STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Tangipa

Sponsor:

Bill Number: AB 755

Related Bills: See Legislative History

Introduced: February 18, 2025

SUBJECT

Disaster Income Exclusion

SUMMARY

This bill would, under Personal Income Tax Law (PITL) and Corporation Tax Law (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.

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 exempt victims of natural disasters from state income taxes.

ANALYSIS

This bill would, under the PITL and CTL, for taxable years beginning on or after January 1, 2025, and before January 1, 2035, provide a gross income exclusion for qualified income received by a qualified taxpayer in a qualified taxable year, not to exceed $300,000.

The bill defines the following terms:

> "Qualified taxable year" would mean the taxable year in which the disaster occurred and the following taxable year.
>
> "Disaster" would mean a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic or other similar public calamity that the Governor determines presents a threat to public safety.

"Qualified income" would mean all taxable income earned by the taxpayer in that taxable year, not to exceed $300,000 per taxable year.

"Qualified taxpayer" would mean any of the following:

- Any taxpayer who owns real property located in an area damaged by a disaster, and the real property burned or was deemed uninhabitable due to the disaster.
- Any taxpayer who resides within an area damaged by a disaster, and whose residential dwelling unit burned or was deemed uninhabitable due to the disaster. (This requirement would only apply to qualified taxpayers under the PITL.)
- Any taxpayer who has a place of business within an area damaged by a disaster, and whose place of business burned or was deemed uninhabitable due to the disaster.

The qualified taxpayer would be required to, upon request, provide all necessary information in the form and manner prescribed by the Franchise Tax Board (FTB).

For purposes of complying with Section 41 of the Revenue and Taxation Code, the goal, purpose, and objective of the exclusion is to exempt victims of natural disasters from state income taxes to alleviate financial burdens during recovery, allowing them to focus on rebuilding their lives without the added stress of tax obligations.

The exclusion would be repealed by its own terms on December 1, 2035.

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, 2035.

Federal/State Law

Federal and state laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded. Types of income currently excluded include amounts received as a gift or inheritance, certain compensation for injuries and sickness, educational assistance programs, foster care payments, interest received on certain state or federal obligations, and qualified scholarships.

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 relief payment. A qualified disaster relief 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 for purposes 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.

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.
- Payments received from the California Wildfire Mitigation Financial Assistance Program.

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

The FTB has identified the following considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

Because gross income is the starting point to determine the taxable income when a taxpayer is filing their return, it is unclear how a taxpayer would exclude the first $300,000 of taxable income from gross income. The author may wish to amend this bill to provide further clarification as to how the income exclusion would work.

This bill uses the undefined term, "residential dwelling unit." The absence of a definition could lead to taxpayer confusion. For clarity, the author may wish to amend the bill to define this term.

The definition of a qualified taxpayer, as it relates to a residential dwelling unit, states in part, "…real property burned or was deemed uninhabitable due to the disaster." However, it's not clear who would be able to validate that the dwelling unit is burned, and to what extent. FTB does not have the expertise to determine if property has burned or if it is uninhabitable. Typically, for areas in which FTB does not have expertise, another agency can certify. The certification language should specify the responsibilities of both the certifying agency and the taxpayer. The author may wish to amend the bill to add certification language.

This bill would provide a tax benefit to PITL and CTL taxpayers who suffer a "disaster" as explained above. The term "disaster" may be too broad and could include more "disasters" than what the author may intend. The author may wish to replace "disaster" with either a natural disaster that was declared a state of emergency by the Governor, a federally declared disaster, or both.

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 would require detailed performance indicators and data collection requirements. The FTB's data on exclusions is usually incomplete because exclusions are not required to be reported on the tax return. This often results in a report with incomplete exclusion related data. If this is not the author's intent, the author may wish to amend the bill to include a determination that there is no available data to collect and report.

Technical Considerations

The bill uses the terms "earned by the taxpayer" and "received by a qualified taxpayer" interchangeably when referring to qualified income. For clarity, one definition of qualified income should be used consistently throughout the bill.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

SB 268 (Choi, et al., 2025/2026) would, under the PITL and the CTL, for taxable years beginning on or after January 1, 2025, provide a qualified taxpayer an exclusion from gross income for qualified amounts received from a settlement entity to replace property damaged or destroyed in a natural disaster declared a state of emergency by the Governor. SB 268 has been referred to the Senate Revenue and Taxation Committee.

SB 131 (Committee on Budget and Fiscal Review, Chapter 55, Statutes of 2023), under the PITL and the CTL, 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.

SB 264 (Niello, Chapter 285, Statutes of 2023), under the PITL and CTL, for taxable years beginning on or after January 1, 2014, and before January 1, 2029, extended the sunset date for the deduction for disaster losses sustained in Governor-declared disaster areas.

AB 1249 (Gallagher, Chapter 749, Statutes of 2022), under the PITL and the CTL, provided 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), under the PITL and the CTL, provided 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.

AB 294 (Petrie-Norris, 2023/2024), under the PITL and the CTL, 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 Assembly Appropriations Committee by the constitutional deadline.

AB 1973 (Lackey, 2023/2024), under the PITL and the CTL, 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. SB 542 (Brian and Megan Dahle, 2023/2024), under the PITL and the CTL, would have provided a qualified taxpayer an exclusion from gross income for amounts received from a settlement entity in connection with the 2021 Dixie Fire or the 2022 Mill Fire. Both AB 1973 and SB 542 were vetoed by Governor Newsom whose veto message stated in part, "…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 2023-24 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

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 provide a gross income exclusion for qualified income received by a qualified taxpayer, in the year in which the disaster occurred and the following taxable year, not to exceed $300,000 per taxable year. To determine the magnitude of the potential impact to the General Fund, both, the frequency of disasters and taxable income earned by any taxpayer whose real property, residence or place of business burned, or was deemed uninhabitable due to the disaster during the taxable year in which the disaster occurred and the following taxable year, must be known. Because it is difficult to predict the frequency of these disasters and qualified income earned by a qualified taxpayer, the revenue impact to the General Fund is unknown.

However, it is assumed that for every $100 million in qualified income received and excluded from taxable income, and applying an average tax rate of 6.2 percent, the revenue loss would be approximately $6.2 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

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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