



Summary Analysis of Amended Bill

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Sponsor:

Bill Number: AB 1317

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Amended: April 30, 2019

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Related Bills: See Prior Analysis

Subject: Homeownership Savings Account Exclusion

Summary

Under the Personal Income Tax Law (PITL) this bill would create a “homeownership savings account” that would provide certain income tax benefits similar to an individual retirement account (IRA).

Recommendation – No position.

Summary of Amendments

The April 30, 2019, amendments defined a new term, clarified a definition, and added a gross income threshold.

As a result of the amendments, one of the department's implementation considerations discussed in the department's analysis of the bill as introduced February 22, 2019, was resolved, and one new implementation consideration was identified.

Except for the “This Bill,” “Implementation Considerations,” and “Economic Impact” sections, the remainder of the department's analysis of the bill as introduced February 22, 2019, still applies. The “Effective/Operative Date” and “Fiscal Impact” sections have been restated below for convenience.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2019.

This Bill

For taxable years beginning on or after January 1, 2019, this bill would, under the PITL, allow the creation of a homeownership savings account, as defined, and would specifically exclude from gross income any income earned during the taxable year to a homeownership savings account.

The bill would define a homeownership savings account as a trust that meets all of the following requirements:

- Is designated as a homeownership savings account by the trustee for the benefit of any qualified taxpayer.
- Is established by a qualified taxpayer where the written governing instrument creating the homeownership savings account provides that:
 - 1) All contributions to the account be in cash, including refunds of taxes paid, and can be made by any person; including, but not limited to, contributions from relatives, employers, or crowdfunding internet websites.
 - 2) The account is established to pay for the qualified homeownership savings expenses of the qualified taxpayer who is the beneficiary of the account.
- Is, except as otherwise specified, subject to the same requirements and limitations as an IRA established under Internal Revenue Code (IRC) section 408.
- Is the only homeownership savings account established by the qualified taxpayer who established the account.
- The balance of the homeownership savings account does not exceed the maximum balance established for the account. "Maximum balance" of the homeownership account would mean 20 percent of the median home value within the state, as determined by the Department of Housing and Community Development (DHCD) as posted on its Internet Web site for the year the account is created. This bill would require the DHCD to post the annual median home value on or before January 1, 2019, and each January 1st thereafter.
- Is established by a qualified taxpayer whose gross income does not exceed eighty percent of the area median income of a city and county for the taxable year in which the account is established. A qualified taxpayer shall contribute to a homeownership savings account only in the taxable years in which the qualified taxpayer's gross income does not exceed eighty percent of the area median income of a city and county.
- Is closed once the purchase of a principal residence is complete.

This bill also would define the following terms and phrases:

- “Qualified homeownership savings expenses” means the down payment and closing costs paid or incurred, in connection with the purchase of a qualified taxpayer’s principal residence within the meaning of IRC section 121, relating to exclusion of gain from the sale of principal residence, in this state for use by the qualified taxpayer who is the beneficiary of the homeownership savings account.
- “Qualified taxpayer” means an individual, individual’s spouse, or individuals who are spouses filing jointly, who have never had an ownership interest in a principal residence within the meaning of IRC section 121, relating to exclusion of gain from the sale of principal residence.
- “Trustee” shall have the same meaning as that term under IRC section 408, relating to individual retirement accounts.

Implementation Considerations

The department has identified the following implementation concerns for purposes of a high-level discussion. Additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

The definition of homeownership savings accounts as a trust generally subject to the requirements and limitations applicable to an IRA established under IRC section 408 may be overly broad. For example, such accounts would be able to invest cash contributions in any investment vehicle an IRA may invest in, including foreign or domestic real estate, precious metals, stock, pass-through entities, as well as more traditional interest-bearing investments such as government bonds and certificates of deposit. Additionally, the early distribution penalty and contribution limits applicable to IRAs would apply to homeownership savings accounts. For consistency with the author’s intent and to avoid conflicting requirements, this bill should be amended to specify the IRC’s IRA provisions applicable to homeownership savings accounts.

Principal residence within the meaning of IRC section 121 includes property other than a home or condominium, such as a houseboat or house trailer. If this is contrary to the author’s intent the bill should be amended.

Because the term “qualified taxpayer” would mean an individual, the individual’s spouse, or individuals who are spouses filing jointly, each spouse would be eligible to establish separate homeownership saving accounts. If this is contrary to the author’s intent, this bill should be amended.

The bill fails to specify which of the trigger dates is controlling for purposes of determining whether an individual is a "qualified taxpayer," the date the homeownership savings account is established or the date principal residence is purchased?

The bill is silent on treatment of a homeownership savings account whose balance exceeds the maximum balance established for the account. For clarity and ease of administration, the bill should be amended.

The bill is silent on the treatment of previously excluded homeownership savings account income used to pay expenses other than "qualified homeownership savings expenses." If this is contrary to the author's intent, the bill should be amended.

This bill uses terms that are undefined, i.e., "80 percent of the area median income of a city and county," "income earned," "downpayment and closing costs." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

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.

Economic Impact

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1317 as Amended on April 30, 2019
Assumed Enactment after June 30, 2019

Fiscal Year	Revenue
2019-2020	\$0
2020-2021	-\$20,000
2021-2022	-\$90,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Although the bill is operative for taxable years beginning on or after January 1, 2019, financial institutions are not expected to be able to have the infrastructure ready until 2021. Based on reports from the California and National Association of Realtors and Federal Reserve Economic Data an average of 500,000 housing units are sold in California every year. Research indicates that nearly 38 percent, or 185,000 housing units, are sold to individuals who are first time buyers. It is assumed 30 percent, or 55,000 individuals, would meet the income limit specified in the bill. Of those, it is assumed that 25 percent of prospective home buyers would open an Individual Homeownership Savings Account (IHOA). In addition, it is assumed that taxpayers would learn about the benefits of IHOA contributions and would begin contributing to the accounts several years before purchasing a principal residence. Taking into account the timing of home purchase plans, it is estimated that 13,000 accounts would be opened by the end of 2021 and taxpayers would contribute an average of \$6,000.

It is estimated that qualified taxpayers would make \$78 million in qualified contributions to their IHOA in 2021 and have an earnings of \$1.9 million in 2021 and \$46 million in earnings by 2026. Applying the average tax rate of 2 percent, the estimated revenue loss would be \$29,000 in 2021 and \$700,000 in 2026. It is assumed that taxpayers would continue to maintain the IHOA until a home is purchased.

The tax year estimates are converted to fiscal year estimates, and then rounded and reflected in the above table.

Policy Concerns

This bill would require a qualified taxpayer whose gross income does not exceed eighty percent of the area median income of a city and county for the taxable year to contribute if their income is below the threshold.

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