Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Hill	Analyst:	Jessica Matus	Bill Number:	AB 50
Related Bills:	See Prior Analysis	Telephone:	845-6310	Amended Date:	February 18, 2011
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Income Exclusion/San Bruno Gas Explosion

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended __________________.

_X_ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 6, 2010, STILL APPLIES.

_X_ OTHER – See comments below.

SUMMARY

This bill would do the following for the victims of the September 9, 2010, San Bruno natural gas transmission line explosion and fire (hereinafter "explosion"):

- Make disaster relief payments received not taxable for state purposes within the meaning of current disaster relief laws, and
- Make gains from the involuntary conversion of destroyed property not taxable for state purposes within the meaning of current federal involuntary conversion laws.

SUMMARY OF AMENDMENTS

The February 18, 2011, amendments removed language that would have specifically excluded from gross income any compensation provided by PG&E, the city of San Bruno, or the American Red Cross to victims of the explosion and added language that would treat the explosion as a federally declared disaster for state purposes. As a result of the amendments, the "Effective/Operative," "This Bill," and "Revenue Estimate" discussions provided in the department's analysis of the bill as introduced December 6, 2010, have been revised. The remainder of that analysis still applies.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	03/04/11
____ N	____ OUA	_X_ PENDING	For Brian Putler	

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2011.

ANALYSIS

<u>FEDERAL/STATE LAW</u>

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Current federal and state laws allow taxpayers to exclude the following from gross income:

- Amounts received as a result of a fire, flood, or other casualty if the amounts are received by an individual under an insurance contract;
- Gain from the sale or exchange of property if the property, for two of the five years prior to the sale, was owned and used as the taxpayer's principal residence. The allowable exclusion is $250,000 ($500,000 for taxpayers who are married filing jointly);
- Gain from the involuntary conversion of property, resulting from destruction, into similar property[1] or into money used to acquire replacement property within a specified period. "Involuntary conversion" means the replacement of property that was destroyed through no fault of the owner; and
- Disaster relief compensation made for qualified disasters, with limitations as described below.

Current federal[2] and state tax laws allow disaster relief compensation made to individuals because of a qualified disaster to be excluded from gross income only to the extent that the funds are used for either of the following:

- To pay for personal, family, living, or funeral expenses that were incurred as a result of the qualifying disaster.
- To pay for expenses for rehabilitation or replacement of a personal residence or rehabilitation or replacement of belongings incurred as a result of the qualifying disaster.

Disaster relief compensation is excludable only to the extent that any expense is not already compensated by insurance or otherwise.

[1] Any gain is deferred until the sale of the replacement property.
[2] Internal Revenue Code section 139.

A qualified disaster is defined as a disaster which results from a terroristic or military action (as defined in IRC section 692(c)(2)), a Presidentially declared disaster, a disaster which results from an accident involving a common carrier or from any other event which would be determined by the Secretary to be of a catastrophic nature, or, for purposes of payments made by a Federal, State or local government, a disaster designated by Federal, State or local authorities to warrant assistance.

<u>THIS BILL</u>

This bill would deem the San Bruno explosion to be a qualified federal disaster for state purposes, thus treating payments to individuals who were victims of the explosion as qualified disaster relief payments. As a result, payments made to the victims of the explosion used for reasonable and necessary living expenses, to the extent victims were not already reimbursed by insurance or otherwise, would be excluded from gross income (not be taxable by California). (Because the explosion was not declared a federal disaster at the time of this analysis, payments received by victims of the explosion would be taxable for federal purposes.)

Further, this bill, under the Personal Income Tax Law, would deem involuntary conversions of property that occurred as a result of the explosion to be a federally declared disaster for state purposes. Taxpayers who have a gain from an involuntary conversion may elect to defer paying tax on that gain by purchasing similar replacement property within a specific time period-generally two years after the close of the first taxable year in which any part of the gain is realized.

<u>IMPLEMENTATION CONSIDERATIONS</u>

This bill lacks a specific operative date. Without specified transactional date language, the bill would be effective only for payments made to the victims of the explosion on or after January 1, 2011. If the author's intent is to exclude payments made on or after September 9, 2010, from gross income, the bill must be amended to specify that the bill would apply to those payments. Amendment 1 has been provided to specify the operative date of the bill.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

Estimated Revenue Impact of AB 50 (Amended 2/18/2011)		
PG&E Immediate Relief Payments Operative for Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011		
2010-11	2011-12	2012-13
$ (300,000)	$ (6,000)	$ 0

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

This estimate assumes that the payments made to victims of the explosion, on or after September 9, 2010, are included in this bill. If the bill is not amended to change the operative date, the revenue would change.

This estimate assumes the compensation received from PG&E for damages is one hundred percent taxable at the federal level because the explosion has not been declared a disaster for federal purposes. The February 18, 2011 amendment limits the taxability of payments received to only those amounts that would have been taxable under federal law had the San Bruno explosion been declared a disaster under federal law. The revenue impact has been reduced accordingly. This estimate may be revised in the event the Treasury Department makes a determination that some compensation from PG&E is not includable in gross income.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 50
As Amended February 18, 2011

AMENDMENT 1

On page 2, line 7, after "Code." insert:
This section shall apply to payments made on or after September 9, 2010.