



BILL ANALYSIS

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Bill Number: SB 343

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.

Reason for the Bill

The reason for the bill is to relieve the tax burden placed on those taxpayers living in the Carousel Housing Tract homes, by the amounts received and expenses incurred as a result of the Revised Remedial Action Plan (RRAP).

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.

Federal/State Law

Gross Income

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.¹

Tax Benefit Rule

Existing federal and state laws provide that gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce the amount of tax imposed.²

¹ Revenue and Taxation Code (R&TC) section 17071.

² R&TC section 17131, Internal Revenue Code section 111.

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 Regional Water Quality Control Board, Los Angeles Region Order R4-2011-046. These costs include all amounts paid under the Temporary Living Assistance section of the RRAP, 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 RRAP, 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, Los Angeles Region Order R4-2011-046.

Reimbursed amounts representing any expenses related to Regional Water Quality Control Board, Los Angeles Region 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, Los Angeles Region 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, Los Angeles Region 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, Los Angeles Region Order R4-2011-046.

The payor under the RRAP, 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, Los Angeles Region 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.

Legislative History

Research of California legislation found no legislation similar to the provisions of this bill.

Program Background

According to court documents,³ Shell Oil Company sold land known as the “Kast Property Tank Farm Facility” in October of 1965 to Richard Barclay and his associates, a group of residential developers who intended to convert the property into a residential subdivision. Shell Oil Company transferred title to the property in October 1966. In preparation for the change in use, the oil storage reservoirs were decommissioned, the reservoir walls were torn down and buried on site, and the land was graded for home construction. The land was rezoned from industrial to residential, and the Carousel Housing Tract homes were constructed and sold by the early 1970’s.

In 2008, after discovering contamination nearby, the Regional Water Quality Control Board, Los Angeles Region directed Shell Oil Company to conduct environmental testing at the Carousel housing tract. These investigations revealed the presence of petroleum hydrocarbons in the areas where Shell Oil Company’s former oil reservoirs had been located.

On March 11, 2011, the Regional Water Quality Control Board, Los Angeles Region issued Order R4-2011-046 (Order)⁴ requiring Shell Oil Company to investigate, clean up, and abate waste discharged at its former Kast Property Tank Farm Facility.

After Shell Oil Company’s initial Remediation Action Plan was rejected, it submitted a RRAP in June 2014, with an addendum in October 2014.⁵ Under the RRAP, Shell Oil Company would excavate five to ten feet beneath the homes, install a vapor extraction and venting mechanism and institute comprehensive long-term monitoring. In addition, Shell Oil Company would provide temporary relocation assistance in connection with implementing the RRAP, and compensate Carousel Housing Tract homeowners to ensure they receive fair market value if they elect to sell their home.

³http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwjbsWYgcPUAhUF0mMKHfhYAasQFggtMAI&url=http%3A%2F%2Fwww.courts.ca.gov%2Fopinions%2Farchive%2FB262044.DOC&usg=AFQjCNFtm3WQmQbUzgEAFb1UW_wNeyOx2Q

⁴http://ci.carson.ca.us/content/files/pdfs/planning/CAO_Shell_R4_2011.pdf

⁵https://www.waterboards.ca.gov/losangeles/Kast/docs/Kast_HHRA%20RAP_FSR/Revised%20FS%20Addendum_10-15-14.pdf

Additionally, included in the RRAP are costs to relocate the residents on the site during the remediation process.

Other States’ Information

Review of *Illinois, Massachusetts, Michigan, Minnesota, and New York* laws found no comparable gross income exclusion. These states were selected and reviewed due to their similarities to California's economy, and tax laws.

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
 Assumed Enactment after June 30, 2018

The estimate reflects Internal Revenue Service (IRS) guidance⁶ 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.

⁶ <https://www.irs.gov/newsroom/irs-explains-tax-treatment-of-settlement-payments-to-some-carson-homeowners>

Revenue Discussion

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 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.

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 Oil Company's RRAP 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. 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). 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 RRAP 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.

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.

Appointments

None.

Support/Opposition

Support: City of Carson.⁷

Opposition: None provided.

Votes

| Location | Date | Yes Votes | No Votes |
|----------------|-------------------|-----------|----------|
| Concurrence | August 30, 2018 | 39 | 0 |
| Assembly Floor | August 29, 2018 | 80 | 0 |
| Senate Floor | September 6, 2017 | 39 | 0 |

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⁷ As presented in the Assembly Revenue and Taxation Committee analysis dated June 29, 2018.