



Bill Analysis

Author: Wilk

Sponsor:

Bill Number: SB 1004

Related Bills: See Legislative
History

Introduced: February 1, 2024

SUBJECT

Gross Income Exclusion for Wildfire Settlement Payments

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 amounts received from a settlement entity for a wildfire.

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 own real property, have a business, or reside, in parts of California devastated by wildfire.

ANALYSIS

This bill, under the PITL and CTL, would provide an exclusion from gross income for 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 to replace property damaged or destroyed by wildfire if the property damaged or destroyed is located in an area of California damaged by a wildfire.
- “Qualified taxpayer” means any of the following:
 - Any taxpayer that owns real property located in an area damaged by a wildfire who paid or incurred expenses, and received amounts from a settlement, arising out of or pursuant to a wildfire.

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- o Any taxpayer that has a place of business within an area damaged by a wildfire who paid or incurred expenses, and received amounts from a settlement, arising out of or pursuant to a wildfire.
- “Settlement entity” means the entity, approved by a class action settlement administrator, making the settlement payment to a qualified taxpayer. The settlement entity would be required to provide, upon request by the Franchise Tax Board (FTB) or qualified taxpayer, documentation of the settlement payments in the form and manner requested by the FTB or the qualified taxpayer who may provide the documentation to the FTB upon request.

Under the PITL, a “qualified taxpayer” would also include any taxpayer that resides within an area damaged by a wildfire who paid or incurred expenses, and received amounts from a settlement, arising out of or pursuant to the wildfire.

This bill would require the FTB to provide a written report to the Legislature by November 1, 2027, on the number of qualified taxpayers that excluded qualified amounts from gross income, and the aggregate amount of those settlement payments arising out of wildfires.

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

Effective/Operative Date

This bill would be effective January 1, 2025, and operative for taxable years beginning on or after January 1, 2020.

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.

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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. California also 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

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

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 has been referred to the Senate Appropriations Committee.

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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.

AB 1249 (Gallagher, et al., Chapter 749, Statutes of 2022) provides 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.

SB 1246 (Stern, Chapter 841, Statutes of 2022) provides 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.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. The changes proposed in this bill could result in amended tax returns being filed by impacted taxpayers that have already filed returns prior to the bill's enactment. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would allow a taxpayer a gross income exclusion for any amount received by a qualified taxpayer to replace property damaged or destroyed by wildfire in California. To determine the magnitude of the potential impact to the General Fund, both, the frequency of wildfires and the dollar amounts arising from settlement payouts must be known. Because it is difficult to predict the frequency of wildfires as well as the amount and timing of settlement payouts, the revenue impact to the General Fund is unknown.

However, it is assumed that for every \$100 million in qualified settlement amounts received, and applying an average tax rate of 7 percent, the estimated revenue loss would be approximately \$7 million.

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.

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LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

None on file.

ARGUMENTS

None on file.

LEGISLATIVE CONTACT

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