STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Gallagher, et al.

Sponsor:

Bill Number: AB 1249

Related Bills: See Legislative History

Amended: January 3, 2022, and January 24, 2022

SUBJECT

Gross Income Exclusion for Specified Fire Victims

SUMMARY

This bill would provide an exclusion from gross income for amounts received in settlement under the order of the United States Bankruptcy Court for the Northern District of California dated June 20, 2020, case number 19-30088, docket number 8053 and allow refunds of tax previously paid on those amounts.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The January 3, 2022, amendments added a repeal date and provisions for compliance with Revenue and Taxation Code (RTC) Section 41 language. These amendments resolved the implementation and policy considerations as discussed in the department's analysis of the bill as introduced on February 19, 2021.

The January 24, 2022, amendments modified the eligibility requirements for the gross income exclusion and the data reporting requirement for the Franchise Tax Board (FTB).

REASON FOR THE BILL

The reason for this bill is to provide relief to taxpayers affected in the parts of California devastated by wildfires.

ANALYSIS

This bill under Personal Income Tax Law (PITL) and Corporation Tax Law (CTL) excludes from gross income qualified amounts received by a qualified taxpayer.

For purposes of this bill, the following definitions apply:

1) "Qualified amount" is any amount received in settlement from the Fire Victims Trust established pursuant to the order of the United States Bankruptcy Court for the Northern District of California dated June 20, 2020, case number 19-30088, docket number 8053.
2) "Qualified taxpayer" is any of the following:
    a) Any taxpayer that owned real property located in the County of Amador or Calaveras, or any taxpayer that resided within the County of Amador or Calaveras, during the 2015 Butte Fire who, incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2015 Butte Fire.
    b) Any taxpayer that owned real property located in the County of Napa, Sonoma, Lake, Butte, Mendocino, or Solano or any taxpayer that resided within the County of Napa, Sonoma, Lake, Butte, Mendocino during the 2017 North Bay Fires who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to one or more of the 2017 North Bay Fires.
    c) Any taxpayer that owned real property located in the County of Butte or any taxpayer that resided within the County of Butte during the 2018 Camp Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Camp Fire.

This bill would require the Fire Victims Trust to provide to the FTB upon request an annual list of names, addresses, payment dates, and amounts paid related to qualified taxpayers.

If the statute of limitations for filing a claim for a credit or refund of any overpayment of tax that would result from the application of this bill's provisions has expired, a qualified taxpayer would be allowed to file a claim before the close of the one year period from the effective date of this bill.

This bill, for purposes of complying with Section 41 of the RTC, would require the FTB to deliver a report to the Legislature that complies with Section 9795 of the Government Code by April 1, 2023, that includes the following:

a) The number of qualified taxpayers who received a payment from the Fire Victims Trust.
b) The aggregate amount of those payments.

The disclosures allowed by this bill would be excluded from FTB's prohibition against disclosure of information and any taxpayer information would be required to be in an aggregate and anonymized form.

This exclusion would be repealed on January 1, 2028.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment. It would be specifically operative for taxable years beginning before, on, or after the effective date of the act and repealed on January 1, 2028.

Federal/State Law

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.

Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Current federal and state laws do not specifically exclude amounts received from a specified fire settlement from gross income.

Implementation Considerations

The department has identified the following implementation considerations, and is available to work with the author's office to resolve these and other considerations that may be identified.

Because of the automatic extension that allows a timely filed return to be filed as late as October 15th, and the processing time for returns filed later than the April 15th original due date, the April 1, 2023, required report may not contain data for returns processed later in 2022.

The defined term "qualified taxpayer" contains the phrase "who received amounts, incurred expenses, or received amounts from a settlement arising out of or pursuant to" enumerated fires. It is unclear if the author intends "received amounts" to be from a source other than "received amounts from a settlement."

To clarify the author's intent, the author may want to amend the bill.

Technical Considerations

None noted.

Policy Considerations

This bill would require only one report to be issued by the FTB, however, the bill allows taxpayers to exclude income through January 1, 2028. If this is contrary to the author's intent, this bill should be amended.

LEGISLATIVE HISTORY

AB 291 (Seyarto, 2021/2022) would have excluded from gross income all survivor benefits or payments received under a Survivor Benefit Plan. AB 291 did not pass out of the Assembly by the constitutional deadline.

AB 1338 (Low, 2021/2022) would have provided an exclusion from gross income for amounts received as financial assistance by a taxpayer who is enrolled in a program or research project, as specified under the Welfare and Institutions Code (WIC). AB 1338 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1249 as Amended on January 24, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2021-2022	-$55
2022-2023	-$90
2023-2024	-$48
2024-2025	-$32

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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