteria of both clause (i) and clause (ii) of subparagraph (A) of paragraph (3), one thousand two hundred dollars ($1,200).

(2) "Resident" shall have the same meaning as that term is defined in Section 17014 of the Revenue and Taxation Code.

(3) (A) "Qualified recipient" means either of the following:

(i) An eligible individual as determined under Section 17052 of the Revenue and Taxation Code who filed a California individual income tax return for the taxable year beginning on or after January 1, 2020, and before January 1, 2021, who has been allowed a tax credit pursuant to Section 17052 of the Revenue and Taxation Code for that taxable year by November 15, 2021, and is a California resident on the date the Controller issues the payment pursuant to subdivision (a).

(ii) An individual who would otherwise be an eligible individual pursuant to subparagraphs (A), except for subclause (II) of clause (ii), and (B) of paragraph (1) of subsection (c) of Section 32 of the Internal Revenue Code, as modified by paragraph (1) of subdivision (c) of Section 17052 of the Revenue and Taxation Code and who satisfies all of the following:

(I) Filed a California individual income tax return on or before October 15, 2021, for the taxable year beginning on or after January 1, 2020, and before January 1, 2021.

(II) Included on the return described in subclause (I) either their federal individual taxpayer identification number, or, if married, the federal individual taxpayer identification number of their spouse.

(III) Reported on the return described in subclause (I), California adjusted gross income of seventy-five thousand dollars ($75,000) or less.

(IV) Is a California resident, as defined by Section 17014 of the Revenue and Taxation Code, on the date the Controller issues the payment pursuant to subdivision (a).

(B) Notwithstanding subparagraph (A), a "qualified recipient" shall not include an individual that satisfies all of the following:

(i) Is an eligible individual without a qualifying child as determined under Section 17052.

(ii) Files their California individual income tax return using the single filing status for the taxable year described in subparagraph (A).

(iii) Satisfies either of the following:

(I) Is deceased on the date the Controller would issue the payment authorized under subdivision (a), but for the individual's death.

(II) Is incarcerated, other than incarceration pending the disposition of charges, in a jail, prison, or similar penal institution or correctional facility on the date the Controller would issue the payment authorized under subdivision (a), but for the incarceration.

(c) In the case of a qualified recipient that files a joint return with their spouse pursuant to Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code for a taxable year described in subparagraph (A) of paragraph (3) of subdivision (b), the qualified recipient and their spouse shall be considered one qualified recipient for purposes of this section, and shall receive only one payment of the applicable amount.

(d) The payment authorized by this section shall not be a refund or overpayment of income taxes under Chapter 6 (commencing with Section 19301) of Part 10.2 of Division 2 of the Revenue and Taxation Code of any liability imposed under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code.

(e) The Franchise Tax Board shall provide return or return information of the qualified recipients to the Controller as authorized under Section 19554.1 of the Revenue and Taxation Code to allow the Controller to make payments authorized pursuant to this section.

(f) (1) There is hereby created in the State Treasury the Golden State Stimulus Emergency Fund. Notwithstanding Section 13340 of the Government Code, an amount necessary for the Controller to make the required payments under subdivision (a) is hereby continuously appropriated, without regard to fiscal year, from the Golden State Stimulus Emergency Fund to the Controller for the purpose of making the Golden State Stimulus tax refund payments to help low-income Californians.

(2) The Controller shall transfer to the Golden State Stimulus Emergency Fund an amount not in excess of the amount appropriated under paragraph (1).

(3) Any unused money remaining in the Golden State Stimulus Emergency Fund shall be transferred to the General Fund by June 1, 2024.

(g) Notwithstanding any other law, the payment authorized pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, excluding benefits under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, or amounts of those benefits.

(h) Notwithstanding any other law, the payment authorized pursuant to this section shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual, or any other individual, for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (g). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

(i) The Legislature finds and declares that, to the extent they are otherwise a qualified recipient pursuant to paragraph (3) of subdivision (b), undocumented persons are eligible for the payment authorized by this section within the meaning of subsection (d) of Section 1621 of Title 8 of the United States Code.

SEC. 3. Section 8151 of the Welfare and Institutions Code is amended to read:

8151. (a) The State Department of Social Services shall make a one-time grant payment in the amount of six hundred dollars ($600) to each grant recipient, as defined in subdivision (b) as of the eligibility date. The grant payments may be made in the form and manner determined by the department, including establishing the eligibility date and contracting with one or more entities.

(b) For the purposes of this section, “grant recipient” means one of the following:

(1) An assistance unit as defined in Section 11450.16 under the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9).

(2) Subject to subdivision (e), a recipient of benefits provided under the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9).

(3) Subject to subdivision (e), a recipient of benefits under the Supplemental Security Income/State Supplemental Program (SSI/SSP) (Chapter 3 (commencing with Section 12000) of Part 3 of Division 9).

