



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

May 29, 2009

MORTGAGEE LETTER 2009-15

TO: ALL APPROVED MORTGAGEES

SUBJECT: Using First-Time Homebuyer Tax Credits

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides for as much as an \$8000 tax credit to qualified first-time homebuyers. FHA supports this important initiative to promote homeownership. This mortgagee letter provides:

- Basic information on the first-time homebuyer credit obtained from the Internal Revenue Service (IRS) website. Complete information on how the first time homebuyer tax credit works, including the eligibility requirements for the tax credit, the amount of the tax credit that a first-time homebuyer may be eligible to receive, and how a homebuyer may claim the tax credit is available on the IRS website at <http://www.irs.gov/newsroom/article/0,,id=204671,00.html?portlet7>.
- Guidance on how FHA-approved mortgagees and FHA-approved nonprofit organizations as well as Federal, state, and local government agencies or instrumentalities may assist homebuyers that are eligible for the tax credit.

I. About the First-Time Homebuyer Tax Credit

Please check the IRS website to ensure you have up-to-date information. A brief overview of the tax credit from the IRS website and a copy of IRS Form 5405 (including instructions) are attached for reference.

Pursuant to 31 U.S.C. 3727 and 26 U.S.C. 6402, a refund of the first-time homebuyer credit will be made by the IRS only to the taxpayer, not to a third party. In other words, any refund issued in response to a claim for this credit cannot be assigned by a taxpayer to a third party.

II. FHA Tax Credit Guidance

Secondary Financing

Consistent with existing FHA policy, FHA will permit entities covered by Section 528 of the National Housing Act to use the current authority to offer tax credit advances with second liens in a manner consistent with the requirements in 12 U.S.C. 1709(b)(9). Eligible government agencies and instrumentalities of government are described in handbook HUD-4155.1 5.C3 and 5.C4.

Conditions:

- The tax credit advance, when combined with the FHA-insured first mortgage may not result in cash back to the borrower.
- The second lien may not exceed the total amount needed for the down payment, closing costs, and prepaid expenses.
- Secondary financing may be “soft” (silent) or require a monthly repayment.
- If payments are required, they must be included within the qualifying ratios and, when combined with the first mortgage, cannot exceed the borrower’s reasonable ability to pay.
- Payments must be deferred for at least 36 months to *not* be included in the qualifying ratios.
- If the tax credit advance loan has a short term for repayment, it must also provide that if the borrower fails to repay by the designated deadline, principal and interest payments begin automatically or the loan converts to a “soft” second.
- The secondary financing may not require a balloon payment before ten years.

Purchase of Tax Credit

FHA-approved mortgagees and FHA-approved nonprofit organizations as well as Federal, state, and local governmental agencies and instrumentalities thereof may purchase the tax credit anticipated by the homebuyer.

Conditions:

- The proceeds of the sale of the tax credit may not exceed the anticipated tax credit due the homebuyer based on the computations of form IRS 5405;
- The borrower must submit a signed certification that the tax credit is not subject to offset due to other indebtedness.
- A copy of the borrower’s tax refund and/or the IRS 5405 must be collected and retained in the FHA case binder.
- Any costs attendant to the purchase of the tax credit are to be nominal and discounting the anticipated credit to cover the costs and expenses of the transaction must be reasonable and disclosed to the homebuyer. In FHA’s view, fees and costs that total more than 2.5% of the anticipated credit are considered excessive. (Example: \$6000 to be refunded, with all fees and costs discounted, borrower should receive not less than \$5850.00 for sale of tax credit.)
- Pursuant to 12 U.S.C. 1709(b)(9), the homebuyer’s downpayment required for eligibility for FHA insurance may not consist of any funds (including funds derived from a sale of the homebuyer tax credit) provided by the mortgagee, the seller, or any other person or entity that financially benefits from the transaction (or by any third party or entity that is reimbursed, directly or indirectly, by the financially benefiting person or entity). Accordingly, the proceeds of the sale of the tax credit to FHA approved mortgagees, the seller, or any other person or entity that financially benefits from the transaction (or any third party or entity that is reimbursed, directly or indirectly, by the financing benefiting person or entity), may not be used to meet the 3.5% minimum downpayment, but may be used as additional downpayment, buying down of interest rate, or other closing costs.

Due Diligence

FHA expects that entities purchasing tax credit assets will employ appropriate due diligence measures including, but not limited to:

- Require the homebuyer to draft and provide the IRS form 5405 “First-Time Homebuyer Credit.”
- Contact the borrower’s employer and review pay stubs to confirm there are no outstanding garnishments.
- Review the homebuyer’s credit report to ensure there are no unpaid student loans, or other obligations that could be offset against the credit.
- Validate that all of the eligibility requirements for the tax credit are fulfilled
- Review previous tax returns and IRS tax assessment letters, if any, to determine that the borrower does not have unsettled obligations to the IRS

III. Monitoring

In order to track the tax credit monetization activities, FHA will require FHA-approved mortgagees to input into FHA Connection the following data:

- Name and EIN of the party who purchased the tax credit,
- The amount of the anticipated credit, and
- The amount the homebuyer paid for the monetization services.

