

Date of Hearing: March 17, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 429 (Hadwick) – As Introduced February 5, 2025

2/3 vote. Urgency measure. Fiscal committee.

SUBJECT: Personal Income Tax Law: Corporation Tax Law: exclusions: wildfires

SUMMARY: Excludes from gross income amounts received by a "qualified taxpayer" as settlement payments related to certain fires. Specifically, **this bill:**

- 1) Excludes, under the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law, any "qualified amount" received by a "qualified taxpayer," for taxable years beginning on or after January 1, 2022, and before January 1, 2027.
- 2) Defines a "qualified amount" as any amount received in settlement by a "qualified taxpayer" in connection with:
 - a) The 2021 Dixie Fire;
 - b) The 2022 Mill Fire; or,
 - c) The 2024 Park Fire.
- 3) Defines a "qualified taxpayer" as:
 - a) Any taxpayer that owned real property located in, or had a place of business within, 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;
 - b) Any taxpayer that owned real property located in, or had a place of business within, the County of Siskiyou during the 2022 Mill Fire that paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2022 Mill Fire; or,
 - c) Any taxpayer that owned real property located in, or had a place of business within, the County of Butte or Tehama during the 2024 Park Fire that paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2024 Park Fire.
- 4) Provides that, for this bill's exclusion under the PIT Law, a "qualified taxpayer" includes any taxpayer that resided within:
 - a) 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;

- b) The County of Siskiyou during the 2022 Mill Fire that paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2022 Mill Fire; or,
 - c) The County of Butte or Tehama during the 2024 Park Fire that paid or incurred expenses and received amounts from a settlement arising out of or pursuant to the 2024 Park Fire.
- 5) Requires a "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.
- 6) Defines a "settlement entity" as:
- a) Pacific Gas and Electric Company (PG&E) or its subsidiary making the settlement payment to a qualified taxpayer in relation to the 2021 Dixie Fire; or,
 - b) Roseburg Forest Products or its subsidiary or agent making the settlement payment to a qualified taxpayer in relation to the 2022 Mill Fire.
- 7) Defines a "settlement entity" in relation to the 2024 Park Fire as:
- a) An entity, approved by a class action settlement administrator, making a settlement payment related to the 2024 Park Fire to a qualified taxpayer, under the PIT Law; and,
 - b) An unspecified entity or its subsidiary or agent making the settlement payment to a qualified taxpayer, under the CT Law.
- 8) Finds and declares that, for the purposes of complying with Revenue and Taxation Code (R&TC) Section 41, the specific goal, purpose, and objective of this bill is to provide essential relief to individuals who have suffered injury, loss, inconvenience, and expenses resulting from the devastating 2021 Dixie Fire, 2022 Mill Fire, and 2024 Park Fire. The performance indicators that the Legislature may use to determine whether this bill meets the stated goal, purpose, and objective are the number of qualified taxpayers that excluded amounts pursuant to this bill, and the aggregate amount of settlement payments related to the fires stipulated in this bill. The FTB must submit this information to the Legislature on December 1, 2027, and treats the disclosure of this information as an exception to the general prohibition on releasing personally identifying tax information.
- 9) Repeals this bill's provisions on December 1, 2027.
- 10) Finds and declares that this bill does not constitute a gift of public funds because this bill is necessary for the public purpose of preventing undue hardship to taxpayers who reside, or used to reside, in a part of California devastated by fire.
- 11) Takes immediate effect as an urgency measure and declares that this bill is necessary for the immediate preservation of the public peace, health, or safety, as defined in existing law, to provide essential relief to those persons that have suffered injury, loss, inconvenience, and expenses resulting from the devastating 2021 Dixie Fire, 2022 Mill Fire, and 2024 Park Fire.

EXISTING FEDERAL LAW:

- 1) Provides that gross income includes all income from whatever source derived, unless specifically excluded. (Internal Revenue Code (IRC) Section 61.)

- 2) Excludes from gross income amounts received as a qualified disaster relief payment, as defined, in presidentially declared disaster areas. (IRC Section 139.)
- 3) Authorizes a deduction equal to the amount of loss attributable to a federally declared disaster, to the extent those amounts are not reimbursed from other sources. (IRC Section 165.)
- 4) Excludes from gross income amounts of damages, other than punitive damages, received in a settlement on account of personal physical injuries or physical sickness. (IRC Section 104.)
- 5) Excludes from gross income a "qualified wildfire relief payment" received by an individual during taxable years beginning on or after December 31, 2019, and before January 1, 2026. A "qualified wildfire relief payment" is defined as any amount received by or on behalf of an individual as compensation for unreimbursed losses, expenses, or damages incurred, as provided, as a result of a forest or range fire declared as a disaster by the President after December 31, 2014. (Public Law 118-148.)