(c) Notwithstanding any other law, the receipt of a payment under this section shall be treated in the same manner as the federal earned Income Tax Credit for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

(d) Notwithstanding any other law, the receipt of a payment authorized pursuant to this section shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of that individual, or any other individual, for benefits or assistance, or the amount or extent of benefits or assistance, under any state or local program not covered in subdivision (c). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

(e) Pursuant to Section 18941, a recipient eligible to receive a grant payment under paragraph (2) or paragraph (3) of subdivision (b) shall not receive the grant payment unless the department is able to issue grant payments under both paragraphs (2) and (3).

(f) Notwithstanding any other law, for purposes of Section 10850, the activities in furtherance of this section are directly connected with the administration of public social services. Information may be disclosed as necessary to effectuate the purposes of this section. Information disclosed pursuant to this section shall be limited to that information necessary to implement this section.

(g) (1) Contracts or grants awarded pursuant to this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) Contracts or grants awarded pursuant to this section shall be exempt from the Public Contract Code and the State Contracting Manual and shall not be subject to the approval of the State Department of General Services.

(h) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of all-county letters or similar written instructions, which shall be exempt from submission to or review by the Office of Administrative Law. These all-county letters or similar instructions shall have the same force and effect as regulations.

SEC. 4. Chapter 4.6 (commencing with Section 8152) is added to Division 8 of the Welfare and Institutions Code, to read:

CHAPTER 4.6. Exemption of Golden State Stimulus Payments and Golden State Grant Payments from Garnishment Orders

8152. (a) (1) A Golden State Stimulus payment made by the Controller pursuant to Section 8150 and a Golden State Grant payment made by the State Department of Social Services or contracted entities pursuant to Section 8151 shall be automatically exempt from a garnishment order.

(2) This subdivision does not apply to a garnishment order in connection with an action for, or a judgment awarding, child support, spousal support, family support, or a criminal restitution payable to victims.

(b) Notwithstanding any other law, a financial institution receiving directly from the state the payments described in subdivision (a) shall exempt those payments from any garnishment order if the payment is marked by the state as a “Golden State Stimulus payment” or “Golden State Grant payment” or includes some other industry-standard unique identifier that is reasonably sufficient to allow the financial institution to identify the funds as a Golden State Stimulus payment or Golden State Grant payment.

(c) (1) In exempting a Golden State Stimulus payment or Golden State Grant payment from a garnishment order, a financial institution shall identify an exempt deposit using a lookback period during an account review.

(2) The financial institution shall perform a one-time account review consistent with the requirements described in subsection (a) of Section 212.5 of Title 31 of the Code of Federal Regulations.

(d) A financial institution that attempts in good faith to comply with this section shall not be subject to liability or regulatory action under a federal or state law, regulation, court or other order, or regulatory interpretation for actions concerning applicable payments.

(e) As used in this section:

(1) “Account review” means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period.

(2) “Garnishment order” means a writ, order, notice, summons, judgment, levy, or similar written instruction issued by a court, a state or state agency, or a municipality or municipal corporation, including an order to freeze the assets in an account, to effect a garnishment against a debtor.

(3) “Lookback period” means the two-month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier or on the last date of the month two months earlier if the corresponding date does not exist.

SEC. 5. For purposes of complying with Section 41 of the Revenue and Taxation Code, the Legislature finds and declares both of the following:

(a) The purpose of the tax expenditure allowed by the amendment to Section 17131.11 of the Revenue and Taxation Code made by this act is to provide financial relief for low-income Californians who may have been adversely impacted by the economic disruptions resulting from the COVID-19 emergency.

(b) In order to provide information on this tax expenditure, the Franchise Tax Board shall, in consultation with the State Department of Social Services, prepare a written report that shall include the number of qualified recipients issued a payment pursuant to Section 8151 of the Welfare and Institutions Code. Notwithstanding Section 19542 of the Revenue and Taxation Code, the Franchise Tax Board shall provide the written report to the Legislature on or before April 1, 2022, in compliance with Section 9795 of the Government Code.

SEC. 6. One hundred thousand dollars ($100,000) is hereby appropriated from the General Fund to augment Schedule (1) of Item 7730-001-0001 of the 2020 Budget Act for the Franchise Tax Board to be allocated to existing California Earned Income Tax Credit outreach contracts to provide increased awareness of the Golden State Stimulus. To provide timely distribution of funds for Golden State Stimulus awareness, the Franchise Tax Board and its administrative partner, the Department of Community Services and Development, are exempt from all provisions of state contracting law governing the amendment of contracts. Funds for Golden State Stimulus outreach shall be distributed to contractors at the sole discretion of the Executive Officer of the Franchise Tax Board.

SEC. 7. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.