The lender must also collect and maintain in the FHA case file the documentation that validates all of the tax credit monetization data submitted via FHA Connection.

FHA will monitor the purchase of tax credit transactions closely. Charging of excessive fees or costs in the purchase of the tax credit or increasing other fees or charges in the transaction without FHA approval may result in referral to the Mortgagee Review Board, and particularly with respect to entities that are not FHA-approved mortgagees, referral to the Federal Trade Commission, or referral to the appropriate State Attorney General office, as may be applicable.

If you have any questions regarding this mortgagee letter, please call FHA’s Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner

Attachments

- ▶ [IRS Form 5405](#)
- ▶ [IRS Tax Credit Summary](#)



First-Time Homebuyer Credit Questions and Answers: Basic Information

Q. What is the credit?

A. The first-time homebuyer credit is a new tax credit included in the recently enacted Housing and Economic Recovery Act of 2008. For homes purchased in 2008, the credit operates like an interest-free loan because it must be repaid over a 15-year period.

The credit was expanded in 2009 for homes purchased in 2009, increasing the amount of the credit and eliminating the requirement to repay the credit, unless the home ceases to be your principal residence within the 36-month period beginning on the purchase date.

Q. How much is the credit?

A. The credit is 10 percent of the purchase price of the home, with a maximum available credit of \$7,500 (\$8,000 if you purchased your home in 2009) for either a single taxpayer or a married couple filing a joint return, but only half of that amount for married persons filing separate returns. The full credit is available for homes costing \$75,000 or more.

Q. Which home purchases qualify for the first-time homebuyer credit?

A. Any home purchased as the taxpayer's principal residence and located in the United States qualifies. You must buy the home after April 8, 2008, and before Dec. 1, 2009, to qualify for the credit. For a home that you construct, the purchase date is considered to be the first date you occupy the home.

Taxpayers (including spouse, if married) who owned a principal residence at any time during the three years prior to the date of purchase are not eligible for the credit. This means that you can qualify for the credit if you (and your spouse, if married) have not owned a home in the three years prior to a purchase. If you make an eligible purchase in 2008, you claim the first-time homebuyer credit on your 2008 tax return. For an eligible purchase in 2009, you can choose to claim the credit on either your 2008 or 2009 income tax return.

Q. Can I apply for the credit if I bought a vacation home or rental property?

A. No. Vacation homes and rental property do not qualify for this credit.

Q. Who is considered to be a first-time homebuyer?

A. Taxpayers who have not owned another principal residence at any time during the three years prior to the date of purchase.

Q. When do I have to buy a new home to get the credit?

A. The home must be purchased after April 8, 2008, and before Dec. 1, 2009, in order to obtain the credit. For a home you construct, the purchase date is considered to be the date you first occupy the home.

Q. How do I apply for the credit?

A. The credit is claimed on new IRS [Form 5405](#), First-Time Homebuyer Credit, and filed with your 2008 or 2009 federal income tax return.

Q. Are there income limits?

A. Yes. The credit is reduced or eliminated for higher-income taxpayers. The credit is phased out based on your modified adjusted gross income (MAGI). For a married couple filing a joint return, the phase-out range is \$150,000 to \$170,000. For other taxpayers, the phase-out range is \$75,000 to \$95,000. This means that the full credit is available for married couples filing a joint return whose MAGI is \$150,000 or less and for other taxpayers whose MAGI is \$75,000 or less.

Q. I purchased a home that qualifies for the first-time homebuyer credit. I will be renting two of the bedrooms

and reporting the rental income on Schedule E. Will I still qualify for the credit if I use the home as my principal residence?

A. Yes, if you meet all first-time homebuyer eligibility requirements. See [Form 5405](#), First-Time Homebuyer Credit, for more details.

Q. If two unmarried people buy a house together, how do they determine how much each may take of the credit?

A. IRS [Notice 2009-12](#) provides guidance for allocating the first-time homebuyer credit between taxpayers who are not married.

Q. I am a single co-owner of a home. How do I get this credit?

A. Depending on the year of purchase, you will claim the credit on either your 2008 or 2009 federal income tax return.

Q. I don't owe taxes and/or my income is exempt from tax and I do not have a filing requirement. Do I qualify for the credit?

A. The credit is fully refundable and, if you qualify as a first-time homebuyer, having tax-exempt income will not preclude eligibility. Although there are maximum income limits for qualifying first-time homebuyers, there are no minimum income criteria. Thus, someone with no taxable income who qualifies as a first-time homebuyer may file for the sole purpose of claiming the credit for a refund.

