



Bill Analysis

Author: Brian and Megan
Dahle

Sponsor:

Bill Number: SB 542

Related Bills: See Legislative
History

Amended: March 30, 2023

SUBJECT

Gross Income Exclusion for Zogg Fire Victims

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 in settlement to replace property damaged or destroyed by the 2020 Zogg Fire.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 30, 2023, amendments modified the operative date, resolved the implementation consideration, and made nonsubstantive renumbering changes.

REASON FOR THE BILL

The reason for this bill is to provide relief to taxpayers in the parts of California devastated by the 2020 Zogg Fire.

ANALYSIS

This bill under the PITL and CTL, for taxable years beginning on or after January 1, 2020, and before January 1, 2028, would provide an exclusion from gross income for any qualified amount received by a qualified taxpayer.

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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 to replace property damaged or destroyed by the 2020 Zogg Fire.
- “Qualified taxpayer” means any of the following:
 - Any taxpayer that owned real property located in the County of Shasta or the County of Tehama during the 2020 Zogg Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2020 Zogg Fire.
 - Any taxpayer that had a place of business within the County of Shasta or County of Tehama during the 2020 Zogg Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2020 Zogg Fire.
 - “Settlement entity” means Pacific Gas and Electric Company or its subsidiary making the settlement payment to a qualified taxpayer.

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 resided within the County of Shasta or County of Tehama during the 2020 Zogg Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2020 Zogg Fire.

The settlement entity would be required 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, 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 on December 1, 2028, that includes the following:

- 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 Zogg Fire

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

This exclusion would be repealed on December 1, 2028.

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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, 2028.

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. California also specifically allows an exclusion from gross income for:

- Settlement payments received from the Fire Victims Trust, and
- Settlement payments received from Southern California Edison for claims relating to the 2017 Thomas Fire or the 2018 Woolsey Fire.

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Implementation Considerations

None noted.

Technical Considerations

For technical accuracy, the phrase "paid and incurred" throughout the bill should be replaced with "paid or incurred."

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 has been referred to the suspense file in the Assembly Appropriations Committee.

SB 370 (McGuire, et al., 2023/2024) would provide qualified taxpayers an exclusion from gross income for amounts received in settlement of claims relating to the 2019 Kincade Fire and allow refunds of tax previously paid on those amounts. This bill has been referred to the suspense file in the Senate Appropriations Committee.

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 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.

FISCAL IMPACT

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

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ECONOMIC IMPACT

Revenue Estimate

To calculate the revenue impact of the gross income exclusion for amounts received in settlement to replace property damaged or destroyed by the 2020 Zogg fire, both the dollar amounts arising from settlement payouts and the timing of those payments must be known. Because the Zogg Fire is currently in litigation, it is difficult to predict the settlement outcome. As a result, the revenue impact is unknown.

However, it is assumed that for every \$100 million in qualified payments received, the estimated revenue loss would be approximately \$5 million.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support

As per the March 24, 2023, Senate Committee on Governance and Finance analysis of SB 542 (Dahle, et al., 2023/2024), the California Farm Bureau Federation, and the Residents of Igo and Ono support this bill.

Opposition

None on file.

ARGUMENTS

As per the same analysis dated March 24, 2023, there are no arguments in support or opposition of the bill on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov