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AB-1249 Income taxes: gross income exclusions: wildfires. (2021-2022)

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Assembly Bill No. 1249

CHAPTER 749

An act to add and repeal Sections 17138.5 and 24309.3 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1249, Gallagher. Income taxes: gross income exclusions: wildfires.

(1) The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income.

Until January 1, 2028, this bill would provide an exclusion from gross income for any qualified taxpayer, as defined, for amounts received for costs and losses associated with one or more specified fires from a settlement, as provided.

(2) Existing law establishes the continuously appropriated Tax Relief and Refund Account and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account.

This bill would authorize the refund of overpayments of tax as a result of the above-described exclusion, in prior tax years, payable out of the Tax Relief and Refund Account. By authorizing new payments from a continuously appropriated fund, this bill would make an appropriation.

(3) Existing law requires that any bill introduced on or after January 1, 2020, that would authorize certain tax expenditures, as defined, or tax exemptions contain, among other things, specific goals, purposes, and objectives that the tax expenditure or exemption will achieve, detailed performance indicators, and data collection requirements.

This bill would include additional information required for any bill authorizing a new tax expenditure.

(4) This bill would apply its provisions to taxable years beginning before, on, and after the effective date of this bill. The bill would make legislative findings and declarations regarding the public purpose served by this bill.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) On September 9, 2015, a tree caught fire in the County of Amador, causing at least two deaths and extensive property damage in the Counties of Amador and Calaveras. This fire came to be known as the 2015 Butte Fire.

(b) In early October of 2017, multiple fires ignited throughout the Counties of Napa, Sonoma, Lake, Butte, Mendocino, and Solano, causing at least 44 deaths and more than \$14 billion dollars in property damage. These fires came to be known as the 37 Fire, Adobe Fire, Atlas Fire, Blue Fire, Cascade Fire, Cherokee Fire, Honey Fire, LaPorte Fire, Lobo Fire, Maacama/Youngs Fire, McCourtney Fire, Norrbom Fire, Nuns Fire, Partrick Fire, Pocket Fire, Point Fire, Pressley Fire, Pythian/Oakmont Fire, Redwood/Potter Valley Fire, Sullivan Fire, Sulphur Fire, and the Tubbs Fire, or collectively as the 2017 North Bay Fires.

(c) On November 8, 2018, an electrical transmission line operated by Pacific Gas and Electric Company (PG&E) ignited a fire in the County of Butte, causing at least 85 deaths, and causing property damage estimated at over \$16 billion dollars. This fire came to be known as the 2018 Camp Fire.

(d) On January 29, 2019, owing in large part to liability for damages caused by the fires in 2015, 2017, and 2018, PG&E Corporation and Pacific Gas and Electric Company jointly filed for bankruptcy protection in the United States Bankruptcy Court for the Northern District of California pursuant to Chapter 11 (commencing with Section 1101) of Title 11 of the United States Code. The plan of reorganization pursuant to that filing was approved by the court on June 20, 2020, and became effective on July 1, 2020. As part of that plan, the Fire Victim Trust was formed.

(e) The Fire Victim Trust evaluates, administers, processes, and resolves eligible claims arising from the fires that occurred in northern California in 2015, 2017, and 2018.

SEC. 2. Section 17138.5 is added to the Revenue and Taxation Code, to read:

17138.5. (a) Gross income does not include any qualified amount received by a qualified taxpayer.

(b) For purposes of this section:

(1) "Qualified amount" means any amount received in settlement by a qualified taxpayer from the Fire Victims Trust, established pursuant to 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.

(2) "Qualified taxpayer" means any of the following:

(A) (i) Any taxpayer that owned real property located in the County of Amador or Calaveras during the 2015 Butte Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2015 Butte Fire.

(ii) Any taxpayer that resided within the County of Amador or Calaveras during the 2015 Butte Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2015 Butte Fire.

(B) (i) Any taxpayer that owned real property located in the County of Napa, Sonoma, Lake, Butte, Mendocino, or Solano during the 2017 North Bay Fires who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to one or more of the 2017 North Bay Fires.

(ii) Any taxpayer that resided within the County of Napa, Sonoma, Lake, Butte, Mendocino, or Solano during the 2017 North Bay Fires who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to one or more of the 2017 North Bay Fires.

(C) (i) Any taxpayer that owned real property located in the County of Butte during the 2018 Camp Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Camp Fire.

(ii) Any taxpayer that resided within the County of Butte during the 2018 Camp Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Camp Fire.

(c) The Fire Victims Trust, shall provide, upon request by the Franchise Tax Board, an annual list of names, addresses, payment dates, and qualified amounts paid to qualified taxpayers.

(d) (1) This section shall apply to taxable years beginning before, on, or after the effective date of the act adding this section.

(2) If the credit or refund of any overpayment of tax resulting from the application of this section to a period before the effective date of this section is prevented as of that date by the operation of any law or rule of law, including res judicata, that credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the one-year period beginning on the effective date of the act adding this section.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 24309.3 is added to the Revenue and Taxation Code, to read:

24309.3. (a) Gross income does not include any qualified amount received by a qualified taxpayer.

(b) For purposes of this section:

(1) "Qualified amount" means any amount received in settlement by a qualified taxpayer from the Fire Victims Trust, established pursuant to 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.

(2) "Qualified taxpayer" means any of the following:

(A) Any taxpayer that owned real property located in the County of Amador or Calaveras during the 2015 Butte Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2015 Butte Fire.

(B) Any taxpayer that owned real property located in the County of Napa, Sonoma, Lake, Butte, Mendocino, or Solano during the 2017 North Bay Fires who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to one or more of the 2017 North Bay Fires.

(C) Any taxpayer that owned real property located in the County of Butte during the 2018 Camp Fire who incurred and paid expenses and received amounts from a settlement arising out of or pursuant to the 2018 Camp Fire.

(c) The Fire Victims Trust, shall provide, upon request by the Franchise Tax Board, an annual list of names, addresses, payment dates, and qualified amounts paid to qualified taxpayers.

(d) (1) This section shall apply to taxable years beginning before, on, or after the effective date of the act adding this section.

(2) If the credit or refund of any overpayment of tax resulting from the application of this section to a period before the effective date of this section is prevented as of that date by the operation of any law or rule of law, including res judicata, that credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the one-year period beginning on the effective date of the act adding this section.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 4. (a) For the purpose of complying with Section 41 of the Revenue and Taxation Code, the Legislature finds and declares that the purpose of the tax expenditure allowed pursuant to Sections 17138.5 and 24309.3 of the Revenue and Taxation Code, as added by this act, is to provide essential relief to individuals who have suffered injury, loss, inconvenience, and expenses resulting from the devastating wildfires in 2015, 2017, and 2018.

(b) (1) On April 1, 2023, the Franchise Tax Board shall deliver to the Legislature a written report that includes both of the following:

(A) The number of qualified taxpayers who received a payment from the Fire Victims Trust.

(B) The aggregate amount of those payments.

(2) The report required by this subdivision shall be delivered to the Legislature pursuant to Section 9795 of the Government Code.

(3) The disclosure provisions of this subdivision shall be treated as an exception to Section 19542 of the Revenue and Taxation Code, and any taxpayer information shall be in an aggregate and anonymized form.

SEC. 5. The Legislature finds and declares that Sections 17138.5 and 24309.3 of the Revenue and Taxation Code, as added by this act, are necessary for the public purpose of preventing undue hardship to taxpayers who reside, or used to reside, in a part of California devastated by wildfires, and do not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide essential relief to those persons who have suffered injury, loss, inconvenience, and expenses resulting from the devastating wildfires in 2015, 2017, and 2018 as soon as possible, it is necessary that this act take effect immediately.