Date of Hearing: April 28, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 474 (Ward) – As Amended April 1, 2025

Majority vote. Fiscal committee.

SUBJECT: Housing discrimination: nonprofit home-sharing program: income tax exclusion: eligibility for public social services

SUMMARY: Excludes from gross income, under the Personal Income Tax (PIT) Law, payments received by a "lower income household" from a tenant while participating as a landlord in a "nonprofit home-sharing program", as specified, for taxable years beginning on or after January 1, 2026, and before January 1, 2031. Specifically, **this bill**:

1) Makes various findings and declarations regarding California's housing shortage, its impact on seniors, and how home-sharing programs can help address this crisis.

2) Defines the following terms:

   a) "Nonprofit home-sharing program" is a program that meets all of the following conditions:

      i) Is administered by a nonprofit organization or governmental entity;

      ii) Provides a service that helps to match a person or household, who has one or more unoccupied bedrooms in their owner-occupied home, one or more unoccupied bedrooms in their rental unit of which they are the primary tenant, or up to two separate vacant units on an owner-occupied property with one or more unrelated tenants;

      iii) Services, including, but not limited to, case management, intake, introductions, background checks, and third-party mediation, are delivered at no cost to participants. No cost includes, but is not limited to, fees for any aspect of participation in the program, revenue derived from facilitating payments between participants at any stage of the matching process, and fees for additional services beyond, but adjacent to, shared housing services provided by the program;

      iv) Lease agreements executed as a result of a match, as described above, are for the term of no less than 30 days; and,

      v) Provides ongoing case management to mitigate conflict and promote housing stability for both participating tenants and landlords. Case managers must be full-time staff who are available to provide support at least five days a week.

b) "Lower income household" is defined by cross-reference to Health and Safety Code (HSC) Section 50079.5, meaning income that is 80% or lower than the median income of a geographical area, adjusted for family size.

3) Finds and declares the following for the purposes of satisfying the requirements of Revenue and Taxation Code (R&TC) Section 41:

a) The specific goals, purposes, and objectives of this bill are to provide an additional incentive for individuals to increase participation in nonprofit home-sharing programs among Californians.

b) The performance indicators for the Legislature to use when evaluating whether this tax expenditure achieves its intended purpose include, but are not limited to, all of the following:

i) Self-reports from nonprofit home-sharing program participants as to whether the gross income exclusion incentivized participation in the nonprofit home-sharing program;

ii) Increases in nonprofit home-sharing program participation over time; and,

iii) Increases in the amount of gross income excluded as allowed by this bill over time.

4) Requires the Legislative Analyst's Office (LAO) to provide a written report evaluating the effectiveness of the gross income exclusion to the Senate Committee on Governance and Finance, and the Assembly Committee on Revenue and Taxation no later than May 1, 2030.

5) Provides that, for purposes of preparing the report required by this bill, the LAO may do both of the following:

a) Request and receive information from nonprofit home-sharing program providers as to the reasons for their participants choosing to participate in a nonprofit home-sharing program, including, but not limited to, their eligibility for the gross income exclusion; and,

b) Request and receive information provided to the Franchise Tax Board (FTB) relating to the gross income exclusion provided by this bill.

6) Repeals the income exclusion's statutory provisions on January 1, 2031.

EXISTING LAW:

1) Conforms to federal law, which provides that "gross income" includes all income from whatever source derived unless expressly excluded. (Internal Revenue Code (IRC) Section 61 and R&TC Section 17071.) Gross income includes compensation for services, business income, gain from selling property, interest, rents, royalties, dividends, and pensions.

2) Provides various exclusions from gross income in determining tax liability under the PIT Law. (R&TC Section 17131 *et seq.*)

FISCAL EFFECT: The FTB estimates General Fund revenue losses of $11 million in fiscal year (FY) 2025-26, $21 million in FY 2026-27, and $23 million in FY 2027-28.

COMMENTS:

1) The author has provided the following statement in support of this bill:

> AB 474 aims to expand housing opportunities for low-income Californians by simplifying and incentivizing the process of renting out empty bedrooms through non-profit home share programs. Non-profit home share programs help match individuals in need of housing with homeowners willing to share their space, providing an affordable housing solution, particularly well-suited for older Californians. AB 474 incentivizes home sharing by exempting low-income homeowners from paying income tax on earnings from renting a room through these programs. Additionally, the bill guarantees stability for low-income homeowners by ensuring that rental income, earned through non-profit home sharing, does not affect eligibility for government support programs. By increasing affordable housing opportunities, AB 474 seeks to prevent homelessness and support those being priced out of the housing market.

