Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Stone	Analyst:	Jessica Deitchman	Bill Number:	SB 1149
Related Bills:	See Prior Analysis	Telephone:	845-6310	Amended Date	June 15, 2016
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SUBJECT: First-Time Homebuyer Credit

SUMMARY

This bill would, under the Personal Income Tax Law, create a tax credit for qualified first-time homebuyers.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 15, 2016, amendments removed the provision that the qualified principal residence must have never been occupied.

Except for the "This Bill" section the remainder of the department's analysis of the bill as amended May 2, & June 1, 2016, still applies. The “Technical Considerations,” “Fiscal Impact,” “Economic Impact,” and “Policy Concerns” sections have been restated below for convenience.

THIS BILL

This bill would allow a credit to a qualified first-time homebuyer who purchases a qualified principal residence on and after January 1, 2017, and before January 1, 2020, in an amount equal to the lesser of 5 percent of the purchase price of the qualified principal residence or $10,000.

- The amount of credit allowed would be applied in equal amounts over the three successive taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.
- The credit would be allowed for the purchase of only one qualified principal residence with respect to any qualified first-time homebuyer.

The bill would define the following terms:

- “Qualified first-time homebuyer” would mean any individual, or the individual’s spouse, who had no present ownership interest in a principal residence during the preceding three-year period ending on the date of the purchase of the qualified principal residence. A qualified first-time homebuyer’s annual gross income during that period would not be allowed to exceed the following amounts:
  - $100,000 for a qualified taxpayer filing a joint return, head of household, or a surviving spouse.

- $50,000 for a qualified taxpayer filing a return other than a jointly filed, head of household or surviving spouse return.

- "Qualified principal residence" would mean a single-family residence, whether detached or attached, that is purchased to be the principal residence of the taxpayer for a minimum of two years and is eligible for the homeowner's exemption under Section 218 of the Revenue and Taxation Code (R&TC).[1]

If the qualified first-time homebuyer does not occupy the qualified principal residence as his or her principal residence for at least two years immediately following the purchase, the credit would be canceled and the qualified first-time homebuyer would be liable for any credit allowed on previous tax returns.

A credit would not be allowed unless the qualified first-time homebuyer submits a certification that he or she is a first-time homebuyer.

In the case of two married qualified first-time homebuyers filing separately, the credit allowed would be equally apportioned between the two first-time homebuyers.

If two or more qualified first-time homebuyers who are not married purchase a qualified principal residence, the amount of credit allowed would be allocated among them in the same manner as each qualified first-time homebuyer's percentage of ownership, except that the total amount of the credits allowed to all of these qualified first-time homebuyers could not exceed $10,000.

The total amount of credit that may be allowed could not exceed $100,000,000.

The credit must be claimed on a timely-filed original return.

The Franchise Tax Board (FTB) would be required to allocate the credit on a first-come-first-served basis upon receipt of the certification from the qualified first-time homebuyer. If the certification of two or more qualified first-time homebuyers are received on the same day and the remaining amount of credit to be allocated is insufficient to be allocated fully to each, the credit would be allocated to those qualified first-time homebuyers on a pro-rata basis.

- The date a certification is received would be determined by the FTB. The determinations of the FTB with respect to the date a certification is received, and to whether a return has been timely filed, could not be reviewed in any administrative or judicial proceeding.
- Any disallowance of this credit, including the application of the limitation, would be treated as a mathematical error appearing on the return. Any amount of tax resulting from that disallowance may be assessed by the FTB as a mathematical error (R&TC section 19051).

[1] The California Constitution provides for the exemption of $7,000 (maximum) in assessed value from the property tax assessment of any property owned and occupied as the owner's principal place of residence.

A credit would not be allowed if the qualified first-time homebuyer, or his or her spouse, is related to the seller within the meaning of Section 267 of the Internal Revenue Code (losses, expenses, and interest with respect to transactions between related taxpayers).

A credit would not be allowed if the qualified first-time homebuyer qualifies as a dependent of any other taxpayer during the taxable year of the purchase.

The FTB could prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this credit, including any guidelines regarding the allocation of the credit. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 or Title 2 of the Government Code would not apply to any rule, guideline, or procedure prescribed by the FTB.

The bill provides that R&TC section 41[2] would not apply to this credit.

This bill would remain in effect only until December 1, 2023, and as of that date would be repealed.

TECHNICAL CONSIDERATIONS

On page 2, line 4, strikeout “and” and insert “or”.

For consistency throughout the language of the bill, recommend substituting “qualified first-time homebuyer” wherever the term “first-time homebuyer,” “qualified taxpayer,” or “taxpayer” is used.

On page 4, line 23, after “procedures” strike “necessary or appropriate”.

FISCAL IMPACT

The department’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

[2] The R&TC section 41 requires any new tax credit legislation introduced on or after January 1, 2015, to include specific goals, purposes, objectives, and performance measures.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 1149 As Amended June 15, 2016 Assumed Enactment After June 30, 2016 ($ in Millions)		
2016-17	2017-18	2018-19
- $7.6	- $13	- $13

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Based on data from the previous first time homebuyer credit it is assumed the $100 million credit would be fully allocated in 2017, the first year available. Qualified first-time homebuyers would be allowed to claim an estimated $33.3 million dollars in credit in 2017, 2018, and 2019. Based on tax return data for the qualified income ranges the estimated average tax liability is under $1,300. Therefore, it is assumed that 40 percent of the credit would be used each year, resulting in a $13 million annual revenue loss. The tax-year estimates were then converted to fiscal years and rounded to arrive at the amounts reflected in the above table.

POLICY CONCERNS

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed. The author may wish to add language allowing a limited carryover period.

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