STATE OF CALIFORNIA
Franchise Tax Board

# Bill Analysis

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| Author: Stern | Sponsor: | Bill Number: SB 1246 |
| | Related Bills: See Legislative History | Introduced: February 17, 2022<br>Amended: March 16, 2022 |

## SUBJECT

Gross Income Exclusions for Thomas and Woolsey Fire Victims

## SUMMARY

This bill would provide an exclusion from gross income for amounts received from Southern California Edison in settlement for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire and allow refunds of tax previously paid on those amounts.

## RECOMMENDATION

No position.

## SUMMARY OF AMENDMENTS

The March 16, 2022, amendments removed intent language that would have established affordable homeowners' insurance policies for homeowners who live in high fire threat areas of the state, and replaced it with the provisions discussed in this analysis.

This is the department's first analysis of the bill.

## 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.  The PITL and CTL provisions include different definitions for "qualified amount" and "qualified taxpayer."

For purposes of the PITL, the following definitions would apply:

"Qualified amount" is any amount received in settlement from Southern California Edison for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire.

"Qualified taxpayer" would include the following:

- Any taxpayer that owned real property located in the County of Ventura or Santa Barbara during the 2017 Thomas Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2017 Thomas Fire.
- Any taxpayer that resided within the County of Ventura or Santa Barbara during the 2017 Thomas Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2017 Thomas Fire.
- Any taxpayer that owned real property located in the County of Ventura or Los Angeles during the 2018 Woolsey Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Woolsey Fire.
- Any taxpayer that resided within the County of Ventura or Los Angeles during the 2018 Woolsey Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Woolsey Fire.

Under the CTL, the following definitions would apply:

"Qualified amount" would mean any amount received in settlement by a qualified taxpayer 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.

"Qualified taxpayer" would mean either of the following:

- Any taxpayer that owned real property located in the County of Ventura or Santa Barbara during the 2017 Thomas Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2017 Thomas Fire.
- Any taxpayer that owned real property located in the County of Ventura or Los Angeles during the 2018 Woolsey Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Woolsey Fire.

Under the PITL and CTL, this bill would require a qualified taxpayer to provide to the Franchise Tax Board (FTB) upon request documentation of the settlement payment received.

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 Revenue and Taxation Code (RTC) section 41, would require the FTB to deliver an anonymized report to the Legislature that complies with Section 9795 of the Government Code by April 1, 2023, that includes the following:

- The number of qualified taxpayers who received a payment in relation to the Woolsey Fire.
- The aggregate amount of those payments.

This reporting would be treated as an exception to the general prohibition against disclosure of taxpayer information.

This exclusion would be repealed on December 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.

*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.

This bill requires FTB to report on the number of qualified taxpayers who received a settlement payment relating to the Woolsey Fire and the aggregate amount of those payments. This bill also requires a qualified taxpayer to provide documentation of the settlement payment upon request of FTB. However, since this is an exclusion from gross income, FTB does not have information with respect to these payments. It is recommended that this bill be amended to include a requirement that the settlement entity, rather than the qualified taxpayer, provide documentation to the FTB in the form and manner requested by the FTB.

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. Additionally, this bill would require only one report to be issued by the FTB, however, the bill allows taxpayers to exclude income through December 1, 2028. The author may wish to amend the bill to extend the due date of the reporting requirement to allow the department to collect the necessary data for each year the exclusion is allowed.

*Technical Considerations*

For consistency of definitions, it is recommended that the definition of "Qualified amount" in Section 24309.1(b)(1) be changed to the language in Section 17138.6(b)(1). Without this change there will be no exclusion from gross income of amounts received in settlement from Southern California Edison in settlement for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire by a CTL taxpayer.

The Section 41 report only includes the number of qualified taxpayers that received a settlement payment in relation to the Woolsey Fire, however, this bill would exclude settlement payments from the 2017 Thomas Fire, as well. If this is contrary to the author's intent, the reporting requirement should be amended to include the 2017 Thomas Fire.

*Policy Considerations*

This bill provides different definitions for "Qualified taxpayer" under the PITL and CTL. Under the CTL, only taxpayers owning real property in the respective counties would qualify for the exclusion. Whereas under the PITL, a qualified taxpayer would include those that own real property as well as taxpayers residing in those counties. Generally, the definitions would be similar under the PITL and CTL so that the exclusion is applied in a similar manner. If the author's intent is for a "qualified taxpayer" under the CTL to include entities other than those that owned real property, it is recommended that the bill be amended.

## LEGISLATIVE HISTORY

AB 291 (Seyarto, et al., 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 1249 (Gallagher, et al., 2021/2022) 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. AB 1249 is currently in the committee process in the Senate Committee on Governance and Finance.

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. AB 1338 did not pass out of the Assembly before 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 SB1246 as Amended on March 16, 2022.
Assumed Enactment after June 30, 2022

($ in Millions)

| Fiscal Year | Revenue* |
|---|---:|
| 2022-2023 | -$28 |
| 2023-2024 | -$16 |
| 2024-2025 | -$9.4 |

* It is assumed that payments made by Southern California Edison to settle insurance claims would be paid directly to the qualified taxpayer and not to their insurance

company. In addition, the payments are based on estimated settlement funding published to date, as a result, the revenue impact could increase if additional funding is provided.

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

FTBLegislativeServices@ftb.ca.gov