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# Analysis of H.R.2802 - 115th Congress (2017-2018) First-Time Homebuyer Savings Account Act of 2017

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## Introduction

There are many financial pressures on individual and family budgets, such as rent, student loan payments, car payments, child care, healthcare, and other routine living expenses. With all those pressures, saving for a down-payment and closing costs for the purchase of a first home can be extremely challenging. As the American dream of homeownership is getting further away for many Americans, tax law changes have been proposed or passed at different levels of the government to help those trying to buy or build their first home.

Currently, some states allow a *First-Time Home Buyers Savings Account*. Minnesota is the latest state to adopt such a plan, joining a growing list of states: Colorado, Mississippi, Iowa, Missouri, and Oregon. Pennsylvania, New York, Oklahoma, Maryland, Utah, and Louisiana have also shown interest in enacting legislation on First-Time Home Buyer Savings Account. These state-level First-Time Home Buyers Savings Account allow individuals and families to save for their first home by putting a percentage of their income, or a capped amount of funds, into an account that is free from state income taxes.[1]

On June 7, 2017, Rep. Mike Coffman[R-CO] introduced the First-Time Homebuyer Savings Account Act of 2017 (H.R.2802, 115th Congress).[2] This bill is almost identical to a previous bill he introduced in the 114th Congress (H.R. 5575, - 114th Congress) with minor differences. H.R. 2802 would amend the federal tax code to create a 529-style savings account for first-time homebuyers. "The goal is to take the highly successful 529 plan model, which provides parents a tax-advantaged means to save for their children's college education, and apply it to another area where savings are equally important: buying a first home". This bill mirrors legislation that received bipartisan

[1] Realtor Mag (June 01, 2017). *More States OK First-Time Buyer Savings Accounts*, Daily Real Estate Retrieved from: http://realtormag.realtor.org/daily-news/2017/06/01/more-states-ok-first-time-buyer-savings-accounts
[2] 115th Congress (2017-2018). *H.R.2802 - First-Time Homebuyer Savings Account Act of 2017*. Retrieved from: https://www.congress.gov/bill/115th-congress/house-bill/2802

support which was signed into Colorado law in 2016 and is similar to state laws in Virginia and Montana.[3]

As Coffman stated that "the First-Time Homebuyer Savings Account Act is a straightforward and bipartisan solution to this problem. If we can help Millennials attain homeownership, this would not only be a wise financial move for them but would have a broader positive financial impact for our economy as a whole."[4]

Supporters of this legislation include the National Association of Realtors (NAR) and the Colorado Association of Realtors. After reviewing the bill, they commented that "home prices are rising around the country, and putting a down payment forward is no easy task…the First-Time Homebuyer Savings Account is an innovative tool that will encourage people to save while putting the dream of homeownership closer in reach."[5]

H.R. 2802 bill would allow individuals to make up to $14,000 per year in after-tax contributions to the account, subject to a $ 50,000 lifetime contribution limit, a $150,000 limit on the fair market value of the account, and adjustments for inflation after 2018.

According to the bill, "Distributions from the account that are used to pay the qualified principal residence purchase expenditures of the designated beneficiary are excluded from gross income. A "qualified principal residence purchase expenditure" is with respect to a designated beneficiary who is a first-time homebuyer, any amount: (1) paid toward the purchase price of a principal residence of the beneficiary, (2) required to be paid to settle the purchase of such residence, or (3) required to be paid by the beneficiary to obtain acquisition indebtedness with respect to the residence". The bill also states, "Excess contributions to the account, distributions that exceed the qualified principal residence purchase expenditures of the beneficiary, and distributions that are not used for first-time homebuyer purposes are subject to specified taxes."[6]

[3] Coffman, Mike (June 7, 2017). *The First-Time Homebuyer Savings Account Act.* Retrieved from: http://www.publicnow.com/view/6E38EB8909366134C96975E64764102DA12E39D0
[4] *Ibid.*
[5] *Ibid.*
[6] United States Congress (115th Congress 2017-2017). *First-Time Homebuyer Savings Account Act of 2017, H.R. 2802.* Retrieved from: https://www.congress.gov/bill/115th-congress/house-bill/2802

