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AMENDED IN SENATE MARCH 28, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL**NO. 370**

Introduced by Senator McGuire
(Coauthor: Senator Dodd)
(Coauthors: Assembly Members Connolly and Wood)

February 09, 2023

An act to add and repeal Sections 17139.2 and 24309.6 of the Revenue and Taxation Code, relating to taxation, ~~making an appropriation therefor~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 370, as amended, McGuire. Personal Income Tax Law: Corporation Tax Law: wildfires: exclusions.

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.

This bill would, for taxable years beginning on or after January 1, 2020, provide an exclusion from gross income for any qualified taxpayer, as defined, for amounts received ~~for costs and losses~~ in settlements associated with the 2019 Kincade Fire in the County of Sonoma, as provided.

~~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 make an appropriation from the Tax Relief and Refund Account to the Franchise Tax Board in an amount necessary to make payments of refunds made necessary by the above-described exclusion.~~

Existing law requires that any bill that would authorize certain tax expenditures 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.

~~This bill would apply its provisions to taxable years beginning before, on, and after the effective date of this bill. The~~

The bill would make legislative findings and declarations regarding the public purpose served by this bill.

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

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

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

SECTION 1. *The Legislature finds and declares as follows:*

(a) On October 23, 2019, the Kincade Fire ignited in the County of Sonoma. The Kincade Fire burned for nearly 14 days across 77,758 acres after it was first reported in The Geysers at 9:24 p.m. The fire destroyed over 370 structures.

(b) The Kincade Fire was fully contained on November 6, 2019.

(c) Since 2019, Pacific Gas and Electric Company has been involved in litigation with the victims of the Kincade Fire, and has entered into settlement agreements with many concerned.

~~SECTION 1.~~**SEC. 2.** Section 17139.2 is added to the Revenue and Taxation Code, to read:

17139.2. (a) For taxable years beginning on or after January 1, 2020, 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 ~~to replace property damaged or destroyed by~~ *from a settlement entity in connection with* the 2019 Kincade Fire.

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

(A) Any taxpayer that owned real property located in the County of Sonoma during the 2019 Kincade Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2019 Kincade Fire.

(B) Any taxpayer that resided within the County of Sonoma during the 2019 Kincade Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2019 Kincade Fire.

(C) Any taxpayer that had a place of business within the County of Sonoma during the 2019 Kincade Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the Kincade Fire.

(3) "Settlement entity" means ~~the entity~~ *Pacific Gas and Electric Company or its subsidiary that is* making the settlement payment to a qualified taxpayer.

(c) The settlement entity shall provide, upon request by the Franchise Tax Board, documentation of the settlement payments in the form and manner requested by the Franchise Tax Board.

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

~~(2) There is hereby appropriated from the Tax Relief and Refund Account to the Franchise Tax Board an amount necessary to make payments of refunds made necessary by the exclusion provided by this section.~~

~~(e)~~

(d) (1) For the purpose of complying with Section 41 in regards to the exclusion provided by this section and Section 24309.6, the Legislature finds and declares that the specific goal, purpose, and objective of the tax exclusion is to provide essential relief to individuals who have suffered injury, loss, inconvenience, and expenses resulting from the devastating 2019 Kincade Fire.

(2) (A) On December 31, 2028, the Franchise Tax Board shall deliver to the Legislature a written report that includes both of the following:

(i) The number of qualified taxpayers that excluded qualified amounts from gross income, as those terms are used in this section and Section 24309.6, as a result of the exclusion.

(ii) The aggregate amount of those settlement payments arising out of the 2019 Kincade Fire.

(B) The report required by this paragraph shall be delivered to the Legislature in compliance with Section 9795 of the Government Code.

(C) The disclosure provisions of this subdivision shall be treated as an exception to Section 19542.

~~(f)~~

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

~~SEC. 2.~~**SEC. 3.** Section 24309.6 is added to the Revenue and Taxation Code, to read:

24309.6. (a) For taxable years beginning on or after January 1, 2020, 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 ~~to replace property damaged or destroyed by~~ *from a settlement entity in connection with* the 2019 Kincade Fire.

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

(A) Any taxpayer that owned real property located in the County of Sonoma during the 2019 Kincade Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2019 Kincade Fire.

(B) Any taxpayer that had a place of business within the County of Sonoma during the 2019 Kincade Fire who paid and incurred expenses and received amounts from a settlement arising out of or pursuant to the 2019 Kincade Fire.

(3) "Settlement entity" means ~~the entity~~ *Pacific Gas and Electric Company or its subsidiary that is* making the settlement payment to a qualified taxpayer.

(c) The settlement entity shall provide, upon request by the Franchise Tax Board, documentation of the settlement payments in the form and manner requested by the Franchise Tax Board.

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

~~(2) There is hereby appropriated from the Tax Relief and Refund Account to the Franchise Tax Board an amount necessary to make payments of refunds made necessary by the exclusion provided by this section.~~

~~(e)~~

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

~~SEC. 3.~~**SEC. 4.** The Legislature finds and declares that Sections 17139.2 and 24309.6 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. 4.~~**SEC. 5.** 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 2019 Kincade Fire as soon as possible, it is necessary that this act take effect immediately.