Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Steinorth	Analyst:	Scott McFarlane	Bill Number:	AB 2234
Related Bills:	See Prior Analysis	Telephone:	845-6075	Amended Date:	April 20, 2016
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: Mortgage Forgiveness Debt Relief

SUMMARY

This bill would generally extend California mortgage forgiveness debt relief to apply to discharges of qualified principal residence indebtedness occurring in 2014, 2015, and 2016.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 20, 2016, amendments removed language that would make mortgage forgiveness debt relief permanent for California purposes, and added language to generally extend such relief to discharges of qualified principal residence indebtedness occurring in 2014, 2015, and 2016.

Except for the “Effective/Operative Date,” “This Bill,” “Technical Considerations,” and “Economic Impact” sections, the department’s analysis of this bill as introduced February 18, 2016, still applies.

Additionally, the “Support/Opposition” section is updated based on the April 15, 2016, Assembly Revenue and Taxation Committee analysis, and the “Fiscal Impact” section is restated for convenience.

Summary of Suggested Amendments

A technical amendment is suggested to base the operative date on the dates of discharges of indebtedness rather than taxable years.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2017, and would be specifically operative for taxable years beginning on or after January 1, 2014.

THIS BILL

This bill would extend California's modified conformity to mortgage forgiveness debt relief for three years, generally through 2016. Specifically,

- The California exclusion would be extended to apply to taxable years beginning on or after January 1, 2014, and generally to discharges of qualified principal residence indebtedness before January 1, 2017,[1]
- The 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),
- The total amount excludable from gross income would be limited to $500,000 ($250,000 in the case of a married/RDP individual filing a separate return), and
- No penalties or interest would be imposed with respect to discharges occurring in the 2014 or 2015 taxable years.

TECHNICAL CONSIDERATIONS

An amendment is suggested to change the operative date to be based on the dates of discharges of indebtedness rather than taxable years.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 2234 As Amended April 20, 2016 Assumed Enactment After June 30, 2016 ($ in Millions)		
2015-16	2016-17	2017-18
- $95	- $45	- $12

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

[1] California would additionally conform, with its modifications and limitations, to the federal provision that provides for an exclusion from gross income in the case of those taxpayers whose qualified principal residence indebtedness is discharged on or after January 1, 2017, if the discharge is pursuant to an arrangement entered into and evidenced in writing before January 1, 2017.

Revenue Discussion

This estimate is based on a proration of the Joint Committee on Taxation's (JCT's) estimated revenue effects of the Tax Increase Prevention Act of 2014 (Public Law 113-295) and the Protecting Americans From Tax Hikes Act of 2015 (Division Q of Public Law 114-113) for the extensions of federal mortgage forgiveness debt relief made by those Acts; the JCT estimates the revenue impact for the three-year period of those extensions to be a loss of $8.3 billion (generally for discharges occurring in tax years 2014, 2015, and 2016).[2] The prorated loss for California is estimated to be approximately $150 million.

To determine California's prorated amount of the federal loss, the federal estimate is reduced to reflect California's approximate 15-percent share of the national housing market, then reduced by 60 percent to account for the differences between federal and state law of the allowable amounts of acquisition indebtedness and the limitation on the amount excludible from income, and finally reduced by an additional 70 percent to reflect the differences between federal and state tax rates, resulting in an estimated loss of $150 million.

It is estimated that the prohibition of interest and penalties on discharges would result in an additional loss of $3.5 million, which is calculated by assuming that approximately 25 percent of the total amount that would be excluded from gross income would have been reported as income on tax returns filed by taxpayers who were unable to pay the tax attributable to that income when the returns were filed.

Due to the assumed enactment date, this bill would affect taxpayers who have filed prior-year returns. Because these taxpayers would file amended returns, amounts from such returns are accrued back one year.

The total estimated loss is converted to fiscal years and then rounded to arrive at the amounts reflected in the table above.

SUPPORT/OPPOSITION[3]

Support: California Association of Realtors, California Bankers Association, California Credit Union League, California Mortgage Bankers Association, and the California Taxpayers Association.

Opposition: None on file.

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[2] The federal estimated loss includes allowing an exclusion from gross income for those taxpayers whose qualified principal residence indebtedness is discharged on or after January 1, 2017, if the discharge is pursuant to an arrangement entered into and evidenced in writing prior to that date.

[3] From the April 15, 2016, Assembly Revenue and Taxation Committee analysis.

LEGISLATIVE STAFF CONTACT

Scott McFarlane
Legislative Analyst, FTB
(916) 845-6075
scott.mcfarlane@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov

Analyst	Scott McFarlane
Telephone #	845-6075
Attorney	Bruce Langston

FTB'S PROPOSED AMENDMENT TO AB 2234

AS AMENDED APRIL 20, 2016

AMENDMENT 1

On page 3, line 15, strikeout "taxable years beginning", and insert:

discharges of indebtedness that occur