## Principles of Good Tax Policy

The following section will briefly analyze H.R. 2802 using the Guiding Principles of Good Tax Policy outlined in the AICPA Tax Policy Concept Statement No. 1.[7]

| Criteria | Does the proposal satisfy the criteria? (explain) | Result |
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| *Equity and Fairness* – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer's income for different income levels of taxpayers. | On its surface, the bill is fair. After all, nobody is excluded from making contributions for the benefit of the designated beneficiaries. Everyone is treated equally.<br><br>But when considering the most likely taxpayers who would utilize the account, the bill appears not to be fair. Since the bill was modeled closely after section 529, the data for 529 plans sheds some light on the taxpayers who would likely utilize the First-Time Homebuyer Savings Account.<br><br>In 2012, GAO studied the data from the Survey of Consumer Finance and reported to the chairman of Senate Finance Committee that less than three percent of families had a 529 plan in 2010, and those who did tend to be wealthier.[8] The study estimated that the median financial asset value for families with 529 plans was about twenty-five times the median financial asset value for families without 529 plans, and the median income of families with 529 plans was about three times the median income of families without these accounts. Similar to the taxpayers with 529 plans, high income or net worth taxpayers would more likely take advantage of the proposed First-Time Homebuyer Savings Account. They | - |

[7] American Institute of Certified Public Accountants (AICPA) Tax Division (January 2017). *Tax Policy Concept Statement 1 - Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals.* Retrieved from: https://www.aicpa.org/ADVOCACY/TAX/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf

[8] U.S. Government Accountability Office (U.S. GAO). December 12, 2012. *High Education: A Small Percentage of Families Save in 529 Plans*. Retrieved from: http://www.gao.gov/assets/660/650759.pdf

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| | not only have the resources to fund the account but are also more motivated to choose the tax-preferred account due to bigger tax savings.<br><br>The proposed account is per taxpayer, instead of per beneficiary. Hence, one beneficiary could have multiple tax-preferred saving accounts set up for him or her. In this sense, the first-time home buyers are not treated fairly. The beneficiaries from wealthy families with multiple tax-preferred saving accounts would have advantages over their lower-income peers.<br><br>No doubt, this bill would help someone to purchase the first home, but it would help high net worth or income taxpayers the most. Besides, like the 529 plans, this account would become a vehicle for the high net worth taxpayers to pass their wealth to the next or even the third generation in a tax-preferred account. | |
| *Certainty* – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly? | The bill was modeled after Section 529. It covers many grounds, and it is a long and complicated bill. Uncertainty comes with the many new definitions in the bill.<br>The first uncertainty is the definition of "first-time homebuyer." The definition of "first-time homebuyer" is "any individual if such individual (and if married, such individual's spouse) has had no present ownership interest in a principal residence." "Present ownership interest" is not defined in the bill. If one sells the current principal residence, waits for a few months, then purchase another one, does it count as no "present ownership interest"? Or does it have to be the very first home a taxpayer ever purchased? What about a married couple? Do both have to be qualified as first-time homebuyers? If one of them is qualified, can he or she use the | - |

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| | funds from his or her account to purchase the residence? And, if yes, how much?<br><br>Another uncertainty is the language at proposed Section 530A(d)(1)(F): “no deduction, credit, or exclusion shall be allowed to the taxpayer under any other section for any qualified principal residence purchase expenditures to the extent taken into account in determining the amount of the exclusion under this paragraph.” It is unclear what the bill is trying to prevent.<br><br>There are more questions. Will the basis of the property be reduced by the savings benefit? If there are multiple beneficiaries, can one own multiple accounts for different beneficiaries? | |
| *Convenience of payment* – Does the rule result in tax being paid at a time that is convenient for the payor? | This bill satisfies the Convenience of Payment principle. Even though it was not mentioned explicitly, one can reasonably assume the tax is due at the normal due date of an individual’s tax return. Or a taxpayer can make estimated tax payments like any other tax due on one’s tax return. | + |
| *Effective Tax Administration* – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers? | There will be additional compliance and administrative costs to both the government and taxpayers. The government will spend considerable time to verify all the information such as purchasing agreement and bank account, etc. Also, the IRS will need to issue guidance to help taxpayers better understand the tax treatments and improve compliance. Thus, additional time and money will be needed in order to implement the benefit provided by H.R. 2802.<br>From taxpayers’ perspective, they also need to spend more time and money for tax compliance since the tax is not self- | - |

