

Author: Bradford Analyst: Jon Feenstra Bill Number: SB 343  
Related Bills: See Prior Telephone: 845-4870 Amended Date: September 1, 2017  
Analysis Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**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 September 1, 2017, amendments renumbered a section in the bill to prevent a cross reference error and made several technical corrections. As a result of the amendments, the “This Bill” and “Economic Impact” sections of the department’s analysis of the bill as amended July 6, 2017, have been revised and a new technical consideration has been created. The “Support/Opposition” and “Fiscal Impact” sections have been restated below for convenience. The remainder of the department’s analysis of the bill as amended on July 6, 2017, still applies.

## **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 deduction under the PITL 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 California Regional Water Quality Control Board 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 Order R4-2011-0046.

Reimbursed amounts representing any expenses related to California Regional Water Quality Control Board 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 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 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 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 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.

## **TECHNICAL CONSIDERATIONS**

To preserve the above the line deduction under the PITL and for internal consistency this bill should be amended where the term “Section 17209” appears as it should be “Section 17212” to correspond to the renumbered code section.

## **FISCAL IMPACT**

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

## ECONOMIC IMPACT

### Revenue Estimate

The estimate has been updated to reflect recent federal guidance on the taxability of payments made to taxpayers (<https://www.irs.gov/newsroom/irs-explains-tax-treatment-of-settlement-payments-to-some-carson-homeowners>). Additionally, unless the technical consideration stated above is resolved, this bill could result in the following revenue loss:

Estimated Revenue Impact of SB 343 As Amended on September 1, 2017 Assumed Enactment By September 30, 2017 (\$ in Millions)			
2016-17	2017-18	2018-19	2019-20
- \$0.7	- \$6.1	- \$0.15	- \$0.1
*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

#### *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. 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 taxpayers.

#### *Personal Income Taxpayers*

It is assumed that \$54 million in settlement proceeds would be received by Personal Income Taxpayers and excluded from gross income in 2017.

Under Shell's Temporary Relocation Program, owners or tenants residing in qualified Carousel Housing Tract properties would qualify for either direct payment or reimbursement of expenses associated with their temporary living arrangements due to remediation-related excavation activities.<sup>1</sup> For those owners or tenants choosing 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 the federal guidance dated August 17, 2017, the revenue estimate has been adjusted to account for the per diem amounts that are non-taxable under current law.

Based on the revised remedial action plan and recent IRS guidance, it is estimated that the average family would receive approximately \$45,000 in reimbursement for expenses that would be excluded from gross income and would incur an additional \$6,500 in unreimbursed expenses that would be treated as a miscellaneous itemized deduction.

In addition, it is assumed owners or tenants 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 owners or tenants 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 itemized deduction for unreimbursed expenses, it is estimated Personal Income taxpayers would exclude or deduct approximately \$57 million in 2017. Applying a tax rate of 10 percent to owners or tenants' results in a revenue loss of \$5.7 million in 2017. The estimated revenue loss would be approximately \$150,000 in 2018 and \$100,000 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.

#### *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 a \$300,000 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.

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<sup>1</sup> Revised Remedial Action Plan dated September 19, 2014.

**SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

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