AMENDED IN SENATE JUNE 9, 2009

AMENDED IN SENATE MAY 26, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 14, 2009

SENATE BILL No. 49

Introduced by Senators Dutton and Padilla
(Coauthors: Senators Aanestad, Benoit, Cedillo, Cogdill, Denham, Harman, Huff, Maldonado, Strickland, Walters, and Wyland)

January 13, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 49, as amended, Dutton. Income tax credit: qualified principal residence.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law. Existing law authorizes a credit against those taxes in an amount equal to the lesser of 5% of the purchase price of a qualified principal residence, as defined, purchased on and after March 1, 2009, and before March 1, 2010, or $10,000, allocated by the Franchise Tax Board on a first-come-first-served basis. Existing law requires a taxpayer to provide the Franchise Tax Board with a certification from the seller of the qualified principal residence that the residence~~,~~ has never been previously occupied within one week of the sale of the residence and caps the total amount of the credit at $100,000,000.

This bill would provide that the tax credit is authorized for purchases of a qualified principal residence made before December 1, 2010, subject to specified restrictions. This bill would revise the certification requirements to provide that the taxpayer receive the certification no later than one week after the close of escrow on the qualified principal residence and that the Franchise Tax Board be provided with the certification upon request by the board. This bill would also remove the cap on the total credit amount allowed and the requirement that the tax credits be allocated on a first-come-first-served basis.

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:

SECTION 1. Section 17059 of the Revenue and Taxation Code is amended to read:

17059. (a) (1) In the case of any taxpayer who purchases a qualified principal residence on and after March 1, 2009, and before December 1, 2010, there shall be allowed as a credit against the "net tax," as defined ~~in~~ *by* Section 17039, an amount equal to the lesser of 5 percent of the purchase price of the qualified principal residence or ten thousand dollars ($10,000). The purchase of a qualified principal residence that occurs on and after March 1, 2010, and before December 1, 2010, must be made pursuant to an enforceable contract to purchase the qualified principal residence that is executed prior to March 1, 2010.

(2) The amount of any credit allowed under paragraph (1) shall 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.

(3) The credit under this section shall be allowed for the purchase of only one qualified principal residence with respect to any taxpayer.

(b) (1) For purposes of this section, "qualified principal residence" means a single-family residence, whether detached or attached, that has never been occupied, 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.

(2) No credit shall be allowed under this section unless the taxpayer receives a certification from the seller of the qualified principal residence that the residence has never been previously

occupied. The seller shall provide the certification to the taxpayer no later than one week after the close of escrow of the qualified principal residence. The taxpayer shall retain the certification and provide it to the Franchise Tax Board upon request.

(3) If the taxpayer does not occupy the qualified principal residence as his or her principal residence for at least two years immediately following the purchase the credit shall be canceled, and the taxpayer shall be liable for any credit allowed under this section on previous tax returns.

(c) (1) In the case of two married taxpayers filing separately, the credit allowed under subdivision (a) shall be equally apportioned between the two taxpayers.

(2) If two or more taxpayers who are not married purchase a qualified principal residence, the amount of the credit allowed under subdivision (a) shall be allocated among the taxpayers in the same manner as each taxpayer's percentage of ownership, except that the total amount of the credits allowed to all of these taxpayers shall not exceed ten thousand dollars ($10,000).

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

(e) The credit allowed by this section is not a business credit within the meaning of Section 17039.2.

(f) The amendments made to this section by the act adding this subdivision shall apply to purchases that occur on or after March 1, 2009, and before December 1, 2010.

(g) This section shall remain in effect only until December 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before December 1, 2013, deletes or extends that date.

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

O