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| | assessed. A taxpayer may need to consult with a tax adviser so that additional tax preparation cost will incur. | |
| *Information Security* – Will taxpayer information be protected from both unintended and improper disclosure? | The party who administers the First-Time Homebuyer Savings Account should be similar to 529 education saving account. Brokers who administer 529 education saving accounts usually have secure and private systems to protect taxpayers' data and personal information from theft. Many of the brokers have encryption and other security technologies with service providers specializing in security process to inspect their security procedures. | + |
| *Simplicity* - Can taxpayers understand the rule and comply with it correctly and in a cost-efficient manner? | Taxpayers may not understand the rules as the interpretation is not straightforward, and tax compliance cost could be more expensive compared to a simple tax return filing. Taxpayers may need to file the returns with the assistance of tax professionals.<br><br>The complexity is due to variables and limitations in the rule. For example, if the taxpayer withdrew money from the account and did not use all of it to purchase a qualified house, the unused portion is subject to both income tax and excise tax (such as for excess contributions).<br>Also, the definition of "first-time homebuyer" is complicated to understand as it refers to "no present ownership interest in a principal residence". This will cause confusion since it is unclear whether a taxpayer will be considered as a "first-time homebuyer" if he or she had a house before and does not have any house currently. The bill is also not clear if a taxpayer with partial ownership would be qualified as a "first-time homebuyer." | - |

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| | Moreover, the bill does not specify the tax effect if the account's fair market value exceeds $150,000. Due to the complexity of the rules involving many variables in the bill, taxpayers need to spend more time or money to understand the tax effects arising from the tax-preferred account transactions. | |
| *Neutrality* – Is the rule unlikely to change taxpayer behavior? | The bill does not meet the principle of neutrality because it encourages taxpayers to save more and use such savings for a principal residence.<br><br>One purpose of the bill is to relieve the burden of parents when they buy a house or provide the down payment for their children. However, the bill does not indicate whether an individual can be the beneficiary of multiple accounts. It is possible that grandparents or other relatives will also establish the accounts for one beneficiary. Therefore, many people might contribute to the account to gain the tax benefit.<br><br>Furthermore, the price of the real property is always high in some places, which makes it unaffordable to many families in the United States. However, the existence of First-Time Homebuyer Savings Account will make the housing purchase easier for some people. Many young people will be able to buy a house after they start working because they do not have to worry about the down payments. In addition, since the bill does not specify if different accounts can have the same beneficiaries, an individual can be the beneficiary from the accounts established by their parents, their grandparents, and other relatives even non-relatives. As a result, one individual can have much more than $150,000 when buying a house. Therefore, individuals with the account will be able to buy a more expensive house for their first residence. | - |

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| *Economic growth and efficiency* – Will the rule not unduly impede or reduce the productive capacity of the economy? | In the short term, H.R. 2802 impedes the development of the economy. First, the bill will increase the government's deficit because the tax revenue from individual income tax decreases. Secondly, the bill also discourages taxpayers' spending. In the situation that a taxpayer's income remains unchanged, the First-Time Homebuyer Savings Account will encourage the taxpayer to increase their savings and decrease their spending. Therefore, it will not benefit the development of the economy in a short period.<br><br>In the long run, the bill can affect the economy in both positive and negative ways. The positive effect will be a spurring of the market of real property as the First-Time Homebuyer Savings Account may increase home purchases make. The demand for the houses will increase, which will increase the housing price. The hot market of the real property will attract more investments. As a result, the real estate investors will build more personal residences and hire more people. The government can also get more tax revenues.<br><br>However, it will be even harder for low-income individuals to afford housing with the increase in prices. Low-income taxpayers may not have enough money to set up the First-Time Homebuyer Savings Account after spending on necessities. Furthermore, the housing price will be increased by the demand resulted from the enactment of First-Time Homebuyer Savings Account, making housing even less affordable for low-income taxpayers. While the demand for the housing in the future remains unknown, the price of the housing will likely increase, negatively affecting the economy. | - |

