

AMENDED IN SENATE MAY 26, 2009

AMENDED IN SENATE APRIL 28, 2009

SENATE BILL

No. 206

Introduced by Senator Dutton

February 23, 2009

An act to add and repeal Section 17059.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 206, as amended, Dutton. Income tax credit: principal residence.

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

This bill would allow a credit to a qualified taxpayer, as defined, who purchases a qualified principal residence, as defined, ~~on and after January 1, 2009, and before December 1, 2009~~ *during a specified period*. The credit would be an amount equal to 10% of the purchase price, not to exceed \$8,000, as provided.

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 17059.5 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 ~~17059.5. (a) (1) For taxable years beginning on or after~~
- 4 ~~January 1, 2009, and before January 1, 2010, in the case of a~~
- 5 ~~qualified taxpayer who purchases a qualified principal residence~~
- 6 ~~on or after January 1, 2009, and before December 1, 2009, there~~

1 17059.5. (a) *In the case of a qualified taxpayer who purchases*
2 *a qualified principal residence on or after the date of the act adding*
3 *this section takes effect and before the date that is the same day*
4 *of the 12th month that follows the effective date of this section,*
5 *there shall be allowed as a credit against the “net tax,” as defined*
6 *in Section 17039, an amount equal to 10 percent of the purchase*
7 *price of the qualified principal residence, not to exceed eight*
8 *thousand dollars (\$8,000). The credit shall be allowed for the*
9 *taxable year in which the qualified principal residence is*
10 *purchased.*

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

14 (3) A taxpayer may, but is not required to, reserve a credit prior
15 to close of escrow. To reserve a credit, the taxpayer and seller shall
16 jointly sign and submit to the Franchise Tax Board a certification
17 that they have entered into the agreement ~~on or after January 1,~~
18 ~~2009, and before December 1, 2009. Upon receipt of~~ *during the*
19 *time period specified in subdivision (a) for the purchase of a*
20 *qualified principal residence. Upon receipt of the joint certification,*
21 *the Franchise Tax Board shall reserve the credit for the taxpayer.*

22 (b) (1) For the purposes of this section, “qualified principal
23 residence” means a single-family residence, whether detached or
24 attached, *that has been previously occupied or foreclosed upon,*
25 *and that is purchased to be the principal residence of the taxpayer*
26 *for a minimum of three years and is eligible for the homeowner’s*
27 *exemption under Section 218.*

28 (2) For the purposes of this section “qualified taxpayer” means
29 ~~the buyer either of the following:~~

30 (A) *A purchaser that has not owned a principal residence during*
31 *the three-year period prior to the date of purchase and does not*
32 *have adjusted gross income over ninety-five thousand dollars*
33 *(\$95,000) or one hundred seventy dollars (\$170,000) for joint*
34 *filers.*

35 (B) *A purchaser of a principal residence that has been*
36 *foreclosed upon*

37 (3) If the taxpayer does not occupy the qualified principal
38 residence as his or her principal residence for at least three years
39 immediately following the purchase, the credit shall be disallowed,

1 and the taxpayer shall be liable for any underpayments attributable
2 to the disallowance of *the* credit.

3 (c) (1) In the case of married taxpayers ~~filing separately~~, the
4 credit allowed under subdivision (a) shall be equally divided
5 between the taxpayers.

6 (2) If two or more taxpayers who are not married purchase a
7 qualified principal residence, the amount of the credit allowed
8 under subdivision (a) shall be allocated among the taxpayers in
9 the same manner as each taxpayer's percentage of ownership,
10 except that the total amount of the credits allowed to all of these
11 taxpayers shall not exceed eight thousand dollars (\$8,000).

12 (d) The taxpayer shall claim the credit on a timely filed original
13 return.

14 (e) The date a certification is received shall be determined by
15 the Franchise Tax Board.

16 (1) The determinations of the Franchise Tax Board with respect
17 to the date a certification is received, and whether a return has
18 been timely filed for purposes of this section, may not be reviewed
19 in any administrative or judicial proceeding.

20 (2) Any disallowance of a credit claimed due to a determination
21 under this subdivision, shall be treated as a mathematical error
22 appearing on the return. Any amount of tax resulting from that
23 disallowance may be assessed by the Franchise Tax Board in the
24 same manner as provided by Section 19051.

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

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

35 (h) This section shall remain in effect only until December 1,
36 ~~2010~~ 2012, and as of that date is repealed.

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

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