

Date of Hearing: May 5, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 27 (Schiavo) – As Amended March 3, 2025

SUSPENSE

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Personal Income Tax Law: Corporation Tax Law: Chiquita Canyon elevated temperature landfill event: exclusions

SUMMARY: Provides a gross income exclusion for amounts received as payment for losses related to the "Chiquita Canyon elevated temperature landfill event." Specifically, **this bill:**

- 1) Excludes from gross income, under the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law, for taxable years beginning on or after January 1, 2024, and before January 1, 2029, any "Chiquita Canyon elevated temperature event payment" received by a taxpayer.
- 2) Defines a "Chiquita Canyon elevated temperature landfill event payment" as any amount received by a taxpayer on or after March 1, 2024, as compensation for loss, damages, expenses, relocation, suffering, loss in real property value, closing costs with respect to real property, including relator commissions, or inconvenience, including access to the real property, resulting from the "Chiquita Canyon elevated temperature landfill event." A qualifying payment must have been provided by a federal, state, or local governmental agency, Waste Connections, Inc., or any subsidiary, insurer, or agent of, or any person related to, Waste Connections, Inc.
- 3) Defines the "Chiquita Canyon elevated temperature landfill event" as the elevated temperature landfill event (ETLE), beginning on May 1, 2022, that occurred beneath the Chiquita Canyon Landfill in the County of Los Angeles, California.
- 4) Requires a taxpayer to, upon request, provide the Franchise Tax Board (FTB) with any documentation of the Chiquita Canyon elevated temperature event payment amount, in the form and manner requested by the FTB.
- 5) Finds and declares that, for the purposes of complying with Revenue and Taxation Code (R&TC) Section 41, the goal, purpose, and objective of this bill's tax exclusion is to provide essential relief to individuals who have suffered loss, damages, expense, relocation, suffering, and inconvenience resulting from the Chiquita Canyon elevated temperature landfill event (ETLE). The Legislature may use the number of taxpayers that excluded amounts pursuant to this bill, and the aggregate amount excluded.
- 6) Makes this bill inoperative as of December 1, 2029
- 7) Takes immediate effect as a tax levy.

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.)

EXISTING STATE LAW:

- 1) Conforms, with certain modifications, to the definition of gross income. (R&TC Section 17071 and 24721.)
- 2) Conforms, with certain modifications, to the federal treatment of qualified disaster payments. (R&TC Section 17201 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.)

FISCAL EFFECT: The FTB notes that a definitive revenue impact is difficult to determine, as the amount of payments and the timing of the payments are unknown, but states that for every \$1 million in payments received, and applying a 4% tax rate, the estimated revenue loss would be approximately \$40,000. As of December 2024, Chiquita Canyon LLC reports that \$15 million had been disbursed through its community relief fund¹. Applying the FTB's calculation, a Committee staff estimate of this bill's revenue loss is \$600,000, thereby qualifying this bill for this Committee's suspense file.

COMMENTS:

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

Trash beneath the Chiquita Canyon Landfill has been smoldering for more than 2 years, directly affecting the homes, schools, and businesses in the surrounding area. These residents did not know what they were signing up for before moving to this area, but every day they experience headaches, nausea, tremors, and more due to the noxious gasses released by the underground reaction. There have been relief programs established to help residents do what they can to protect themselves or to seek temporary relief, but many fear accepting funds for the implications to assistance program eligibility or changes in their tax brackets. Those experiencing the brunt of toxic chemicals daily should not be punished for someone else's negligence. AB 27 will give them the relief

¹ Kazdin, Tess. *Los Angeles County Files Lawsuit Against Chiquita Canyon Landfill Operators*, Waste Today Magazine, <https://www.wastetodaymagazine.com/news/los-angeles-county-files-lawsuit-against-chiquita-canyon-landfill-operators/>, accessed March 2025.

they deserve and the confidence to accept additional resources from either the landfill or the government.

2) Climate Action California, writing in support of this bill, states, in part:

Climate Action California and the grassroots groups signing below have more than 12,500 supporters in our state. We are concerned about the terrible impacts the Chiquita Canyon Landfill disaster has inflicted upon the nearby environmental justice community of Val Verde.

We support Assembly Bill 27, which would provide a tax exemption to injured residents for received compensation related to the elevated temperature landfill event.

