

SUMMARY ANALYSIS OF AMENDED BILL

Author: Calderon/Correa Analyst: Scott McFarlane Bill Number: SB 97

Related Bills: See Prior Analysis Telephone: 845-6075 Amended Date: January 11, 2010

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Mortgage Forgiveness Debt Relief Extension

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED

JANUARY 26, 2009, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would allow a taxpayer that had all or part of the loan balance on their principal residence forgiven by their lender in 2009, 2010, 2011, or 2012 to exclude up to a maximum of \$500,000 from gross income.

SUMMARY OF AMENDMENTS

The January 11, 2010, amendments would:

- Increase the exclusion limitation from \$250,000 (\$125,000 in the case of a married individual filing a separate return) to \$500,000 (\$250,000 in the case of a married individual filing a separate return); and
- Provide that no penalties or interest shall apply with respect to indebtedness forgiven in 2009.

As a result of the amendments, and the veto of AB 1580 (2009/2010), the “This Bill,” “Legislative History,” and “Economic Impact” sections have been revised. The remaining applicable sections of the analysis of the bill as introduced on January 26, 2009, still apply.

Board Position:

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Legislative Director

Date

Brian Putler

02/18/10

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to protect California homeowners who are struggling in today's troubled housing market.

EFFECTIVE/OPERATIVE DATE

As a tax levy, the bill would be effective immediately and would be retroactively operative for discharges of indebtedness occurring on or after January 1, 2009.

POSITION

Pending.

Summary of Suggested Amendments

Amendments one through five are suggested to make technical corrections.

ANALYSIS

THIS BILL

This bill would provide a four-year extension on the income exclusion of any discharge-of-indebtedness income (i.e., cancellation-of-debt (COD) income) by reason of a discharge of qualified principal residence indebtedness. The extension would apply to discharges occurring on or after January 1, 2009, and before January 1, 2013.

This bill would modify the federal income exclusion for mortgage forgiveness debt relief as follows:

- The maximum amount of qualified principal residence indebtedness (i.e., the amount of principal residence indebtedness eligible for the exclusion) would be reduced.
 - o The California maximum amount of qualified principal residence indebtedness would be \$800,000 (\$400,000 in the case of a married/registered domestic partner (RDP) individual filing a separate return).
 - o The federal maximum amount of qualified principal residence indebtedness is \$2,000,000 (\$1,000,000 in the case of a married individual filing a separate return).
- The total amount that may be excluded from income would be limited.
 - o The California limit on the total amount excludable from income would be \$500,000 (\$250,000 in the case of a married/RDP individual filing a separate return).
 - o There is no comparable federal limitation.
- No interest or penalties would apply to discharges occurring in the 2009 taxable year.
 - o This bill would provide that no interest or penalties would apply with respect to any discharge of qualified principal residence that occurred during the 2009 taxable year.
 - o There is no comparable federal provision for interest or penalties.

LEGISLATIVE HISTORY

AB 111 (2009/2010, Niello) was similar to this bill, except that the total amount excludable would have been limited to \$250,000 (\$125,000 in the case of a married/RDP individual filing a separate return), and that bill would not have provided that interest and penalties would not apply with respect to discharges that occurred during the 2009 taxable year. That bill was held in the Senate Revenue and Taxation Committee.

AB 1580 (2009/2010, Calderon) would have extended mortgage forgiveness debt relief through 2012, with the same modifications that are in this bill, except that bill would not have provided that interest and penalties would not apply with respect to discharges that occurred during the 2009 taxable year. That bill was vetoed by the Governor on October 11, 2009.

AB 1918 (Niello, 2007/2008) was nearly identical to SB 1055 (Machado/Correa, 2007/2008), except that it did not contain the \$250,000/\$125,000 exclusion limitation. That bill was held in the Assembly Appropriations Committee.

SB 1055 (Machado/Correa, 2007/2008, Ch. 282, Laws 2008) generally conforms California law to the federal Mortgage Forgiveness Debt Relief Act of 2007, with the following modifications: (1) the exclusion applies to discharges occurring in 2007 and 2008; (2) the total amount of qualified principal residence indebtedness is limited to \$800,000 (\$400,000 in the case of a married/registered domestic partner (RDP) individual filing a separate return); (3) the total amount excludable is limited to \$250,000 (\$125,000 in the case of a married/RDP individual filing a separate return); and (4) interest and penalties are not imposed with respect to discharges that occurred in the 2007 taxable year.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 97 as Amended January 11, 2010 Effective for Tax Years Beginning On or After January 1, 2009 Enactment Assumed After June 30, 2010 \$ in Millions			
	2010-11	2011-12	2012-13
Income Exclusion	-\$15	-\$10	-\$9
Penalty and Interest Waiver	-\$250,000		

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 97
As Amended January 11, 2010

AMENDMENT 1

On page 2, line 11, strikeout "is additionally", and insert:
and amended by Section 303 of the Emergency Economic Stabilization Act of 2008
(Public Law 110-343) is

AMENDMENT 2

On page 3, lines 8-9, strikeout "Mortgage Forgiveness Debt Relief
Act of 2007 (Public Law 110-142)", and insert:
Emergency Economic Stabilization Act of 2008 (Public Law 110-343)

AMENDMENT 3

On page 3, line 9, strikeout "and", and insert:
of

AMENDMENT 4

On page 3, line 10, strikeout "January 1, 2013", and insert:
January 1, 2013

AMENDMENT 5

On page 3, line 16, after "(Public Law 110-142)", insert:
and Section 303 of the Emergency Economic Stabilization Act of 2008 (Public
Law 110-343)