STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Choi, et al.

Sponsor:

Bill Number: SB 268

Related Bills: See Legislative History

Amended: April 28 and May 7, 2025

SUBJECT

Disaster or Accidental or Human-Caused Event Settlement Gross Income Exclusion

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, 2025, and before January 1, 2030, would provide a qualified taxpayer an exclusion from gross income for amounts received from a settlement entity to replace property damaged or destroyed by a disaster or accidental or human-caused event for which a state of emergency or local emergency was proclaimed.

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 28, 2025, amendments added coauthors, modified and added definitions, modified the Revenue and Taxation Code (RTC) section 41 provisions, and added a sunset date and a repeal date for the exclusion provisions.

The May 7, 2025, amendments modified provisions related to documentation the settlement entity would be required to provide, removed an unnecessary provision in the CTL, and added a repeal date to the RTC section 41 provisions.

As a result of the amendments, all the previous implementation, technical and policy considerations discussed in the Franchise Tax Board (FTB) analysis of the bill as introduced on February 3, 2025, were resolved, and a new technical consideration was created.

REASON FOR THE BILL

The reason for the bill is to provide relief to taxpayers who have suffered property loss resulting from a disaster or accidental or human-caused event.

ANALYSIS

This bill, under the PITL and CTL, for taxable years beginning on or after January 1, 2025, and before January 1, 2030, would provide an exclusion from gross income for any qualified amount received by a qualified taxpayer.

This bill, for purposes of the PITL and CTL, would define:

"Qualified amount" as any amount received from a settlement entity by a qualified taxpayer to replace property that is located in a city or county in this state and that was damaged or destroyed by a disaster or accidental or human-caused event for which a state of emergency or local emergency was proclaimed.

A "qualified taxpayer" would mean any of the following:

- Any taxpayer that owns real property located in an area damaged by a disaster or accidental human-caused event who paid or incurred expenses, and received amounts from a settlement entity, arising out of or pursuant to the disaster or event.
- Any taxpayer that has a place of business within an area damaged by a disaster who paid or incurred expenses, and received amounts from a settlement entity, arising out of or pursuant to the disaster or event.
- Under the PITL only, a qualified taxpayer would also mean any taxpayer that resides within an area damaged by a disaster or accidental or human-caused event who paid or incurred expenses, and received amounts from a settlement entity, arising out of or pursuant to the disaster or event.

"Settlement entity" would mean the entity, approved by a class action settlement administrator, making the settlement payment to a qualified taxpayer.

"State of emergency" and "local emergency" would have the same meaning as those terms which are defined in Section 8558 of the Government Code (GOV) as follows:

- A "state of emergency" as defined in the GOV section 8558, means an official announcement of conditions of a disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

- A “local state of emergency" as defined in the GOV section 8558, means an official announcement of a disaster or of extreme peril to the safety of persons or property within the territorial limits of a county, city and county, or city caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, de-energization event, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage or deenergization event that requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

Upon request from the qualified taxpayer, the settlement entity would be required to provide documentation of the settlement payments in the form and manner as determined by the FTB. The qualified taxpayer or the settlement entity would be required to provide the documentation to the FTB if requested.

For purposes of complying with RTC section 41, this bill would provide that the specific goal, purpose, and objective of the exclusion is to provide essential relief to individuals who have suffered injury, loss, inconvenience, and expenses resulting from the disasters or accidental or human-caused events. With respect to the exclusion in this bill, the Legislature would find there is no available data to collect or report.

This 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 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 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.

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, a deduction, an 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

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

In Section 17139.4 (b)(2)(C), add "or accidental or human-caused event" after the word "disaster" and before "who paid or incurred expenses,…"

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 27 (Schiavo, et al., 2025/2026) would, under the PITL and CTL, create an exclusion from gross income for any amounts received from the Chiquita Canyon elevated temperature event for taxable years beginning on or after January 1, 2024, and before January 1, 2029. AB 27 is pending referral in the Senate Committee on Rules.

AB 97 (Lackey, 2025/2026) would, under the PITL and the CTL, 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. AB 97 is pending referral in the Senate Committee on Rules.

AB 376 (Tangipa, 2025/2026) would, under the PITL and CTL, provide a qualified taxpayer an exclusion from gross income for amounts received for costs and losses associated with wildfires. AB 376 was placed in the Assembly Committee on Revenue and Taxation's suspense file.

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. AB 429 is pending referral in the Senate Committee on Rules.

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 allowed 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 because he, "…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."

SB 927 (Dahle, et al., 2023/2024), similar to this bill, would have under the PITL and the CTL, provided 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 and the President of the United States. SB 927 did not pass out of the Senate by the constitutional deadline.

SB 1004 (Wilk and 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 for a wildfire. SB 1004 did not pass out of the Assembly by the constitutional deadline.

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 proposal would allow a taxpayer a gross income exclusion for any amount received by a qualified taxpayer to replace property damaged or destroyed by a disaster or accidental or human-caused event (events) that was declared a state or a local emergency in this state. To determine the magnitude of the potential impact to the General Fund, both the frequency of events and the dollar amounts arising from settlement payouts must be known. Because it is difficult to predict the frequency of the events as well as the amount and timing of settlement payouts, the revenue impact to the General Fund is unknown.

However, it is assumed that for every $100 million in qualified amounts received, and applying an average tax rate of 6.2 percent, the estimated 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

Senate Revenue and Taxation Committee Analysis dated May 9, 2025.

Support

California Apartment Association
Independent Insurance Agents & Brokers of California, Inc.

Opposition

None received.

ARGUMENTS

None on file.

LEGISLATIVE CONTACT

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