3) Committee Staff Comments:

- a) *Chiquita Canyon Landfill event:* Beginning in May 2022, an ongoing ETLE at the Chiquita Canyon Landfill has grown in size according to the United States Environmental Protection Agency (US EPA). The landfill is a 639-acre municipal solid waste facility in Los Angeles County operated by Chiquita Canyon, LLC, a subsidiary of Waste Connections, Inc. The ignition and expansion of this ETLE has negatively affected communities surrounding the landfill. The precise cause of the ETLE has yet to be determined, but the subsurface reaction at the landfill has impeded the ability to collect waste gas emitting from the landfill and has increased leachate production². Specifically, the ETLE has precipitated 6,800 odor complaints in 2023, and increased leachate production from approximately 150,000 gallons per week in January 2022, to over 1,000,000 gallons per week in December 2023³.
- b) *Response to the ETLE:* In November 2023, a multi-agency critical action team led by the US EPA was formed to address the ETLE. According to a list published by the South Coast Air Quality Management District, Chiquita Canyon, LLC has been issued 113 violations, all for the discharge of contaminants causing a nuisance, except one violation for failing to properly maintain equipment. The ETLE, however, was not declared a disaster at any level of government, and those impacted by the ETLE remain ineligible for disaster relief provisions in existing statute.

Waste Connections, Inc., the parent company of Chiquita Canyon LLC, began issuing reimbursement payments to those impacted by the ETLE, through its Community Relief Program (CRP). According to Chiquita Canyon, LLC's website, the CRP provided grants ranging between \$1,000 to \$2,000 per household to cover expenses related to mitigating the air contamination and odor emanating from the ETLE. Thus, these reimbursement payments are considered taxable income as no disaster has been declared by the President, and no state of emergency proclaimed by the Governor.

- c) *Federal legislative action:* Two measures have been introduced in Congress to exclude from gross income relief payments issued as a result of the Chiquita Canyon ETLE. Last

² Leachate, in the context of a landfill, is water that has percolated through the landfill, leaching chemicals or constituents from that waste.

³ US EPA, *Chiquita Canyon Landfill, Castaic, CA*, <https://www.epa.gov/ca/chiquita-canyon-landfill#reaction>, accessed February 2025.

year, US Representative Mike Garcia introduced House Resolution (HR) 9918, which would have included the payments issued by Chiquita Canyon, LLC as a qualifying disaster relief payment under IRC Section 139. This year, Representative George Whitesides has introduced HR 1179, which indicates its intent to address relief payments issued as a result of the ETLE, but no substantive text has been amended into the HR.

- d) *This bill*: As currently drafted, this bill would exclude certain payments issued related to the ETLE, if those payments were made on or after March 1, 2024. This bill, however, appears to omit the word "landfill" when stipulating what types of payments may be excluded from gross income, while including the "landfill" when defining a qualifying payment. The author and Committee may wish to consider providing that a "Chiquita Canyon elevated temperature landfill event payment" is a qualifying payment under this bill, rather than a "Chiquita Canyon elevated temperature event payment."
- e) *Out of conformity*: Generally, California conforms, with certain modifications, to federal tax law. Conformity promotes taxpayer compliance by reducing confusion and eases administration of tax law. This bill provides a gross income exclusion for which there is no similar provision in federal statute, thereby bringing California further out of conformity with federal law.
- f) *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 as payment for losses related to the Chiquita Canyon ETLE, thereby qualifying as a tax expenditure.
- g) *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 vote⁴. Sunsets are required because eliminating a tax expenditure generally requires a 2/3rd 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.

⁴ 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.

h) *FTB considerations*: The FTB has noted the following considerations in its analysis of this bill:

- i) *Implementation considerations*: This bill states that a taxpayer shall provide, upon request from the FTB, documentation of any payments received in the form and manner requested by the FTB. The FTB, however, may not be aware of which individuals or entities received payments. Generally, the payor is required to provide a list or other documentation to the FTB. The author and Committee may wish to amend this bill to instead require Waste Connections, Inc. or its subsidiary, to report requested information to the FTB.

Additionally, this bill would require the FTB to report on the number of qualified taxpayers that excluded qualified amounts from gross income, and the aggregate amount of those settlement payments arising out of the Chiquita Canyon ETLE. The FTB, however, notes that taxpayers are not required to report excluded income on their return, and some payment recipients may not have a filing requirement. As a result, the FTB may not be able to report the required information.

- ii) *Policy consideration*: This bill provides a retroactive gross income exclusion to January 1, 2024. The FTB has already developed the forms and instructions for the 2024 taxable year, and most taxpayers will have filed their 2024 returns by April of this year. Thus, the FTB may incur additional costs to develop additional tax forms and instructions before the filing deadline. Furthermore, if this bill were to be enacted before the filing deadline, the FTB may incur additional costs to process amended returns claiming the exclusion. While the FTB suggests amending this bill to be operative beginning January 1, 2025, Committee staff notes that the purpose of this bill is to authorize taxpayers to exclude amounts pursuant to this bill that were distributed in the 2024 taxable year, and retroactive application seems appropriate given the author's intent.

REGISTERED SUPPORT / OPPOSITION:

Support

Climate Action California
Climate Reality Project, San Fernando Valley
Climate Reality Project, Silicon Valley
Elders Climate Action, NorCal
Elders Climate Action, SoCal
Glendale Environmental Coalition
Santa Cruz Climate Action Network
350 Humboldt
350 Sacramento

Opposition

None on file

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