EXISTING STATE LAW:

- 1) Conforms, with certain modifications, to the definition of gross income provided in federal law. (R&TC Section 17071 and 24721.)
- 2) Conforms, with certain modifications, to the federal treatment of qualified disaster payments. (R&TC Section 17131 and 24329.)
- 3) Provides a corresponding state disaster loss deduction, mirrored on the federal disaster loss deduction, for disasters in areas of the state for which the Governor has proclaimed a state of emergency. (R&TC Section 17207.14 and 24347.)
- 4) Excludes from gross income settlement amounts received by qualifying taxpayers resulting from specified wildfires. (R&TC Sections 17138.5, 17138.6, 17139.2, 17139.3, 24309.1, 24309.3, 24309.6 and 24309.7.)

FISCAL EFFECT: The FTB, in its analysis of this bill, states that determining a definitive revenue impact is difficult, but notes that for every \$100 million in qualified settlement amounts received, the estimated revenue loss would be approximately \$6 million when applying a 6% tax rate. Committee staff notes that PG&E agreed to settle lawsuits related to the 2019 Kincade Fire and the 2021 Dixie Fire for \$55 million, and Roseburg Forest Products Company agreed to settle lawsuits related to the 2022 Mill Fire for an undisclosed amount. Given that only \$2.5 million of settlement amounts would need to be excluded under this bill if applying an average 6% tax rate to realize a \$150,000 revenue loss, this bill likely qualifies for this Committee's Suspense File.

COMMENTS:

- 1) The author has submitted the following statement in support of this bill:

Victims of recent wildfires, including the 2021 Dixie Fire, 2022 Mill Fire, and 2024 Park Fire, have faced substantial economic hardship due to property loss and displacement. The taxation of settlement funds exacerbates these difficulties by reducing the financial relief available to rebuild and recover.

By exempting these settlements from personal and corporate income tax, AB 429 ensures that victims receive the full compensation intended to aid their recovery, reducing financial strain and facilitating community rebuilding efforts.

Reports from wildfire recovery agencies and testimony from affected individuals highlight that taxation on settlements significantly hinders rebuilding efforts and prolongs economic distress.

2) The Rural County Representatives of California, writing in support of this bill, states, 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.

3) Committee Staff Comments:

- a) *California wildfires*: California has seen a sharp increase in the severity and frequency of wildfires in the last two decades. As of December 2024, the California Department of Forestry and Fire Protection notes that 15 of the 20 most destructive wildfires in California's history have occurred in the last decade. Additionally, eight of those 20 most destructive wildfires have been attributed to faulty power lines or electrical equipment.
- b) *Treatment of settlement awards*: Generally, federal and state law allow for the exclusion from gross income of amounts received in a settlement, other than punitive damages, which result from personal physical injuries or physical sickness. Amounts resulting from emotional distress, however, are included when calculating gross income unless the emotional distress is the result of physical injury or sickness. Additionally, federal and state law generally require inclusion of attorney's fees resulting from a settlement in the calculation of gross income. Payments received as a reimbursement of costs are excluded from gross income; however, to the extent that any settlement payment exceeds costs paid or incurred in connection with the event that caused the settlement, those amounts may be taxable income. Therefore, some portions of the disbursements issued from qualifying settlements may be included in gross income. This bill excludes from gross income all amounts received in settlements resulting from the 2021 Dixie Fire, the 2022 Mill Fire, or the 2024 Park Fire.
- c) *Tax treatment of federal disaster areas*: Federal and state law allow a deduction of losses sustained in federally declared disaster areas. The Dixie, Mill, and Park Fires were declared major disasters by the federal government, and unreimbursed losses sustained as a result of those fires are eligible to be deducted by taxpayers. Generally, higher income taxpayers derive a greater benefit from deductions. In addition to the deduction of qualified losses, taxpayers may exclude from gross income amounts of disaster relief payments issued for areas subject to a federally declared disaster. This bill excludes from gross income any amounts received by a qualified taxpayer as settlement related to the 2021 Dixie Fire, the 2022 Mill Fire, or the 2024 Park Fire.

- d) *This all seems familiar:* In the 2021-22 Legislative Session, this Committee heard and approved AB 1249 (Gallagher), Chapter 749, Statutes of 2022, and SB 1246 (Stern), Chapter 841, Statutes of 2022, which authorized a gross income exclusion for amounts received in settlement from specified wildfires.

