



Bill Analysis

Author: Lackey

Sponsor:

Bill Number: AB 97

Related Bills: See Legislative
History

Introduced: January 7, 2025

SUBJECT

Gross Income Exclusion for 2020 Bobcat Fire

SUMMARY

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

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 prevent hardship for taxpayers who paid or incurred expenses and received amounts in settlement as related to the 2020 Bobcat Fire.

ANALYSIS

This bill would, under the PITL and CTL, 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 from a settlement entity in connection with the 2020 Bobcat Fire.
- “Qualified taxpayer” means any of the following:
 - Any taxpayer that owned real property located in the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses and received amounts from a settlement arising out of the 2020 Bobcat Fire.
 - Any taxpayer that had a place of business within the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses and received amounts from a settlement arising out of the 2020 Bobcat Fire.
- “Settlement entity” means Southern California Edison or its subsidiary that is making the settlement payment to a qualified taxpayer.

Under the PITL, a “qualified taxpayer” would also include any taxpayer that resided within the County of Los Angeles during the 2020 Bobcat Fire who paid or incurred expenses and received amounts from a settlement arising out of the 2020 Bobcat Fire.

This bill would require the settlement entity to provide, upon request by the Franchise Tax Board (FTB), documentation of the settlement payments in the form and manner requested by the FTB.

This bill would require the FTB to provide a written report to the Legislature on December 1, 2029, that includes the following:

- To the extent feasible, the number of qualified taxpayers that excluded qualified amounts from gross income, and
- The aggregate amount of those settlement payments arising out of the 2020 Bobcat Fire.

This bill would provide that the Section 41 reporting requirements be treated as an exception to the general prohibition against disclosure of confidential taxpayer information.

This bill would provide that this exclusion would remain in effect only until December 1, 2029, and be repealed as of that date.

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, 2024, and before January 1, 2029.

*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.

A qualified disaster includes any federally declared disaster, as defined in IRC section 165(i)(5)(A). 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.)

The Federal Disaster Tax Relief Act of 2023 (H.R. 5863; Public Law 118-148) provides a gross income exclusion for any amount received as a qualified wildfire relief payment. A qualified wildfire relief payment means any amount 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, but only to the extent the losses, expenses, or damages compensated by such payment are not compensated for by insurance or otherwise. No adjustment to basis is allowed for amounts excluded.

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 Kincadee Fire or the 2020 Zogg Fire.

Implementation Considerations

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

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, 2024. 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, 2024. The FTB has already developed the forms and instructions for the 2024 taxable year and many taxpayers may have already filed their returns for the 2024 taxable year before enactment. 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

For consistency of terminology in Corporate Tax Law, consider replacing the term "who" in Sections 24309.9(b)(2)(A) and (B) with "that."

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 reporting requirement does not need to be included in the bill.

LEGISLATIVE HISTORY

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 Appropriations Committee 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

Budget Act. As such, I strongly encourage the Legislature to include these proposals in next year's budget framework."

SB 542 (Brian and Megan Dahle, 2023/2024) 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. 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."

SB 927 (Dahl, 2023/2024) would have provided a taxpayer an exclusion from gross income for qualified amounts received in settlement 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. This bill did not pass out of the Senate by the constitutional deadline.

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 Assembly by the constitutional deadline.

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 1246 (Stern and Valladares, Chapter 841, Statutes of 2022) provides, to qualified taxpayers, 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.

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 qualified taxpayer a gross income exclusion for settlement amounts received from Southern California Edison or its subsidiary in connection with the 2020 Bobcat Fire. To determine the magnitude of the potential impact to the General Fund, both, the dollar amount 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 payouts, the revenue impact to the General Fund is unknown.

However, it is assumed that for every \$50 million in qualified settlement amounts received, \$50 million in gross income would be excluded. After applying an average tax rate of 6 percent, the estimated revenue loss would be approximately \$3 million.

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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