STATE OF CALIFORNIA
Franchise Tax Board

Summary Analysis of Amended Bill

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Subject: Mortgage Forgiveness Debt Relief within Federal Disaster Areas

Summary

This bill would, under the Personal Income Tax Law (PITL), provide an exclusion for mortgage debt relief related to the loss of a qualified principal residence in a federally declared disaster area.

Recommendation – No position.

Summary of Amendments

The July 3, 2019, amendments added a reporting requirement in off-code language.

As a result of these amendments, the “This Bill” section provided in the department’s analysis of the bill as introduced February 22, 2019, has been revised and an “Implementation Consideration” has been identified. Except for those sections and the updated “Fiscal Impact” section, the remainder of that analysis still applies. The “Effective/Operative Date” and “Economic Impact” sections have been restated for convenience.

Effective/Operative Date

As an urgency measure, this bill would be effective immediately upon enactment, and specifically operative for specified discharges of indebtedness occurring on or after January 1, 2017, and before January 1, 2019.

This Bill

This bill would, under the PITL, allow as an exclusion from income, discharge of indebtedness related to the loss of a qualified principal residence occurring on or after January 1, 2017, and before January 1, 2019, within a federally declared disaster area.

The bill would also provide that no penalties or interest would be due with respect to the discharge of a qualified principal residence indebtedness during the 2017 or 2018 taxable year regardless of whether the taxpayer reports the discharge on the taxpayer's 2017 or 2018 tax return.

In off-code language, this bill states that the requirements of Section 41 would apply to the gross income exclusion and the Legislative Analyst's Office (LAO) shall collaborate with the Franchise Tax Board (FTB) to review the exclusion's effectiveness. The review shall include, but is not limited to, an analysis of the economic impact of the exclusion and the number of people allowed the exclusion. The LAO shall submit a report of the review to the Legislature on or before January 1, 2021, and the report shall be submitted in compliance with state law, including providing a printed copy to the Secretary of State and an electronic copy, as specified.[1]

The LAO may request information from the FTB, and the FTB would be required to provide any data requested by the LAO pursuant to this subdivision.

Implementation Considerations

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this and other concerns that may be identified.

This bill uses the undefined phrase "any data requested by the LAO" that could be interpreted more broadly than data required to satisfy the Section 41 reporting requirement; the "number of people allowed the exclusion". Additionally, the department would require statutory authority to disclose any confidential information to the LAO. The absence of a definition to clarify this phrase would complicate the administration of this bill. For clarity and ease of administration, it is recommended that the bill be amended.

Fiscal Impact

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

[1] Section 9795 of the Government Code.

Economic Impact

Revenue Estimate

There would be a revenue loss to the general fund, but the amount is unknown.

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

Revenue Discussion

Due to the lack of available data, it is difficult to predict the amount of acquisition indebtedness that would not be covered by insurance and discharged by banks in federally declared disaster zones. Therefore, we cannot provide an annual estimate. However, the department estimates that for every $20 million in qualified acquisition indebtedness discharged and not covered by insurance, the resulting revenue loss would be $1.3 million.

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