STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Tangipa	Sponsor:	Bill Number: AB 376
	Related Bills: See Legislative History	Introduced: February 3, 2025

SUBJECT

Gross Income Exclusions for Wildfire Insurance Proceeds

SUMMARY

This bill, under Personal Income Tax Law (PITL), for taxable years beginning on or after January 1, 2025, and before January 1, 2030, would provide an exclusion from gross income for qualified insurance proceeds received by a qualified taxpayer.

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to provide financial relief to taxpayers impacted by wildfires.

ANALYSIS

This bill, under PITL, for taxable years beginning on or after January 1, 2025, and before January 1, 2030, would, for a qualified taxpayer, exclude qualified insurance proceeds from gross income.

This bill defines the following terms:

- "Qualified insurance proceeds" means any amount received by a qualified taxpayer under a homeowner's or renter's insurance policy for damages or expenses resulting from a fire occurring in any city or county that is proclaimed by the Governor to be in a state of emergency.
- "Qualified taxpayer" means any taxpayer that resided in any city or county impacted by fire at the time the Governor declares the area to be in a state of

emergency who paid or incurred expense and received insurance proceeds arising out of or pursuant to that fire.

This bill provides that a deduction would not be allowed for any amount for which the gross income exclusion is allowed.

This bill, for purposes of complying with Section 41, provides the specific goal of the exclusion is to provide essential relief to indiviudals who have suffered injury, loss, inconvenience, and expenses resulting from the fire. The detailed performance indicators for the Legislature to use to determine whether the exclusion is achieving its goal are the number of taxpayers excluding insurance proceeds from income and the total dollar value of insurance proceeds excluded.

This bill would require the Franchise Tax Board (FTB) to submit a report to the Legislature on or before January 1, 2030, detailing, to the extent data is available, the number of taxpayers excluding insurance proceeds from income and the total dollar value of insurance proceeds excluded.

Under this bill, the reporting requirements would be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

The exclusion would be repealed on December 1, 2030.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2025, and before January 1, 2030.

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, and
- Settlement payments received from the Pacific Gas and Electric Company or its subsidiary for claims relating to the 2019 Kincade Fire or the 2020 Zogg Fire.

In addition, under federal law, prior to 2018, and state law, a disaster loss occurs when business or personal property is completely or partially destroyed as a result of a fire, storm, flood, or other natural event in an area proclaimed to be a disaster by the President of the United States or, for state law purposes, by the Governor. For tax years 2018 and before 2026, the federal personal casualty and theft loss deduction is suspended, except for such losses incurred in a federally declared disaster area. However, federal law allows non-disaster casualty losses for those tax years (2018 through 2025) to be offset against casualty gains. California law does not conform to the suspension.

Under federal and state tax law, the taxpayer may elect to claim the disaster loss either in the year the loss occurs or in the year preceding the loss. This election allows the taxpayer to file an amended return immediately for the prior year.

Existing federal and state law allows an individual taxpayer with a disaster loss that is not reimbursed by insurance or otherwise, to deduct disaster losses to the extent that each loss exceeds $100 and aggregate net losses for the taxable year exceed 10 percent of adjusted gross income. Business and income-producing property are not subject to these limitations.

Under current state law, for taxable years beginning on or after January 1, 2014, and before January 1, 2029, a taxpayer may elect the same disaster loss treatment available under IRC section 165(i) for any loss sustained as a result of a disaster in any city, county, or city and county in California that has been proclaimed by the Governor to be in a state of emergency or as declared by the President. The IRC section 165(i) election relating to disaster losses could be made on a return or amended return filed on or before the due date of the return (including the extended due date) for the taxable year in which the disaster occurred.

Under existing state law, legislation that would create a new tax expenditure, which includes a credit, deduction, exemption, or any other tax benefit as provided for by the state, is required to include specific goals, purposes, objectives, detailed performance indicators and data collection requirement measures to allow the Legislature to evaluate the effectiveness of the tax benefit. Legislation that would create an income exclusion, would not require detailed performance indicators and data collection requirement measures if the Legislature determines there is no available data to collect and report.

Implementation Considerations

None noted.

Technical Considerations

For consistency and clarity, the author may want to add "city and county" in addition to "city or county" in the definitions in this section.

