STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Stern

Sponsor:

Bill Number: SB 1246

Related Bills: See Legislative History

Amended: June 27, 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 June 27, 2022, amendments modified the definition of a "qualified taxpayer, added and defined a new term the "settlement entity," added an exception to the disclosure provisions for settlement entities, modified the Franchise Tax Board's (FTB) reporting requirements, and made other technical changes.

These amendments resolved some of the considerations as discussed in the department's analysis of the bill as amended May 9, 2022.

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 Personal Income Tax Law (PITL) and Corporation Tax Law (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" would be any amount received in settlement from Southern California Edison for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire.
- "Settlement entity" would mean the entity making the settlement payment to a qualified taxpayer.
- "Qualified taxpayer" would mean any of the following:
  - Any taxpayer that owned real property located in the County of Ventura or Santa Barbara during the 2017 Thomas Fire who paid or incurred 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 paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2018 Woolsey Fire.
  - Any taxpayer that owned a place of business within the County of Ventura or Santa Barbara during the 2017 Thomas Fire who paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2017 Thomas Fire.
  - Any taxpayer that owned a place of business within the County of Ventura or Los Angeles during the 2018 Woolsey Fire who paid or incurred 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 paid or incurred 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 paid or incurred 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 that either:

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

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 would require the settlement entity to provide to the FTB, upon request, documentation of the settlement payment received.

This bill, for purposes of complying with Revenue and Taxation Code (RTC) section 41, would require the FTB to deliver a report to the Legislature that complies with Section 9795 of the Government Code by December 31, 2027, that includes the following:

- The number of qualified taxpayers that excluded qualified amounts from gross income, and
- The aggregate amount of those settlement payments.

The settlement payment information and the Section 41 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

This bill defines, under the CTL, a qualified taxpayer as “any taxpayer that owned a place of business” or “as any taxpayer that had a place of business”. It is recommended that the author clarify the difference between the terms “owned a place of business” and “had a place of business” by providing definitions in the bill.

Technical Considerations

It is recommended that Section 17138.6(c) and 24309.1(c) remove “Notwithstanding Section 19542”. Section 19542 applies to the FTB's information not information provided to FTB.

To clarify the documentation to be provided by the settlement entity it is recommended that Section 17138.6(c) and 24309.1(c) replace “documentation of the settlement payment received” with “documentation of the settlement payments, in the form and manner requested by the Franchise Tax Board.”

Policy Considerations

This bill provides a different definition for “qualified taxpayer” under the PITL and CTL. 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 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 from the Fire Victims Trust settlement. AB 1249 was referred to the suspense file by the Senate Committee on Appropriations.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The provisions of the bill would impact the department's systems, resulting in processing and form revisions. Staff estimates the one-time cost to implement these provisions to be approximately $116,000 for fiscal year 2022-2023.

ECONOMIC IMPACT

Revenue Estimate

This estimated Revenue Impact is based on the bill, as amended on June 27, 2022. The estimate assumes enactment of the bill after June 30, 2022.

This bill would result in the following revenue loss:

($ 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

The June 29, 2022, Assembly Revenue and Taxation Committee analysis of SB 1246 did not include any support or opposition.

ARGUMENTS

None on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov