

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE MAY 2, 2016

SENATE BILL

No. 1149

Introduced by Senator Stone

February 18, 2016

An act to add and repeal Section 17059 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1149, as amended, Stone. Personal income taxes: credit: principal residence.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would, for a qualified principal residence, as defined, that is purchased after January 1, 2017, and before January 1, 2020, allow a credit against those taxes in an amount equal to the lesser of 5% of the purchase price or \$10,000 to qualified first-time homebuyers, as defined. This bill would require the credit to be applied in equal amounts over 3 successive taxable years and would limit the total amount of the credit that may be allowed to \$100,000,000.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17059 is added to the Revenue and
2 Taxation Code, to read:

3 17059. (a) (1) In the case of any qualified first-time
4 homebuyer who purchases a qualified principal residence on and
5 after January 1, 2017, and before January 1, 2020, there shall be
6 allowed as a credit against the “net tax,” as defined in Section
7 17039, an amount equal to the lesser of 5 percent of the purchase
8 price of the qualified principal residence or ten thousand dollars
9 (\$10,000).

10 (2) The amount of any credit allowed under paragraph (1) shall
11 be applied in equal amounts over the three successive taxable years
12 beginning with the taxable year in which the purchase of the
13 qualified principal residence is made.

14 (3) The credit under this section shall be allowed for the
15 purchase of only one qualified principal residence with respect to
16 any qualified first-time homebuyer.

17 (b) For purposes of this section:

18 (1) “Qualified first-time homebuyer” means any individual, or
19 the individual’s spouse, who had no present ownership interest in
20 a principal residence during the preceding three-year period ending
21 on the date of the purchase of the qualified principal residence. A
22 qualified first-time homebuyer’s adjusted gross income during that
23 period shall not exceed the following amounts:

24 (A) One hundred thousand dollars (\$100,000) for a qualified
25 taxpayer filing a joint return, head of household, or a surviving
26 spouse, as defined in Section 17046.

27 (B) Fifty thousand dollars (\$50,000) for a qualified taxpayer
28 filing a return other than as described in subparagraph (A).

29 (2) “Qualified principal residence” means a single-family
30 residence, whether detached or attached, ~~that has never been~~
31 ~~occupied~~, that is purchased to be the principal residence of the
32 taxpayer for a minimum of two years and is eligible for the
33 homeowner’s exemption under Section 218.

34 ~~(e) (1) No credit shall be allowed under this section unless the~~
35 ~~qualified first-time homebuyer submits with his or her tax return~~
36 ~~a certification by the seller of the qualified principal residence that~~
37 ~~the residence has never been previously occupied. The seller shall~~
38 ~~provide the certification to the qualified first-time homebuyer and~~

1 to the Franchise Tax Board within one week of the sale of the
2 qualified principal residence.

3 ~~(2)~~

4 (c) (1) If the qualified first-time homebuyer does not occupy
5 the qualified principal residence as his or her principal residence
6 for at least two years immediately following the purchase the credit
7 shall be canceled, and the qualified first-time homebuyer shall be
8 liable for any credit allowed under this section on previous tax
9 returns.

10 ~~(3)~~

11 (2) A credit shall not be allowed under this section unless the
12 qualified first-time homebuyer submits a certification that he or
13 she is a first-time homebuyer.

14 (d) (1) In the case of two married qualified first-time
15 homebuyers filing separately, the credit allowed under subdivision
16 (a) shall be equally apportioned between the two qualified first-time
17 homebuyers.

18 (2) If two or more qualified first-time homebuyers who are not
19 married purchase a qualified principal residence, the amount of
20 the credit allowed under subdivision (a) shall be allocated among
21 them in the same manner as each qualified first-time homebuyer's
22 percentage of ownership, except that the total amount of the credits
23 allowed to all of these qualified first-time homebuyers shall not
24 exceed ten thousand dollars (\$10,000).

25 (e) The total amount of credit that may be allowed pursuant to
26 this section shall not exceed one hundred million dollars
27 (\$100,000,000).

28 (f) The qualified first-time homebuyer shall claim the credit on
29 a timely filed original return.

30 (g) (1) Upon receipt of the certification from the qualified
31 first-time homebuyer, as described in paragraph ~~(1)~~ (2) of
32 subdivision (c), the Franchise Tax Board shall allocate the credit
33 to the qualified first-time homebuyer on a first-come-first-served
34 basis.

35 (2) If the certifications of two or more qualified first-time
36 homebuyers are received on the same day and the remaining
37 amount of credit to be allocated is insufficient to be allocated fully
38 to each, the credit shall be allocated to those qualified first-time
39 homebuyers on a pro rata basis.

1 (3) The date a certification is received shall be determined by
2 the Franchise Tax Board. The determinations of the Franchise Tax
3 Board with respect to the date a certification is received, and
4 whether a return has been timely filed for purposes of this
5 subdivision, may not be reviewed in any administrative or judicial
6 proceeding.

7 (4) Any disallowance of a credit claimed due to a determination
8 under this section, including the application of the limitation
9 specified in paragraph (2), shall be treated as a mathematical error
10 appearing on the return. Any amount of tax resulting from that
11 disallowance may be assessed by the Franchise Tax Board in the
12 same manner as provided by Section 19051.

13 (h) A credit shall not be allowed under this section if the
14 qualified first-time homebuyer, or his or her spouse, is related to
15 the seller within the meaning of Section 267 of the Internal
16 Revenue Code, related to losses, expenses, and interest with respect
17 to transactions between related taxpayers.

18 (i) A credit shall not be allowed under this section if the qualified
19 first-time homebuyer qualifies as a dependent, as defined in Section
20 17056, of any other taxpayer during the taxable year of the
21 purchase.

22 (j) The Franchise Tax Board may prescribe rules, guidelines,
23 or procedures necessary or appropriate to carry out the purposes
24 of this section, including any guidelines regarding the allocation
25 of the credit allowed under this section. Chapter 3.5 (commencing
26 with Section 11340) of Part 1 of Division 3 of Title 2 of the
27 Government Code does not apply to any rule, guideline, or
28 procedure prescribed by the Franchise Tax Board pursuant to this
29 section.

30 (k) Section 41 does not apply to the credit allowed by this
31 section.

32 (l) This section shall remain in effect only until December 1,
33 2023, and as of that date is repealed.

34 SEC. 2. This act provides for a tax levy within the meaning of
35 Article IV of the California Constitution and shall go into
36 immediate effect.

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