2) In support of this bill, LeadingAge California notes, in part:

> While home-sharing programs are typically open to adults of all ages, they are especially popular among older adults, who often fall into a situation where they are "housing rich but cash poor". Older adults have the highest homeownership rate of any age cohort in California. At the same time, older Californians have the lowest incomes. Many older Californians live on fixed incomes like Social Security, which have not increased sufficiently with rising costs. For many of these older Californians who have seen their fixed incomes outpaced by costs, they are put in the impossible position of deciding whether to forgo necessities like food or healthcare, or leave their home that they love and have lived in stably for many years. Home-sharing helps low-income older homeowners generate supplemental income, allowing them to stay housed and age in place, while also offering renters more stable and affordable housing options. Additionally, nonprofit home-sharing providers have found that participating in their programs can provide valuable social connection, especially among older adults, who are disproportionately impacted by isolation and loneliness.

3) Committee Staff Comments:

   a) *Triple-referred*: In addition to this Committee, this bill was referred to the Assembly Judiciary Committee, where it passed by a vote of 8 Ayes, 3 Noes, and 1 Not Voting on March 25, and the Assembly Human Services Committee, where it passed unanimously on April 8. Please refer to the bill analyses published by those Committees for explanation and discussion of the provisions of this bill that modify provisions in the Government and Welfare and Institutions Codes.

   b) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

c) *What problem is this bill attempting to solve?* According to the author and supporters, older adults are at the epicenter of California's housing affordability and homelessness crisis, with over 40,000 people 55 years of age or older experiencing homelessness. In the four-year period from 2017 to 2021, the number of older Californians, 65 years of age or older, accessing homeless services increased by 138%. Older adults tend to live on fixed incomes, which are failing to keep pace with the rising costs of living, especially in regard to the cost of housing.

d) *Information returns and federal law*: Businesses and individuals making payments in the course of trade or business may have reporting obligations under Internal Revenue Code (IRC) Section 6041. This provision ensures income is properly reported to the IRS, primarily through Form 1099. Compliance helps prevent underreporting and promotes transparency in financial transactions. Payments totaling $600 or more in a calendar year to a single recipient typically require reporting.[1] IRC 6041 covers various payments beyond compensation for services. Rent payments exceeding $600 annually must be reported unless the recipient is a corporation. Payments for prizes and awards, including those in business promotions or contests, are also subject to reporting.

Thus, it is possible that the nonprofit or governmental agency that runs the program may be required to file information returns with the IRS and provide 1099-MISC forms to participating landlords recording the amount of rental income they received in the taxable year. As a result, it is possible that individuals participating in this program would be required to include rental payments received as part of their gross income for federal tax purposes, but would not have to include these amounts for the state tax return. This may undercut the incentive created by this bill to participate in the program.

e) *Lack of conformity*: This bill establishes a gross income exclusion for which federal law has no counterpart. Generally, nonconformity to federal law adds complexity and additional administrative burdens for taxpayers.

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[1] "What is IRC 6041 and How Does it Impact Payment Reporting?" Accounting Insights. February 26, 2025. https://accountinginsights.org/what-is-irc-6041-and-how-does-it-impact-payment-reporting/.

f) *Committee's tax expenditure policy*: Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

In its current form, this bill states that the exclusion is designed to provide an additional incentive for individuals to increase participation in nonprofit home-sharing program. In addition, this bill provides that the exclusion's effectiveness shall be measured by self-reports from nonprofit home-sharing program participants as to whether the gross income exclusion incentivized participation in the nonprofit home-sharing program, increases in nonprofit home-sharing program participation over time, and increases in the amount of gross income excluded as allowed by this bill over time. The Committee may wish to consider whether collecting this subjective information is a good use of the LAO's limited resources.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years. This bill, as currently drafted, complies with the Committee's policy on sunset dates.

g) *Technical considerations*:

i) *Definitions*: As currently drafted, this bill uses the term "lower income household" when describing who is eligible for the income exclusion. This term is not typically used in tax law, which would likely lead to confusion among taxpayers and the FTB. Thus, it is recommended that the bill be amended to use "qualified taxpayer" in place of "lower income household" for purposes of the income exclusion and define "qualified taxpayer" as an individual that is a member of a "lower income household."

ii) *Section 41*: As currently drafted, this bill requires the LAO to prepare a report based on information that would not be recorded by the FTB on any tax return, including the amount of income excluded, as well as subjective responses from participants about why they chose to take part in the program and whether the income exclusion played a role. Because this information is very difficult – if not impossible – to collect in a holistic fashion with the LAO's existing resources, it is recommended that the bill be amended to align with R&TC Section 41(a)(2), which exempts bills proposing a new gross income exclusion from this requirement if the Legislature determines that there is no data available to collect and report.

iii) *Sunset date*: As currently drafted, this bill provides the income exclusion for taxable years beginning on or after January 1, 2026, and before January 1, 2031, but sunsets the exclusion's statutory provisions on January 1, 2031. It is recommended that the sunset date be amended to December 1, 2031 to comply with this Committee's policy on sunset dates.

REGISTERED SUPPORT / OPPOSITION:

Support

AARP California
California Apartment Association
CalPACE
Disability Rights California
Eskaton
Front Porch
Home Match, a Front Porch Community Service
Justice in Aging
LeadingAge California
Masonic Homes of California
Volunteers of America Northern California and Northern Nevada, INC.

Opposition

None on file

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