Upon signing AB 1249 and SB 1246, Governor Newsom included a message related to these bills, partially stating that, "In signing this bill, I expect that building the associated revenue reduction of over \$200 million into the budget framework is equally supported. In the future, measures such as this should be included as part of the Budget Act." Acknowledging the Governor's request, the Legislature enacted two additional gross income exclusions for settlement amounts related to the 2019 Kincade Fire and the 2020 Zogg Fire by authorizing SB 131 (Committee on Budget and Fiscal Review), Chapter 55, Statutes of 2023. SB 131 incorporated the provisions of two separate bills, SB 370 (McGuire) and SB 542 (Dahle), which would have provided gross income exclusions for settlements arising out of the Kincade and Zogg fires.

In this year's proposed budget, the Governor included a provision to exclude settlement amounts received by a taxpayer resulting from a wildfire if the settlement was paid in the 2025 through 2029 taxable years. The gross income exclusion proposed by the Governor, however, would almost certainly not cover settlement payments related to the 2021 Dixie Fire and 2022 Mill Fire as some portion of those settlement amounts were almost certainly disbursed before this year.

- e) *The utility of settlements:* Lawsuits for wildfires have generally arisen when an entity is found responsible for igniting a damaging blaze. Thus, in an effort to resolve the lawsuit, the responsible entity may offer an amount to the plaintiffs to settle. In the case of both the Dixie Fire and the Mill Fire, the entities responsible for igniting those fires, PG&E and Roseburg Forest Products Company respectively, agreed to settle with plaintiffs for certain amounts.

Conversely, the Park Fire was determined to be ignited by an individual in an alleged act of arson. Thus, unlike the Dixie and Mill Fires, the likelihood that settlement payments to victims would arise out of this fire is exceedingly small. As such, the author and Committee may wish to consider removing settlement amounts awarded as a result of the Park Fire from this bill's exclusion.

- f) *Recent federal legislation addressing wildfire settlement payments:* In December 2024, President Biden signed House Resolution 5863 into law, thereby authorizing a gross income exclusion for wildfire reimbursement payments received by an individual on or after December 31, 2019 and before January 1, 2026. Thus, this bill would bring California into greater conformity with federal tax law.
- g) *FTB considerations:* In its analysis of this bill, the FTB notes the following:
- i) *Implementation consideration:* The FTB states that this bill provides a retroactive gross income exclusion, and that the FTB has already developed the forms and instructions for the intervening 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. Committee staff notes that the author

intends to exclude payments received in taxable years beginning in 2022, and this bill is appropriately retroactive.

- ii) *Technical considerations:* The FTB notes that the definition for "settlement entity" in relation to the Park Fire is not consistent under both the PIT Law and the CT Law. The author and Committee may wish to provide an identical definition for "settlement entity" in relation to the Park Fire under both the PIT Law and the CT Law.

Additionally, the definition of "qualified taxpayer" excludes commas that would clarify the treatment of these amounts. Specifically, the author and Committee may wish to consider amending this bill to insert commas throughout when defining a "qualified taxpayer" to read "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."

- h) *What is a "tax expenditure"?* Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, United States Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each of them (in the form of forgone revenues). This bill would authorize taxpayers to exclude amounts received in settlements related to the 2021 Dixie Fire, the 2022 Mill Fire, or the 2024 Park Fire, thereby qualifying this bill as a tax expenditure.
- i) *Committee's tax expenditure policy:* SB 1335 (Leno), Chapter 845, Statutes of 2014, added R&TC Section 41, which recognized that the Legislature should apply the same level of review used for government spending programs to tax credits introduced on or after January 1, 2015. AB 263 (Burke), Chapter 743, Statutes of 2019, extended the requirements in R&TC Section 41 to all tax expenditure measures under the PIT Law, the CT Law, and the Sales and Use Tax Law introduced on or after January 1, 2020. A tax expenditure proposal must outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote¹. Sunsets are required because eliminating a tax expenditure generally requires a 2/3 vote. These requirements must be satisfied before a bill can receive a vote in this Committee. This bill complies with the requirements of R&TC Section 41 and contains an appropriate five-year sunset.
- j) *Related legislation:* AB 97 (Lackey) would exclude from gross income any "qualified amount" received in settlement by a "qualified taxpayer" arising out of the 2020 Bobcat Fire. AB 97 is scheduled for a hearing in this Committee on March 17.
- k) *Previous legislation:* AB 294 (Petrie-Norris), of the 2023-24 Legislative Session, would have excluded from gross income any amount received by a qualified taxpayer as

¹ An "appropriate sunset provision" shall mean five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" shall mean 10 years.

settlement payments related to a wildfire. SB 294 was held on the Assembly Appropriations Committee's Suspense File.

REGISTERED SUPPORT / OPPOSITION:

Support

California Forestry Association
Rural County Representatives of California

Opposition

None on file

Analysis Prepared by: Harrison Bowlby / REV. & TAX. / (916) 319-2098