Office of Senate Floor Analyses
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THIRD READING

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Bill No: AB 80
Author: Burke (D), et al.
Amended: 2/17/21 in Senate
Vote: 27 - Urgency

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PRIOR VOTES NOT RELEVANT

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 17-0, 2/18/21
AYES: Skinner, Nielsen, Caballero, Cortese, Dahle, Durazo, Eggman, Grove, Laird, McGuire, Melendez, Min, Newman, Ochoa Bogh, Pan, Roth, Stern
NO VOTE RECORDED: Wieckowski

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**SUBJECT:** Taxation: Coronavirus Aid, Relief, and Economic Security Act: Federal Consolidated Appropriations Act, 2021

**SOURCE:** Author

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**DIGEST:** This is the Paycheck Protection Program (PPP) business expense deduction trailer bill.

**ANALYSIS:**

This bill:

1) Expands the existing forgiven PPP loan income exclusion to allow loans provided under the most recent Consolidated Appropriations Act of 2021 to be excluded from income for California taxpayers.

2) Allows loans that were forgiven as an "advance grant amount" under the Economic Injury Disaster Loans (EIDL) program to be excluded from income for California taxpayers.

3) Allows businesses to deduct up to $150,000 of business expenses that were paid for using forgiven PPP or EIDL funds.

4) Provides that, similar to the federal treatment, this bill will not require businesses to adjust their tax attributes as a result of forgiven PPP or EIDL funds. However, this bill specifies that net operating loss carryover that was created as a result of the business deductions that were paid for using forgiven PPP or EIDL funds would be limited to $150,000 and no additional carryover is allowed.

**Background**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed by Congress and signed into law by President Trump on March 27, 2020. The CARES Act provided over $2 trillion in economic relief and included many provisions to help Americans with the economic impacts of the COVID-19 pandemic. One of the items included in the Act is the PPP, which provides small businesses loans that can be forgiven under specified circumstances. The CARES Act also expanded access to EIDL and established an emergency grant to allow EIDL applicants to request loan advances and targeted advanced loans. Like the PPP loans, some of these EIDL advances may be forgiven under certain circumstances. The CARES Act allowed loan amounts that were forgiven under the PPP or EIDL programs to be excluded from gross income.

The Consolidated Appropriations Act was passed by Congress and signed into law by President Trump on December 28, 2020. The Consolidated Appropriations Act added additional forgivable PPP loans. This federal bill also allowed businesses the ability to deduct business expenses that were paid for using forgiven PPP or EIDL funds.

Generally, all income is included in taxable income unless specifically excluded. When a lender cancels a borrower's debt, federal and state law generally treats the amount of debt cancelled as income that is taxable to the borrower in the year it is forgiven. Taxpayers do not include borrowed funds in income in the year they receive the loan proceeds because of the obligation to repay the loan; the taxpayer is financially no better off because the loan must be repaid. When lenders reduce the repayable amount, the taxpayer realizes a gain in his or her financial situation because a portion of the loan proceeds already received and not previously taxed need not be repaid, thereby increasing the taxpayer's net worth.

In AB 1577 (Burke, Chapter 39, Statutes of 2020), the Legislature conformed to federal law and allowed PPP loans that were forgiven under the CARES Act to be excluded from taxable income for California taxpayers. AB 1577 also denied the business expense deduction for those expenses that were paid for using forgiven PPP loan funds.

When debt is forgiven, the Internal Revenue Code (IRC) stipulates that taxpayers must reduce seven tax attributes in the following order, net operating loss from any business, general business credit carryover, alternative minimum tax credit, capital loss, the cost basis of property, passive activity loss, and foreign tax credit carryover. Additionally, in some cases, partnership basis adjustments may occur as a result of forgiven debt. However, the Consolidated Appropriations Act specified that none of these tax basis attributes need be adjusted as a result of forgiven PPP or EIDL funds.

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

According to the Senate Budget and Fiscal Review Committee, by allowing the additional income exclusion for forgiven EIDL funds and additional PPP loans authorized under the most recent federal act and allowing businesses to deduct up to $150,000 of business expenses that were paid for using forgiven PPP or EIDL funds, this bill is estimated to cost approximately $50 million in 2020-21 fiscal year, $1.1 billion in 2021-22 fiscal year and $600 million in 2022-23 fiscal year with an aggregate cost of approximately $2 billion over six fiscal years.

**SUPPORT:** (Verified 2/18/21)

None received

**OPPOSITION:** (Verified 2/18/21)

None received

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