Franchise Tax Board **SUMMARY ANALYSIS OF AMENDED BILL**

Author:	Bradford	Analyst:	Jon Feenstra	Bill Number:	SB 343
Related Bills:	See Prior Analysis	Telephone:	845-4870	Amended Date	July 6, 2017
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SUBJECT: Carousel Housing Tract Cleanup Income Exclusion

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), exclude from gross income qualified amounts received by a taxpayer related to the remediation of the Carousel Housing Tract.

RECOMMENDATION – NO POSITION

SUMMARY OF AMENDMENTS

As a result of the July 6, 2017, the implementation considerations provided in the department's analysis of the bill as amended on June 8, 2017 have been resolved and the "Effective/Operative Date, "This Bill," "Fiscal Impact," and "Economic Impact" sections have been revised. Additionally, the "Support/Opposition" section has been updated to reflect currently available information. The remainder of the department's analysis of the bill as amended on June 8, 2017, still applies.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective immediately, and would be operative for qualified amounts received before, on, or after the date of enactment.

THIS BILL

This bill would, under the PITL and the CTL, for qualified amounts received, and unreimbursed expenses incurred, by a qualified taxpayer before, on, or after the date of enactment, and during remediation of the Carousel Housing Tract located in Carson, California:

- Exclude qualified amounts from gross income,
- Allow an above the line under the PITL deduction for unreimbursed expenses of qualified amounts, and
- Allow a waiver of limitations for claiming an overpayment of tax that results in a credit or refund, for a one-year period beginning on the date the bill is enacted.

"Qualified amount" would include:

- Amounts received by a qualified taxpayer during the remediation of the Carousel Housing Tract, located in Carson, California, from the Shell Oil Company for costs associated with temporary accommodations and relocation pursuant to Regional Water

Quality Control Board Order R4-2011-046. These costs include all amounts paid under the Temporary Living Assistance section of the Revised Remedial Action Plan, Relocation Plan, developed by URS Corporation for Shell Oil Products U.S., dated September 19, 2014.

- Amounts received by a qualified taxpayer paid under the Optional Real Estate Program of the Revised Remedial Action Plan, Relocation Plan, developed by URS Corporation for Shell Oil Products U.S., dated September 19, 2014.
- Any amounts received by a qualified taxpayer from a settlement arising out of the investigation, cleanup, or abatement of the waste discharged at the former Kast Property Tank Farm facility pursuant to Regional Water Quality Control Board Order R4-2011-046.

Reimbursed amounts representing any expenses related to Regional Water Quality Control Board Order R4-2011-046 that were otherwise deductible would be specifically excluded from the definition of “qualified amount.”

Under the PITL, “qualified taxpayer” would mean either:

- Any taxpayer that currently owns or previously owned real property located within the Carousel Housing Tract, located in Carson, California, who received amounts, incurred expenses, or received amounts from a settlement arising out of or pursuant to Regional Water Quality Control Board Order R4-2011-046.
- Any taxpayer that currently resides or previously resided within the Carousel Housing Tract, located in Carson, California, who received amounts, incurred expenses, or received amounts from a settlement arising out of or pursuant to Regional Water Quality Control Board Order R4-2011-046.

Under the CTL, “qualified taxpayer” would mean any taxpayer that currently owns or previously owned real property located within the Carousel Housing Tract, located in Carson, California, who received amounts, incurred expenses, or received amounts from a settlement arising out of or pursuant to Regional Water Quality Control Board Order R4-2011-046.

The payor under the Revised Remedial Action Plan, Relocation Plan, developed by URS Corporation for Shell Oil Products U.S., dated September 19, 2014, and the payor or payors of the settlement proceeds arising out of or pursuant to Regional Water Quality Control Board Order R4-2011-046, would be required to furnish to the Franchise Tax Board an annual list of names, addresses, payment dates, and amounts paid to qualified taxpayers upon request.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update.

FISCAL IMPACT

This bill would not significantly impact the department’s costs.

ECONOMIC IMPACT

Revenue Estimate

This request will result in the following revenue loss:

Estimated Revenue Impact of SB 343 As Amended on July 6, 2017 Assumed Enactment By September 30, 2017 ($ in Millions)			
2016-17	2017-18	2018-19	2019-20
- $0.15	- $6.40	- $0.25	- $0.20
*For purposes of this estimate, it was assumed that residents would only participate in the temporary relocation program.			

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

Revenue Discussion

This estimate assumes the qualified amounts received by qualified taxpayers would have been includable in gross income under current law.

Settlement

Based on publicly available information, it is assumed qualified taxpayers would receive settlement proceeds, of $120 million, from Shell Oil Company and Dole Food Company Inc. in 2017. It is assumed that 50 percent, or $60 million, would be paid to qualified taxpayers and the remaining $60 million would pay the attorney fees and other costs. It is assumed that 90 percent, or $54 million, of the settlement proceeds would be paid to personal income taxpayers and 10 percent, or $6 million, would be paid to corporate franchise taxpayers.

Corporation Taxpayers

It is assumed the $6 million settlement proceeds would be received by corporate taxpayers and would be excluded from gross income in 2017. Applying a tax rate of 5 percent results in $300,000 in revenue loss. It was assumed that these taxpayers would not have a need to participate in the relocation program and as a result, would not receive reimbursement of expenses associated with their temporary living arrangements due to remediation-related excavation activities. In addition, it is assumed that they would not incur any expense that would not otherwise be deductible as ordinary and necessary.

Personal Income Taxpayers

It is assumed the $54 million settlement proceeds would be received by personal income taxpayers and excluded from gross income in 2017.

Under Shell Oil Company's Temporary Relocation Program, residing owners or tenants of qualified Carousel Housing Tract properties would qualify for either direct pay or reimbursement of expenses associated with their temporary living arrangements due to remediation-related excavation activities.[1] For those taxpayers who choose the expense reimbursement program, Shell Oil Company would provide eligible participants with assistance towards temporary living expenses such as lodging, meals, and pet boarding. For purposes of this estimate, it is assumed that Shell Oil Company would relocate 42 properties each year and each property would include a family of 4 (two adults and two children). Based on the revised remedial action plan it is estimated that the average family would receive approximately $90,000 in reimbursed expenses that would be excluded from income and would incur an additional $6,500 in unreimbursed expenses that would be treated as a deduction from adjusted gross income.

In addition, it is assumed individuals that received payments prior to the enactment of this bill would have received and/or incurred similar amounts and would amend their returns to exclude income received and/or report unreimbursed expenses related to temporary accommodations. It is assumed that these taxpayers would amend their returns over the next three years (60 percent in 2017, 30 percent in 2018, and 10 percent in 2019). In total, between the settlement income, the exclusion for reimbursed expenses, and the deduction for unreimbursed expenses, it is estimated personal taxpayers would exclude or deduct approximately $60 million in 2017. Applying a tax rate of 10 percent to personal income taxpayers results in a revenue loss of $6.1 million in 2017. The estimated revenue loss would be approximately $250,000 in 2018 and $200,000 each year thereafter for the costs related to the temporary accommodations and relocation.

The tax year estimates are converted to fiscal years estimates, and then rounded to arrive at the amounts reflected in the above table. The amounts related to prior year amended returns are accrued back one year.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

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[1] Revised Remedial Action Plan dated September 19, 2014.