Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Dutton | Analyst: Angela Raygoza | Bill Number: SB 49

Related Bills: See Prior Analysis | Telephone: 845-7814 | Amended Date: May 6, 2009

Attorney: Patrick Kusiak | Sponsor:

SUBJECT: Qualified Principal Residence Purchase Credit

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

_X_ 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 ________________.

_X_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 14, 2009, STILL APPLIES.

_X_ OTHER – See comments below.

SUMMARY

This bill would make substantive changes to the Qualified Principal Residence Credit.

SUMMARY OF AMENDMENTS

The May 6, 2009, amendments would do the following:

- Extend the cease operative date of the Qualified Principal Residence Purchase Credit from March 1, 2010, to December 1, 2010,
- Require an enforceable contract, as specified,
- Remove a provision that would have allowed a taxpayer to reserve the credit,
- Remove a requirement that the taxpayer provide certification to FTB with a tax return and instead require the certification be provided to FTB upon request, and
- Remove provisions that require FTB to allocate the credit.

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” and “Economic Impact” discussions, as provided in the department’s analysis of the bill, as amended April 14, 2009, have been revised. The May 5, 2009, amendments resolve the implementation concerns in the department’s analysis dated April 14, 2009. The remainder of that analysis still applies.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	05/11/09
____ N	____ OUA	_X_ PENDING		

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for purchases that occur on or after March 1, 2009, and before December 1, 2010. The purchase of a qualified principal residence that occurs on or after March 1, 2010, and before December 1, 2010, must be made pursuant to an enforceable contract to purchase the qualified principal residence executed prior to March 1, 2010.

ANALYSIS

THIS BILL

This bill would extend the cease operative date for the Qualified Principal Residence Purchase Credit from purchases made before March 1, 2010, to purchases made before December 1, 2010.[1] This bill would require an enforceable contract for purchases occurring after March 1, 2010, and prior to December 1, 2010, to purchase the qualified principal residence be executed prior to March 1, 2010.

In addition, this bill would eliminate the requirement for the seller to provide FTB with certification that the principal residence was previously unoccupied. Instead, this bill would require the seller to provide the taxpayer with certification that the qualified principal residence was previously unoccupied. The seller would be required to provide certification to the purchaser no later than one week after the close of escrow of the qualified principal residence. The taxpayer would be required to retain the certification and provide it to FTB upon request.

This bill would eliminate the requirement that the credit would be claimed on a timely filed original return.

This bill would also eliminate the $100 million limitation on the credit and the requirement that the credit be allocated by FTB on a first-come, first-served basis.

Because this bill would eliminate the certification requirement, FTB would no longer be required to determine the date the certification would be received. In addition, this bill would eliminate the provision to deny an administrative or judicial proceeding when FTB makes a determination of the date a certification is received and whether a return has been filed.

This bill would eliminate the provision that would require the disallowance of a credit claimed under this bill to be treated as a mathematical error.

---

[1] CR&TC 17059 provides a Qualified Principal Residence Purchase Credit under the personal income tax law (PITL) to an individual who is a purchaser of a qualified principal residence. The credit applies to purchases made on or after March 1, 2009 and before March 1, 2010. The amount of the credit would be equal to the lesser of 5 percent of the purchase price of the qualified principal residence or $10,000.

ECONOMIC IMPACT

Revenue Estimate

This proposal would result in the following revenue losses beginning in 2009.

Estimated Revenue Impact of SB 49 Effective For Purchases Made On or After March 1, 2009, through March 1, 2010 Enactment Assumed After June 30, 2009		
($ in Millions)		
2009/10	2010/11	2011/12
-$18	-$22	-$19

Revenue Discussion

The revenue impact of this bill would depend on the number of taxpayers that purchase a new or previously unoccupied single-family home and are currently unable to apply for the Qualified Principal Residence Purchase Credit due to the credit's $100 million allocation limitation. As of April 29, 2009, 4,880 applications totaling $47.4 million in credits were submitted to the department.

Based on historical data from the California Builder Association for 2008 and using the Department of Finance's growth projections for new home starts as a proxy for growth in new home sales, it is estimated that approximately 33,500 new homes will be sold during 2009 in California. To exclude investment purchases, because qualified purchases must serve as a taxpayer's primary residence, projected new home sales for 2009 are reduced by 5 percent to approximately 31,800 [33,500 x (1- 5%)]. Next, because qualified purchases are limited to those made on or after March 1, 2009, total sales for 2009 would be reduced by 17 percent (2 months ÷ 12 months) to approximately 26,400 [31,700 x (1-17%)].

Existing law provides a 5 percent or $10,000 credit for qualified purchases up to $100 million in total credits. This equates to 10,000 purchases ($100 million ÷ $10,000 creditable amount). This bill would remove the credit allocation limit of $100 million, which would allow an additional 16,400 purchases to qualify for the credit (26,400 – 10,000 number of credits allowed under current law). For tax year 2010, qualified purchases are estimated to total 9,200. This was derived by using the same methodology outlined above and includes additional sales for taxpayers that are anticipated to enter into a contract before March 1, 2010, and close escrow later in the year but before December 1, 2010.

Total credits generated during 2009 are estimated to total approximately $164 million (16,400 purchases x $10,000 credit amount). To determine the value of credits used to reduce taxes, taxpayers without a tax liability were excluded. It is assumed that one-third of the homebuyers who do not have a tax liability will receive certification for the credit, reducing credits available for use to $109 million [$164 million x (1-33%)].

Starting with the tax year of the purchase, this bill requires that no more than one-third of credits generated be used in each of the three taxable years. For 2009, this reduces available credits for use to approximately $36 million ($109 million ÷ 3 years). Of this $36 million, it is assumed that taxpayers would have sufficient tax liability to use 38 percent of the available credits in each year. The revenue loss to the state from 2009 purchases is estimated to be approximately $14 million ($36 million x 38%) per year for three years. Using the same methodology for 2010 purchases, we estimate losses of approximately $8 million per year for three years. The figures in the chart have been adjusted to reflect the cash flow impact on a fiscal-year basis. The revenue loss for fiscal year 2009-10 includes approximately $14 million in new credits applied to reduce tax year 2009 liabilities and approximately $4 million in reduced estimated payments for tax year 2010 liabilities.

LEGISLATIVE STAFF CONTACT

Legislative Analyst	Revenue Director	Assistant Legislative Director
Angela Raygoza	Jay Chamberlain	Patrice Gau-Johnson
(916) 845-7814	(916) 845-3375	(916) 845-5521
angela.raygoza@ftb.ca.gov	jay.chamberlain@ftb.ca.gov	patrice.gau-johnson@ftb.ca.gov