



Bill Analysis

Author: Lackey

Sponsor:

Bill Number: AB 1973

Related Bills: See Legislative
History

Introduced: January 30, 2024

SUBJECT

Gross Income Exclusion for Bobcat Fire

SUMMARY

The bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), would provide a qualified taxpayer an exclusion from gross income for any amount received from a settlement entity in connection with the 2020 Bobcat Fire.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to prevent undue hardship for taxpayers who paid or incurred expenses and received amounts in settlement as related to the 2020 Bobcat Fire.

ANALYSIS

This bill would, under the PITL and CTL, provide an exclusion from gross income any qualified amount received by a qualified taxpayer.

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

- “Qualified amount” means any amount received in settlement by a qualified taxpayer from a settlement entity in connection with the 2020 Bobcat Fire.
- “Qualified taxpayer” means any of the following:
 - Any taxpayer that owned real property located in the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2020 Bobcat Fire.
 - Any taxpayer that had a place of business within the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses

Introduced: January 30, 2024

and received amounts from a settlement arising out of or pursuant to the 2020 Bobcat Fire.

- “Settlement entity” means the entity making the settlement payment to a qualified taxpayer.

Under the PITL, a “qualified taxpayer” would also include any taxpayer that resided within the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2020 Bobcat Fire.

This bill would require the settlement entity to provide, upon request by the Franchise Tax Board (FTB), documentation of the settlement payments in the form and manner requested by the FTB.

This bill would, for purposes of complying with Revenue and Taxation Code (RTC) section 41, require the FTB to provide a written report to the Legislature on December 1, 2029, that includes the following:

- To the extent feasible, the number of qualified taxpayers that excluded qualified amounts from gross income, and
- the aggregate amount of those settlement payments arising out of the 2020 Bobcat Fire.

This bill would provide that the Section 41 reporting requirements be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

This bill would provide that this exclusion would remain in effect and be repealed on December 1, 2029.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2020, and before January 1, 2029.

Introduced: January 30, 2024

Federal/State Law

Federal Law

Existing federal law, Internal Revenue Code (IRC) section 139, provides a general exclusion that gross income does not include any amount an individual receives as a qualified disaster payment. A qualified disaster payment means amounts paid to, or for the benefit of, an individual for several purposes, including to:

- Reimburse or pay reasonable and necessary personal, family, living, or funeral expenses the individual incurred because of a qualified disaster; or
- Reimburse or pay reasonable and necessary expenses the individual incurred for the repair or rehabilitation of a personal residence or repair or replacement of its contents, to the extent that the need for such repair, rehabilitation, or replacement is attributable to a qualified disaster.

For any federally declared disaster, an individual may exclude from income a valid disaster relief payment, which includes any amount the individual receives from the settlement award for a purpose listed above.

A qualified disaster includes any federally declared disaster, as defined in IRC section 165(i). A federally declared disaster is any disaster the President of the United States determines assistance from the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act is warranted. (The Federal Emergency Management Agency's website, www.fema.gov, provides the listing of federally declared disasters.)

State Law

California generally conforms to IRC section 139, as described above, and specifically allows an exclusion from gross income for:

- Settlement payments received from the Fire Victims Trust.
- Settlement payments received from Southern California Edison for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire.
- Settlement payments received from Pacific Gas and Electric Company or its subsidiary for claims in connection with the 2019 Kincade Fire or the 2020 Zogg Fire.

Implementation Considerations

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

Introduced: January 30, 2024

The definition of “settlement entity” does not provide much clarity as to what type of entity is making the settlement payment. It is not clear whether these would include insurance payments, federal or state disaster assistance payments, or amounts received with respect to previously deducted amounts, such as casualty losses deducted in one year where recovery amounts are received in the same or subsequent years or insurance settlements where a business entity has deducted insurance premiums.

Technical Considerations

The author may want to remove the language “or pursuant to” under RTC section 17139.1(b)(2) and 24309.9(b)(2).

Policy Considerations

Because the definition of “settlement entity” does not identify a specific entity as typically done in similar bills, there is a possibility that payments between related entities could be excluded. If this is not the author’s intent, the bill should be amended accordingly.

LEGISLATIVE HISTORY

AB 294 (Petrie-Norris, 2023/2024) would provide a qualified taxpayer an exclusion from gross income for amounts received in settlement for a wildfire or natural disaster. This bill did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

SB 927 (Dahl, 2023/2024) would provide a taxpayer an exclusion from gross income for qualified amounts received in settlement to replace property damaged or destroyed in a natural disaster declared a state of emergency by the Governor and the President of the United States. This bill is in the Senate Committee on Revenue and Taxation.

SB 131 (Committee on Budget and Fiscal Review, Chapter 55, Statutes of 2023) among other things provided an exclusion from gross income for amounts received for settlement payments as a result of the 2019 Kincade Fire and 2020 Zogg fire.

SB 1246 (Stern and Valladares, Chapter 841, Statutes of 2022) provides, 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 allows refunds of tax previously paid on those amounts.

PROGRAM BACKGROUND

None noted.

Introduced: January 30, 2024

FISCAL IMPACT

FTB’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This proposal would allow a qualified taxpayer a gross income exclusion for amounts received from a settlement entity in connection with the 2020 Bobcat Fire. To determine the magnitude of the potential impact to the General Fund, both, the dollar amount arising from settlement payouts and the timing of those payments must be known. Because it is difficult to predict the amount and timing of settlement payouts, the revenue impact to the General Fund is unknown.

However, it is assumed that for every \$50 million in qualified settlement amounts received, and applying an average tax rate of 5 percent, the estimated revenue loss would be approximately \$2.5 million.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov