STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Stern

Sponsor:

Bill Number: SB 1246

Related Bills: See Legislative History

Amended: May 9, 2022

SUBJECT

Gross Income Exclusions for Thomas and Woolsey Fire Victims

SUMMARY

This bill would provide to qualified taxpayers 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 May 9, 2022, amendments replaced the Corporation Tax Law (CTL) "qualified amount" definition with the same definition as provided in this bill under the Personal Income Tax Law (PITL); added an additional criteria to the definition of "qualified taxpayer" under the CTL; made changes to the Revenue and Taxation Code (RTC) section 41 reporting criteria; and modified the description of the legislature's findings and declarations.

The amendments resolved all of the technical and policy considerations as discussed in the department's analysis of the bill as introduced February 17, 2022, and amended March 16, 2022, and created an additional technical and policy consideration.

This analysis only addresses the provisions that would impact the department.

REASON FOR THE BILL

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

ANALYSIS

This bill would, under the PITL and CTL, exclude from gross income qualified amounts received by a qualified taxpayer.

For purposes of the PITL and CTL, 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 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.

The bill provides additional criteria for a taxpayer to be considered a "qualified taxpayer" that is different under the PITL and CTL.

Under the PITL, a "qualified taxpayer" would also include any taxpayer that either:

- Resided within the County of Ventura or Santa Barbara during the 2017 Thomas Fire for taxpayers who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2017 Thomas Fire.
- Resided within the County of Ventura or Los Angeles during the 2018 Woolsey Fire for taxpayers who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Woolsey Fire.

Under the CTL, a "qualified taxpayer" would also include any taxpayer to either:

- Have a place of business 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.
- Have a place of business 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 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 exclusion would be repealed on December 1, 2028.

This bill, for purposes of complying with 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 that excluded qualified amounts from gross income and the aggregate amount of those payments.

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

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, interest received on certain state or federal obligations, and certain qualified disaster relief payments.

Current federal and state laws do not specifically exclude from gross income amounts received from these specified wildfire settlements.

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 excluded qualified amounts from gross income, 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. It would also be helpful if the author clarified what payments this bill is referring to in SEC. 4. For example, the bill could include "settlement payments arising out of or pursuant to the 2017 Thomas Fire and 2018 Woolsey Fire."

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

In the definition of "qualified taxpayer," the language "incurred and paid" should be replaced with "paid or incurred."

Policy Considerations

This bill provides a different definition for "qualified taxpayer" under the PITL and CTL. The definition under the PITL does not include a place of business that could have been harmed by either specified wildfire while the CTL definition included any taxpayer that had a place of business within either of the specified wildfires. Generally, the definitions for an income exclusion would be similar under the PITL and CTL so that the exclusion is applied in a similar manner to all qualified taxpayers. If this is not the author's intent, for a "qualified taxpayer" under the PITL to exclude a place of business, 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, Amended on May 9, 2022.
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue*
2022-2023	-$11
2023-2024	-$7.6
2024-2025	-$4.4

*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

As per the May 21, 2022, Senate Floor Analyses of SB 1246, the following organizations support this bill.

Support

Consumer Attorneys of California
Howard Jarvis Taxpayers Association

Opposition

As per the same analysis, there is no opposition on file.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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