STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Tangipa

Sponsor:

Bill Number: AB 376

Related Bills: See Legislative History

Amended: April 21, 2025

SUBJECT

Gross Income Exclusion for Wildfire Settlement Payments

SUMMARY

The bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), for taxable years beginning on or after January 1, 2023, and before January 1, 2028, would provide a qualified taxpayer an exclusion from gross income for amounts received from a settlement entity to replace property damaged or destroyed by wildfire located in an area of California damaged by the wildfire.

RECOMMENDATION

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

SUMMARY OF AMENDMENTS

The April 21, 2025, amendments removed the gross income exclusion for qualified insurance proceeds received by a taxpayer and replaced it with the provisions discussed in this analysis.

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 impacted by wildfires.

ANALYSIS

For taxable years beginning on or after January 1, 2023, and before January 1, 2028, the 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:

- A 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 would only apply under the PITL).
- A 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.
- A 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.

This bill would require the FTB to provide a written report to the Legislature by November 1, 2028, 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 and natural disasters.

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.

The exclusion would be repealed on December 1, 2028.

Effective/Operative Date

This bill would be effective January 1, 2026, and retroactively operative for taxable years beginning on or after January 1, 2023, 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.

The Federal Disaster Tax Relief Act of 2023 provides an exclusion from gross income for qualified wildfire relief payments received by or on behalf of an individual as compensation for losses, expenses, or damages (including compensation for additional living expenses, lost wages (other than compensation for lost wages paid by the employer which would have otherwise paid such wages), personal injury, death, or emotional distress) incurred as a result of a "qualified wildfire disaster." A qualified wildfire disaster is defined as a federally declared disaster, declared after December 31, 2014, as a result of any forest or range fire.

A federally declared disaster, as defined in IRC section 165(i), 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.) The gross income exclusion applies to qualified wildfire relief payments received during taxable years beginning after December 31, 2019, and before January 1, 2026, but only to the extent the losses, expenses, or damages compensated by such payment are not compensated for by insurance or otherwise.

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.

California does not conform to the federal gross income exclusion for qualified wildfire relief payments arising from a qualified wildfire disaster.

Current state law provides that for taxable years beginning on or after January 1, 2021, and before January 1, 2030, qualified amounts received from a settlement entity in connection with a qualified wildfire disaster in California are excluded from gross income of a qualified taxpayer. A qualified wildfire disaster means any disaster from a wildfire for which either the Governor has declared a state of emergency or 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.

Under Revenue and Taxation Code section 41, 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 is not required to provide detailed performance indicators and data collection requirement measures if the Legislature determines there is no available data to collect and report.

Implementation Considerations

The FTB has identified the following implementation, technical, and policy considerations and is available to work with the author’s office to resolve these and other considerations that may be identified.

This bill as introduced in the 2025 legislative session would allow taxpayers a gross income exclusion for settlement payments received for taxable years beginning on or after January 1, 2023, and before January 1, 2028. If this bill were to be enacted, the exclusion allowed by this bill would be considered retroactive to the specified operative date of January 1, 2023. The FTB has already developed the forms and instructions for the 2023 and 2024 taxable years, and most taxpayers have already filed their returns for the 2023 and 2024 taxable years. Thus, the FTB may incur additional costs to develop additional tax forms and process amended returns for taxpayers that already reported these payments as income. To alleviate these considerations, the author may wish to change the operative date to taxable years beginning on or after January 1, 2025.

Technical Considerations

For clarity, in Section 17139(b)(1) and Section 24309.4(b)(1), it is recommended that the phrase "any amount received in settlement by a qualified taxpayer to replace property" be replaced with "any amount received in settlement by a qualified taxpayer *from a settlement entity* to replace property…".

Policy Considerations

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.

Legislative History

SB 132 (Senate Committee on Budget, Chapter 17, Statutes of 2025), provides for taxable years beginning on or after January 1, 2021, and before January 1, 2030, gross income would not include any qualified amounts received by a qualified taxpayer in the taxable year.

SB 159 (Senate Committee on Budget, Chapter 112, Statutes of 2025), under the PITL and CTL, clarifies that the qualified amount and qualified taxpayer relate to qualified wildfire disasters, adds a definition of a qualified wildfire disaster, and modifies the definition of the settlement entity to mean any entity making settlement payments of a qualified amount to the qualified taxpayer for the gross income exclusion for taxable years beginning on or after January 1, 2021, and before January 1, 2030.

AB 97 (Lackey, et al., 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 did not pass out of the Assembly by the deadline.

AB 132 (Assembly Committee of Budget, 2025/2026) among other things, under the PITL and the CTL, for taxable years beginning on or after January 1, 2021, and before January 1, 2030, would allow a gross income exclusion to a qualified taxpayer who received qualified amounts from a settlement entity in connection with a wildfire in California. AB 132 did not pass by the deadline; however, most provisions of the bill were incorporated into SB 132.

AB 429 (Hadwick, et al., 2025/2026) would, under the PITL and the CTL, 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 the 2022 Mill Fire. This bill did not pass out of the Assembly by the deadline.

AB 755 (Tangipa, 2025/2026), would, under the PITL and CTL, for taxable years beginning on or after January 1, 2025, and before January 1, 2035, exclude from gross income, qualified income received by a qualified taxpayer in a qualified taxable year, not to exceed $300,000. This bill did not pass out of the Assembly by the deadline.

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 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.

SB 370 (McGuire, et al., 2023/2024) would have allowed an exclusion from gross income for amounts received in settlement for claims relating to the 2019 Kincade Fire and would have allowed refunds of tax previously paid on those amounts. This bill did not pass out of the Senate by the constitutional deadline.

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. SB 542 was vetoed by the governor whose veto message stated in part, “These bills would enact personal income and corporation tax exclusions for settlement payments related to specific wildfires occurring between 2020 and 2022. 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.”

SB 1004 (Wilk, 2023/2024) would have provided a qualified taxpayer an exclusion from gross income for amounts received from a settlement entity for a wildfire. This bill did not pass out of the Senate by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

OTHER STATES' INFORMATION

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.

ECONOMIC IMPACT

Revenue Estimate

This bill would allow a gross income exclusion for qualified amounts paid to qualified taxpayers by qualified settlement entities. To determine the magnitude of the potential impact to the General Fund, both the frequency of wildfires and the settlement amounts must be known. Because it is difficult to predict the frequency of wildfires and the amount of settlements paid, the revenue impact to the General Fund is unknown.

However, it is assumed that for every $100 million in qualified amounts received, after applying a 6 percent tax rate, the revenue loss would be approximately $6 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.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Assembly Committee on Revenue and Taxation, dated April 25, 2025.

Support

None on file.

Opposition

None on file.

ARGUMENTS

Assembly Committee on Revenue and Taxation, dated April 25, 2025.

Proponents

None on file.

Opponents

None on file.

LEGISLATIVE CONTACT

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