STATE OF CALIFORNIA
Franchise Tax Board

Summary Analysis of Amended Bill

Author: Bradford	Sponsor:	Bill Number: SB 343
Analyst: Jon Feenstra	Phone: (916) 845-4870	Amended: August 20, 2018
Attorney: Bruce Langston	Related Bills: See Prior Analysis	

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

The August 20, 2018, amendments removed provisions of the bill that allowed a deduction under the CTL and an above-the-line deduction under the PITL for unreimbursed expenses of qualified amounts, and made several nonsubstantive technical corrections.

Except for the "This Bill" and "Economic Impact" sections, the remainder of the department's analysis of the bill as amended July 5, 2018, still applies. The "Fiscal Impact" section has been restated for convenience.

This Bill

This bill would, under the PITL and the CTL, for qualified amounts received 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, 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 California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046. 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 California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046.

Reimbursed amounts representing any expenses related to California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046 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 California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046.
- 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 California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046.

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 California Regional Water Quality Control Board. Los Angeles Region Order R4-2011-0046.

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 California Regional Water Quality Control Board, Los Angeles Region Order R4-2011-0046, 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.

Fiscal Impact

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

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 343 as Amended on August 20, 2018
Assumed Enactment after June 30, 2018

The estimate reflects Internal Revenue Service (IRS) guidance[1] on the taxability of payments made to taxpayers.

($ in Millions)

Fiscal Year	Revenue
2017-2018	- $2.30
2018-2019	- $3.90
2019-2020	- $0.35
2020-2021	- $0.20

For purposes of this estimate, participation in the temporary relocation program would be limited to residents of the Carousel Housing Tract. This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Settlement

Based on publicly available information, it is assumed qualified taxpayers would receive settlement proceeds, of $120 million, from Shell Oil Company (Shell) and Dole Food Company Inc. in 2017 and 2018. It is assumed that 50 percent, or $60 million, would be paid to qualified taxpayers and the remaining $60 million for 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 taxpayers.

[1] https://www.irs.gov/newsroom/irs-explains-tax-treatment-of-settlement-payments-to-some-carson-homeowners

Personal Income Taxpayers

It is assumed the $54 million settlement proceeds would be received by personal income taxpayers in 2017 and 2018. It is assumed taxpayers received 50 percent of the settlement, or $27 million, in each year.

Under Shell'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.[2] For those taxpayers who choose the expense reimbursement program, Shell 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 would relocate 42 properties each year and each property would include a family of 4 (two adults and two children). Pursuant to IRS guidance, the revenue estimate has been adjusted to account for the per diems that are non-taxable under current law.

Based on the Revised Remedial Action Plan and IRS guidance, it is estimated that the average family would receive approximately $45,000 in reimbursed expenses that would be excluded from gross income.

In addition, it is assumed individuals that received payments prior to the enactment of this bill would have received similar amounts and would amend their returns to exclude income received related to temporary accommodations. It is assumed that these taxpayers would amend their taxable year 2016 and 2017 returns over the next three years (60 percent in 2018, 30 percent in 2019, and 10 percent in 2020). In total, between the settlement income and the exclusion for reimbursed expenses, it is estimated personal income taxpayers would exclude $46 million in 2018. Applying a tax rate of 10 percent to personal income taxpayers results in a revenue loss of $4.8 million in 2018. The estimated revenue loss would be approximately $1.1 million in 2019 and $500,000 each year thereafter for the costs related to the temporary accommodations and relocation.

Corporate Taxpayers

It is assumed the $6 million settlement proceeds would be received by corporate taxpayers and would be excluded from gross income in 2018. Applying a tax rate of five 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.

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

The tax-year estimates for personal income taxpayers and corporate taxpayers are converted to fiscal-year estimates, and then rounded to arrive at the amounts reflected in the above table.

Additionally, the personal income taxpayer estimates also include amounts related to prior year amended returns that are accrued back one year.

Legislative Staff Contact

Jon Feenstra
Legislative Analyst, FTB
(916) 845-4870
jon.feenstra@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Diane Deatherage
Legislative Director, FTB
(916) 845-6333
diane.deatherage@ftb.ca.gov