For clarity, in Section 17139.1(c), it is recommended that the phrase "No deduction shall be allowed with respect to any amount that a qualified taxpayer excludes from income pursuant to this section" be replaced with "If the exclusion allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer and reimbursed by insurance proceeds that is eligible for the exclusion shall be reduced by the amount of the exclusion provided in subdivision (a)."

For clarity, in Section 17139.1(d)(1)(B), it is recommended that the phrase "the total dollar value of insurance proceeds excluded" be replaced with "the amount of insurance proceeds excluded as provided in subparagraph (A) of paragraph (2) of subdivision (d)."

Policy Considerations

This bill does not limit the dollar amount that may be excluded from gross income. Income exclusions that could potentially be costly are sometimes limited on a per-taxpayer basis. If this is contrary to the author's intent, the author may wish to amend the bill to provide a provision limiting the amount or providing a phase out provision based on a taxpayer's income.

A bill that authorizes a gross income exclusion is exempt from including information about detailed performance indicators and data collection requirements, if the Legislature determines there is no available data to collect and report. This bill requires detailed performance indicators and data collection requirements. If the author determines there is no available data to collect or report, this information does not need to be included in the bill.

The bill does not disallow an increase to basis by the amount of the exclusion allowed, which could result in a double benefit.

LEGISLATIVE HISTORY

AB 97 (Lackey, 2025/2026) would provide a qualified taxpayer an exclusion from gross income for any qualified amount received from a settlement entity in connection with the 2020 Bobcat Fire for taxable years beginning on or after January 1, 2024, and before January 1, 2029. This bill has been referred to the Assembly Committee on Appropriations.

AB 429 (Hadwick, 2025/2026), under PITL and the CTL, would provide for taxable years beginning on or after January 1, 2022, and before January 1, 2027, an exclusion from gross income for amounts received by a qualified taxpayer in settlement for costs associated with the 2021 Dixie Fire and 2022 Mill Fire. This bill has been referred to the Assembly Committee on Appropriations.

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

SB 264 (Niello, Chapter 285, Statutes of 2023) under the PITL and Corporation Tax Law (CTL), extended the sunset date for the deduction for disaster losses sustained in Governor-declared disaster areas.

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 allows refunds of tax previously paid on those amounts.

AB 294 (Petrie-Norris, 2023/2024) would have provided 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 by the Constitutional deadline.

AB 1973 (Lackey, 2023/2024) would have provided a qualified taxpayer an exclusion from gross income for any amount received from a settlement entity in connection with the 2020 Bobcat Fire. This bill was vetoed by the governor whose veto message stated in part, “I wholeheartedly support the intent of these bills. In 2022, I signed legislation that provided similar tax exclusions for settlement claims resulting from catastrophic wildfires that occurred in the preceding five years. In signing those bills, I stated future measures, like these bills, should be included as part of the annual budget process given the General Fund implications. The following year, the Legislature enacted an income tax exclusion for an additional wildfire in the 2023-2024

SB 542 (Dahle, et al., 2023/2024), would have provided a qualified taxpayer an exclusion from gross income for amounts received in settlement to replace property damaged or destroyed by the 2020 Zogg Fire. This bill was vetoed by the governor whose veto message stated in part, “I wholeheartedly support the intent of these bills. In 2022, I signed legislation that provided similar tax exclusions for settlement claims resulting from catastrophic wildfires that occurred in the preceding five years. In signing those bills, I stated future measures, like these bills, should be included as part of the annual budget process given the General Fund implications. The following year, the Legislature enacted an income tax exclusion for an additional wildfire in the 2023-2024 Budget Act. As such, I strongly encourage the Legislature to include these proposals in next year's budget framework.”

PROGRAM BACKGROUND

None noted.

OTHER STATES’ INFORMATION

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 proposal would provide a gross income exclusion for any amount received by a qualified taxpayer as qualified insurance proceeds. To determine the magnitude of the potential impact to the General Fund, both the frequency of declared state of emergencies and the dollar amounts from qualified insurance proceeds must be known. Because it is difficult to predict the frequency of declared wildfire state of emergencies and qualified insurance proceeds paid, the revenue impact to the General Fund is unknown.

However, using an average tax rate of 7 percent, it is assumed that for every $10 million in qualified insurance proceeds excluded from income, the revenue loss would be approximately $700,000.

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.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov