Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
David Chiu, Chair
AB 53 (Steinorth) – As Introduced December 5, 2016

SUBJECT: Personal income taxes: deduction: homeownership savings accounts

SUMMARY: Creates a "Homeownership Savings Account" (HSA) with account requirements and limitations similar to those governing Individual Retirement Accounts (IRAS). Specifically, **this bill**:

1) Excludes from gross income any income accruing to the HSA during the taxable years commencing on or after January 1, 2017.

2) Allows a deduction equal to the amount deposited in the HSA by a qualified taxpayer in any taxable year commencing on or after January 1, 2017, not to exceed:

    a) $20,000 for qualified taxpayers who are married filing a joint return, a head of household, and surviving spouses.

    b) $10,000 for qualified taxpayers filing a return other than those specified.

3) Provides that amounts may be withdrawn to pay for qualified homeownership expenses.

4) Specifies that any withdrawals for other than qualified expenses shall be included in income of the payee or distributee for the taxable year in which the payment or distribution is made unless the payment or distribution is used to pay for the homeownership savings expenses of a qualified taxpayer who established the account.

5) Defines "Homeownership Savings Account" as a trust that meets all of the following requirements:

    a) Is designated as a homeownership savings account by the trustee;

    b) Is established for the exclusive benefit of any qualified taxpayer establishing the account where the written governing instrument creating the account provides for the following:

        i. All contributions to the account are required to be in cash; and

        ii. The account is established to pay, pursuant to the requirements and limitations of this section, for the qualified homeownership savings expenses of a qualified taxpayer establishing the account.

    c) Is, except as otherwise required or authorized by this section, subject to the same requirements and limitations as an IRA established under Section 408 of the Internal Revenue Code, relating to individual retirement accounts, and any regulations adopted thereunder.

    d) Is the only homeownership savings account established by the qualified taxpayer.

6) Defines "Qualified homeownership expense" as expenses, including a down payment or closing costs, paid or incurred in connection with the purchase of a qualified taxpayer's principal residence in California for use by that taxpayer who established the homeownership savings account.

7) Defines "Qualifed taxpayer" as any individual, or individual's spouse, who had no present ownership interest in a principal residence during the preceding three-year period ending on the date of the purchase of the principal residence subject to the contribution allowed by this section.

8) Defines "Trustee" as defined under a traditional IRA.

9) Takes effect immediately as a tax levy.

EXISTING LAW:

1) Allows various deductions and exclusions in computing taxable income under the Personal Income Tax Law.

2) Provides that amounts held in a traditional IRA are generally included as income when withdrawn, except to the extent the withdrawal is a return of nondeductible contributions. Withdrawals are subject to an additional state tax of 2.5% if it is withdrawn prior to age 59, with some exceptions. Specifically, the taxpayer is not subject to the early withdrawal tax if the withdrawal is used for first-time homebuyer expenses of up to $10,000.

3) Specifies that the California Housing Finance Agency (CalHFA) provide down payment assistance in the form of deferred payment, low-interest; and junior mortgage loans which are designed to reduce principle and interest payments to make financing affordable for first time low and moderate income homebuyers. In most cases, CalHFA programs may be used in conjunction with other first-time homebuyer programs, including programs offered by nonprofit entities.

FISCAL EFFECT: Unknown

COMMENTS:

Background:

The most significant investment the state makes each year in housing is through the mortgage interest deduction on primary residences. The Franchise Tax Board (FTB) estimated that the impact of the mortgage interest deduction on state revenues for 2016-2017 was $5 billion dollars. In addition to the mortgage interest deduction homeowners receive on their primary residence FTB estimates the mortgage interest deduction for second homes for 2016-2017 will result in an estimated $360 million in revenue loss. Funding for affordable housing production and programs to assist lower income families become homeowners has been largely eliminated in the past few years. Proposition 46 of 2002 and Proposition 1C of 2006 together provided $4.95 billion for affordable housing. These funds financed the construction, rehabilitation, and preservation of 57,220 affordable apartments, including 2,500 supportive homes for people experiencing homelessness, and over 11,600 shelter spaces. In addition, these funds have helped 57,290 families become or remain homeowners. Nearly all of these funds have been awarded.

The California Housing Finance Agency (CalHFA) operates the California Homeowner Downpayment Assistance Program (CHDAP) and provides homebuyers between 3% and 6% in downpayment assistance secured as a second mortgage on the home. The program operates as a revolving loan and when a home is sold CalHFA is repaid allowing the funds to go to another homebuyer. There is approximately $150 million available in CHDAP at this time. The program can provide downpayments to individuals that make up to 120% of the area median income (AMI) and just recently raised its income limits to 140% of AMI in high cost areas. CalHFA operates independently of the state General Fund and derives the funding for its downpayment assistance program from the sale of bonds.

This bill allows taxpayers to contribute up to $20,000 a year, for a married couple filing joint returns, and $10,000 for a single filers to a HSA. The contribution to the HSA is not subject to income taxes until the taxpayer withdrawals the funds to use toward the purchase of a home. Taxpayers who have not owned a home within the last three years would be eligible for the HSA program.

<u>Purpose of this bill:</u> According to the author “The cost of housing in California is significant. According to the nonpartisan Legislative Analyst’s Office, California has the second-highest median home price in the nation and residents’ housing costs, as a share of income, remain far above the national average. In fact, over half of middle-class California families spend more than 30 percent of their income on housing. Increased housing costs lead to significant trade-offs for the middle and lower-income California family, including foregoing homeownership, living in more crowded housing, commuting farther to work each day, or choosing to work and live elsewhere. Homeownership is also a powerful tool for economic mobility. As discussed in the 2015 LAO report on California’s housing costs, homeowners accrue a much greater amount of savings and net worth than renters. Unfortunately, high home prices are an impediment to this clear benefit. California faces the challenge of increasing access to homeownership with limited state resources. In similar situations, governments have used tax incentives as a cost-effective solution. For example, states have enacted significant tax deductions for college savings accounts to make investing in higher education more affordable for parents."

<u>Arguments in support</u>: According to the California Association of Realtors, "the cost of housing in California has proven to be a significant impediment to home ownership. Increased housing costs often lead to significant trade-offs for California families, such as postponing or foregoing homeownership, living in more crowded housing, commuting further to work each day, or choosing to work and live in an area where housing costs have not increased significantly. AB 53 presents a significant opportunity for homeownership to individuals and families who have never owned a home, or who are priced out of the housing market in recent years. "

<u>Arguments in opposition</u>: According to the California Professional Firefighters, "there already exists a state and federal program designed to assist homebuyers. AB 53 is unlikely to increase homeownership outside of the population of California taxpayers who are already likely to purchase a home. The Great Recession forced public agencies up and down our state to implement hard-dollar cuts in core public services including fire protection as a result of severely squeezed budgets. Any policy impacting state or local revenue must be measured against the need to property fund essential government services, such as fire protection services. "

Related legislation: Last year, AB 1736 (Steinorth) was voted out of this committee 7-0 with committee amendments to limit the homeownership savings account to individuals earning 80% or less and to a taxpayers first home purchase. AB 1736 was held on suspense in Assembly Appropriations Committee.

Staff comments:

Unlike CHDAP, the funding for this program would come from a reduction in state revenues and would be a one-time investment in one individual rather than function as a revolving loan fund. The Franchise Tax Board estimated that the cost of AB 1736 (Steinorth), a similar bill to AB 53, would result in an annual revenue loss of $220 million in the fiscal year (FY) 2017-18 and $450 million in FY 2018-19. The committee may wish to consider if this is the right investment considering the affordable housing challenges facing the state. The committee may wish to consider whether there should be some income limitation on those who can qualify for a HSA to focus this bill on lower income individuals.

Committee amendments:

When this committee heard a bill identical to this one last session, the committee requested and the author agreed to the following amendments. The committee may wish to consider requesting these amendments again:

- Only allow taxpayers that make up to 80% of AMI qualify to create a HSA. If a taxpayer's income exceeds 80% AMI in any given year they cannot contribute to the HSA.

- Change the definition of "first time homebuyers" from taxpayers that have not owned a home within the last three years to a taxpayer who has never owned a home.

Double referred: If AB 53 passes out of this committee, the bill will be referred to the Committee on Revenue and Taxation.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Community Managers
California Association of Mortgage Professionals
California Association of Realtors
Habitat for Humanity California
League of California Cities
Southwest California Legislative Council
Southwest Riverside County Association of Realtors
Western Manufactured Housing Communities Association

Opposition

California Professional Firefighters

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