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| *Transparency and Visibility* – Will taxpayers know that the tax exists and how and when it is imposed upon them and others? | Taxpayers will easily be informed of the existence of the new rule because the real estate industry will promote the policy to attract more buyers. Furthermore, IRS will also update the individual income tax return (Form 1040) to reflect the existence of the account, with instructions on qualified contribution, exclusion amount, and taxability of distributions. Taxpayers can follow the instructions to utilize the rule. | + |
| *Minimum tax gap* – Is the likelihood of intentional and unintentional non-compliance likely to be low? | Structuring tax laws to minimize non-compliance is essential. However, for this proposal, the likelihood of both intentional and unintentional non-compliance is likely to be high.<br><br>*Intentional non-compliance*<br>This proposal could lead to underreporting when funds are distributed from the account for nonqualified use. Some taxpayers may take the distributions for nonqualified use and not report the distribution as taxable income.<br><br>*Unintentional non-compliance*<br>The current proposal, as written, would create some confusion as to who qualifies as the first-time homebuyer. An individual how owned a home previously but "had no present ownership" may claim as the first-time homebuyer and enjoy the tax-free distribution on the purchase of a home.<br><br>The First-Time Homebuyer Saving Account proposal will satisfy the Minimum Tax Gap principle if specific guidelines are provided – e.g., more detailed definitions and higher excise tax on nonqualified distributions or contributions. Also, there should be rules to improve compliance. When a distribution is made and reported on a taxpayer's income tax return, supporting documents, e.g., a properly executed HUD-1, Settlement Statement, should be required to minimize abuse. | - |

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| *Accountability to taxpayers* – Will taxpayers know the purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule? | This principle is not met. Few details are provided when this proposal was introduced. Although there are similar tax measures adopted by a few states, this bill is proposed at the federal level, and it is not well publicized to the targeted group of taxpayers. It is not clear if there was sufficient research to determine if this would help most first-time homebuyers. | - |
| *Appropriate government revenues* – Will the government be able to determine how much tax revenue will likely be collected and when? | Tax systems should have appropriate levels of predictability, stability, and reliability to enable the government to determine the timing and amount of tax collections.<br>It is unclear if the proposal would satisfy the Appropriate Government Revenues principle. Although the Treasury Department and the IRS may obtain similar data from the 529 plan to estimate the costs of the proposal, the real cost is unknown, as taxpayers may have different attitudes towards saving for college and saving for a first home.[9] Also, before the funds are distributed from the First-Time Homebuyer Savings Account, there is no reporting of how much investment income was generated and accumulated (unless the account reaches the maximum amount of $150,000). Therefore, the government has no estimate of revenue loss due to this tax-free growth.<br><br>There are many factors affecting the housing market. Therefore, the timing of home purchase varies among taxpayers. As a result, the lost revenue due to tax-free growth | - |

[9] United States Treasury (September 9, 2009). *An Analysis of Section 529 College Savings and Prepaid Tuition Plans.* Retrieved from: https://www.treasury.gov/press-center/press-releases/Documents/529.pdf

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| | in these saving accounts and potential tax revenue from nonqualified distribution is difficult to measure at a given time. | |

**Conclusion**

In summary, this bill is not equitable for taxpayers, as affluent families enjoy more benefit than lower income families. The bill ultimately helps the higher income taxpayers those with excess savings. Also, the complexity and the uncertainties within the bill increase the risk of abuse and noncompliance. The First-Time Homebuyer Savings Account Act violates most of the principles of good tax policy and therefore should not be passed as proposed.

Congress should consider allocating financial resources to homebuyer support programs that target low-income taxpayers.

Should the legislators choose to pursue this proposal, certain modifications should be made to reflect the goal of this bill better. The tax bill should be simplified to decrease taxpayers' compliance costs and the government's administrative resources, making preparation, compliance, enforcement, and audits easier. Taxpayers can easily understand how much they can save to purchase their first home.

Modification should also be made to set strict income limitations on both the account holders and the beneficiaries to focus the bill on providing help to middle-income and low-income families. The bill should also set a limit on how long the fund can be held in the savings account. This limit will prevent indefinite wealth accumulation.

In conclusion, the First-Time Homebuyer Savings Account Act of 2017 does not meet some important principles of good tax policy and may not help to promote the American dream of homeownership and affordable housing widely.