STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Hadwick, et al.

Sponsor:

Bill Number: AB 429

Related Bills: See Legislative History

Introduced: February 5, 2025
Amended May 8, 2025

SUBJECT

Gross Income Exclusion for the Dixie and Mill Fires

SUMMARY

The bill, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (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.

RECOMMENDATION

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

SUMMARY OF AMENDMENTS

The May 8, 2025, amendments modified the definitions of "qualified amount", "qualified taxpayer", and "settlement entity" to exclude the 2024 Park Fire.

This is the Franchise Tax Board's (FTB's) first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to provide financial relief to individuals who incurred expenses and suffered injury, loss, and inconvenience resulting from the 2021 Dixie Fire or the 2022 Mill Fire.

ANALYSIS

For taxable years beginning on or after January 1, 2022, and before January 1, 2027, the bill, under the PITL and the CTL, would provide for an exclusion from gross income for qualified amounts received by a qualified taxpayer for the 2021 Dixie Fire and the 2022 Mill Fire.

For purposes of the PITL and CTL, the bill defines the following terms:

- "Qualified amount" means any amount received in settlement by a qualified taxpayer from a settlement entity in connection with either of the following:
  - The 2021 Dixie Fire.
  - The 2022 Mill Fire.
- "Qualified taxpayer" means any taxpayer that paid or incurred expenses and received amounts from settlement arising out of the 2021 Dixie Fire and the 2022 Mill Fire and owned real property, or had a place of business located in:
  - The County of Butte, Plumas, Lassen, Shasta, or Tehama during the 2021 Dixie Fire,
  - The County of Siskiyou during the 2022 Mill Fire.
- "Settlement entity" means:
  - Pacific Gas and Electric Company or its subsidiary making the settlement payment to a qualified taxpayer in relation to the 2021 Dixie Fire,
  - Roseburg Forest Products or its subsidiary or agent making the settlement payment to a qualified taxpayer in relation to the 2022 Mill Fire.

The bill would provide additional criteria for a taxpayer to be considered a "qualified taxpayer" under the PITL than under the CTL. Under the PITL, a "qualified taxpayer" would also include any taxpayer that resided within the County of Butte, Plumas, Lassen, Shasta, or Tehama during the 2021 Dixie Fire; or the County of Siskiyou during the 2022 Mill Fire.

Under this bill, the settlement entity would be required to provide, upon request by the FTB, documentation of the settlement payments in a 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 on December 1, 2027, that, to the extent feasible, includes the number of qualified taxpayers that excluded qualified amounts from gross income, and the aggregate amount of those settlement payments. The FTB would be required to file this report in compliance with Government Code section 9795.

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, 2027.

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, 2022, and before January 1, 2027.

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)(5)(A), 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, as of January 1, 2015. 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.

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 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

This bill as introduced in the 2025 legislative session would allow taxpayers a gross income exclusion for payments made for taxable years beginning on or after January 1, 2022. If this bill were to be enacted this calendar year, the exclusions allowed by this bill would be considered retroactive to the specified operative date of January 1, 2022. The FTB has already developed the forms and instructions for the 2022 taxable year and most taxpayers have already filed their returns for the 2022 taxable year. 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 January 1, 2025.

Technical Considerations

In SEC. 3., replace Section 17139.4 and 24309.8 with Section 17139.8 and 24309.9.

The author may want to add commas throughout the definition of "qualified taxpayer", under each of the clauses of subparagraphs (A) and (B), to clarify that the amounts paid or incurred are arising out the fires. See the following example: "Any taxpayer that owned real property located in the County of Butte, Plumas, Lassen, Shasta, or Tehama during the 2021 Dixie Fire, that paid or incurred expenses and received amounts from a settlement, arising out of or pursuant to the 2021 Dixie Fire."

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. However, the Section 41 performance metrics outlined in this bill would not be included in any forms or expense schedules that are required to be filed with the tax return. 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

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 has been referred to the Senate Committee on Rules.

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 was held in the Assembly Revenue and Taxation Committee.

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 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. This bill was vetoed.

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 by the constitutional deadline.

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 allow a taxpayer a gross income exclusion for qualified settlement amounts paid to a qualified taxpayer for the Dixie and Mill fires. To determine the magnitude of the potential impact to the General Fund, the dollar amounts 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 payments, the revenue impact to the General Fund is unknown.

However, it is assumed that for every $100 million in qualified settlement amounts received, after applying an average tax rate of 6 percent, the estimated 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 May 2, 2025.

Support

Butte, County of
California Forestry Association
Rural County Representatives of California

Opposition

None on file.

ARGUMENTS

Assembly Committee on Revenue and Taxation, dated May 2, 2025.

Proponents

The bills is supported by the Rural County Representatives of California, noting in part:

> Communities and residents that were impacted by the 2021 Dixie Fire, the 2022 Mill Fire, and the 2024 Park Fire are still working to rebuild and recover from the impacts of those fires. AB 429 would aid residents impacted by those wildfires by providing income tax exclusions for settlement payments made as a result of those wildfires. This kind of relief is crucial to residents impacted by some of California's most destructive wildfires in the past decade as they try to rebuild their lives.

Opponents

None on file.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov