
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

Bill No:	AB 1249	Hearing Date:	6/1/22
Author:	Gallagher	Tax Levy:	No
Version:	5/18/22 Click here to enter text.	Fiscal:	Yes
Consultant:	Deitchman		

INCOME TAXES: GROSS INCOME EXCLUSIONS: WILDFIRES

Excludes settlement payments made in connection with the fires associated with the Pacific Gas and Electric (PG&E) Trust fund from taxable income.

Background

Tax expenditures. California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around \$81.1 billion per year.

Income. Existing federal and state laws provide that gross income includes all income from any source, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded. Existing federal and state laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations. Current federal and state laws do not specifically exclude amounts received from a specified fire settlement from gross income.

Treatment of settlement awards. Generally, federal and state law allows 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. Additionally, payments received as a reimbursement of costs, for example paid to rebuild a destroyed home, are excluded from gross income. However, amounts resulting from emotional distress are included when calculating gross income, unless the emotional distress is the result of physical injury or sickness. In some cases, federal and state law require inclusion of attorney's fees resulting from a settlement in the calculation of gross income. To the extent that any settlement payment exceeds costs incurred or paid in connection with the event that caused the settlement, that income may be taxable.

California Fires. Over the last decade, California has experienced increased, intense, and record-breaking wildfires throughout the state. These fires have resulted in devastating loss of life and billions of dollars in damage to property and infrastructure. Fires attributed to power lines and electrical equipment comprise nine of the 20 most destructive fires in California

history. According to Cal Fire, in 2021 alone there were over 8,000 incidents and over 2.5 million acres of scorched land. In 2020, wildfires destroyed 4.5 million acres.¹

Camp Fire. In November 2018, multiple victims of the Camp Fire sued PG&E. In January 2019, PG&E declared bankruptcy resulting from investigative findings that the company's equipment sparked a number of wildfires, including the Camp Fire. On June 20, 2020, the United States Bankruptcy Court for the Northern District of California approved PG&E's bankruptcy plan, which established a trust.² This trust was established as part of the PG&E bankruptcy to pay fire victims and authorized \$13.5 billion in compensation to victims of the 2015 Butte Fire, the 2017 North Bay Fires, and the 2018 Camp Fire.

Seeking to provide relief to those residents and owners impacted by the Butte, North Bay and Camp fires, the author wants exclude the payments made in connection from taxable income.

Proposed Law

Senate Bill 1249 excludes from gross income for state tax purposes any amount received in settlement claims including payments made from the PG&E trust to fire victims by a qualified taxpayer from PG&E related to the 2015 Butte, 2017 North Bay, and 2018 Camp fires. This income is excluded for both Personal Income and Corporation taxpayers and is operative for all taxable years until the 2028 taxable year.

The bill defines a “qualified taxpayer” as a taxpayer that owned real property or resided in either the counties of Amador, Calaveras, Napa, Sonoma, Lake, Butte, Mendocino or Solano and received qualified amounts in connection with either the 2015 Butte fire, the 2017 North Bay fire, or the 2018 Camp fire, and paid or incurred expense related to those fires.

SB 1249 defines “qualified amount” to mean the amount received in settlement by a qualified taxpayer from the fire victims’ trust.

The measure requires the qualified taxpayer to provide documentation of the settlement payment received to the Franchise Tax Board (FTB) upon request.

The bill requires FTB to deliver to the Legislature a written report that includes the number of qualified taxpayers who received a settlement payment from the fire victims’ trust and the aggregate amount of those payments.

State Revenue Impact

FTB estimates this bill would reduce General Fund revenues by \$55 million in fiscal year 2021-22, \$90 million in fiscal year 2022-23, \$48 million in fiscal year 2023-24 and \$32 million in fiscal year 2024-25.

¹ <https://www.fire.ca.gov/incidents/2021/>

² Established pursuant to the order of the United States Bankruptcy Court for the Northern District of Columbia dated June 20, 2020

Comments

1. Purpose of the bill. According to the author, “AB 1249 would clarify California’s tax code to exclude certain wildfire victims from paying state taxes on compensation for damages received out of PG&E’s “Fire Victim Trust.” This would help ensure fire victims receive just compensation for the economic and non-economic damages caused by those wildfires. Exempting gross income from state tax for claims paid out of the Fire Victim Trust would be a tremendous help to wildfire victims. With PG&E’s stock projected to sell for lower than victims were promised, leaving the trust short billions of dollars, exempting settlements from state taxes would provide much needed and timely relief for these victims.”

2. Revenue loss. Existing tax law provides various credits, deductions, exclusions, and exemptions for certain taxpayers. Since these items are enacted to accomplish some governmental purpose and determined to have a cost — in the form of foregone revenues — state law refers to them as "tax expenditures." This bill would create a new tax expenditure, costing the General Fund in foregone revenue. As a result, the state will have to reduce spending or increase taxes to match the foregone revenue. The Committee may wish to consider whether AB 1249 is worth the tradeoff of spending cuts and/or raising taxes.

3. Relief for all victims. The bill would only provide tax relief for those fire victims that received compensation from the Pacific Gas and Electric Company’s fire victims’ trust fund which includes several fires including the Camp Fire. Similarly, SB 1246 (Stern) allows an income exclusion for taxpayers that received compensation as a result of the Woolsey and Thomas fires. SB 1246 is currently pending referral in the Assembly.

5. No conformity. The bill creates an income exclusion for income that would not be allowed at the federal level. As a result, taxpayers may have to include the same income for federal purposes that they would exclude for state purposes, which can create confusion for taxpayers.

6. Urgency. As an urgency statute, SB 1249 must be approved by 2/3 vote of each house of the Legislature. Regular legislation takes effect on the January 1 following its passage, but urgency bills take effect as soon as they are passed, signed, and chaptered.

Assembly Actions

Assembly Revenue and Taxation Committee:	9-0
Assembly Appropriations Committee:	15-0
Assembly Floor:	74-0

Support and Opposition (5/26/22)

Support:

Consumer Attorneys of California	Paradise Ridge Chamber of Commerce
Howard Jarvis Taxpayers Association	Rural County Representatives of California
Legal Aid of Sonoma	2 Individuals

Opposition: None submitted.