Q. Does the first-time homebuyer credit apply to homes located in the U.S. Territories?

A. No.

Q. Would I be considered a first time homebuyer if I owned a principle residence outside of the United States within the previous three years?

A. Yes. A taxpayer who owned a principal residence outside of the United States within the last three years is not disqualified from taking the credit for a purchase within the United States.

Q. If qualified, are homebuyers required to claim the first-time homebuyer credit?

A. No.

Q. Who cannot take the credit?

A. If any of the following describe you, you cannot take the credit, even if you buy a new home:

- Your income exceeds the phase-out range. This means joint filers with MAGI of \$170,000 and above and other taxpayers with MAGI of \$95,000 and above.
- You buy your home from a close relative. This includes your spouse, parent, grandparent, child or grandchild.
- You do not use the home as your principal residence.
- You sell your home before the end of the year.
- You are a nonresident alien.
- You are, or were, eligible to claim the District of Columbia first-time homebuyer credit for any taxable year. (This does not apply for a home purchased in 2009.)
- Your home financing comes from tax-exempt mortgage revenue bonds. (This does not apply for a home purchased in 2009.)
- You owned a principal residence at any time during the three years prior to the date of purchase of your new home. For example, if you bought a home on July 1, 2008, you cannot take the credit for that home if you owned, or had an ownership interest in, another principal residence at any time from July 2, 2005, through July 1, 2008.

Q. Does previously inheriting a home and living in the inherited home automatically disqualify an individual as a first-time homebuyer with respect to a different home that is purchased within the prescribed 2008 and 2009 time frames?

A. Yes, an ownership interest in a prior principal residence would preclude the taxpayer from being considered a first-time homebuyer. As long as the taxpayer owned and used the prior home as his principal residence, then he is not a first-time homebuyer. There is no exception for taxpayers who did not buy their prior residences. (05/06/09)

Q. Is a step-relative considered a related party?

A. Step-relatives are neither ancestors nor lineal descendants and are therefore not related persons for purposes of the first-time homebuyer credit. (05/06/09)

Q. If I claim the first-time homebuyer credit in 2009 and stop using the property as my main home before the 36 month period expires after I purchase, how is the credit repaid and how long would I have to repay it?

A. If, within 36 months of the date of purchase, the property is no longer used as the taxpayer's principal residence, the taxpayer is required to repay the credit. Repayment of the full amount of the credit is due at that time the income tax return for the year the home ceased to be the taxpayer's principal residence is due. The full amount of the credit is reflected as additional tax on that year's tax return. Form 5405 and its instructions will be revised for tax year 2009 to include information about repayment of the credit. (05/06/09)

Q. If a person does not actually make the payments on a home that's their primary residence, but the deed and mortgage documents are in their name, can they be considered a first-time home buyer?

A. Yes. If a taxpayer purchases a home to be used as a primary residence from an unrelated person and has not owned a home within the previous 36 months, the taxpayer is eligible for the first-time homebuyer credit regardless of who makes the mortgage payment. (05/06/09)

Q. Do taxpayers affected by Hurricane Katrina or other disasters qualify as first-time homebuyers if their principal residence (i.e. main home) became uninhabitable more than three years ago and they have not formally disposed of the uninhabitable home or purchased or built a new home in the interim?

A. A first-time homebuyer is an individual (and the individual's spouse, if married) who has not had an ownership interest in a principal residence (within the meaning of Section 121 of the Internal Revenue Code) during the three years before the date a new principal residence is purchased. Applying Section 121, a taxpayer can be a first-time homebuyer if the taxpayer has not owned and used a property as a principal residence at any time during the three years before the date of purchase of the new residence. Taxpayers affected by Hurricane Katrina who have owned but not used their property as a principal residence within the last three years may be eligible for the first-time homebuyer credit when they purchase a new principal residence. (05/07/09)

Related Items:

- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2008](#)
- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2009 Scenarios](#)
- First-Time Homebuyer Credit: [Scenarios](#)
- [First-Time Homebuyer Credit](#)

Page Last Reviewed or Updated: May 07, 2009



First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2008

Q. How is the credit repaid on a 2008 home purchase?

A. The first-time homebuyer credit will be recaptured on Form 1040 as additional tax and is repaid in 15 equal annual installments beginning in the second tax year after the year in which the credit is claimed.

Q. When must I pay back the credit for the home I purchased in 2008?

A. For homes purchased in 2008, the first-time homebuyer credit is similar to a 15-year interest-free loan. You must begin repaying the loan the second year after claiming the credit. It is repaid in 15 equal annual installments beginning with the second tax year after the year the credit is claimed.

For example, if you properly claim the maximum available credit of \$7,500 on your 2008 federal tax return, you must begin repaying the credit by including one-fifteenth of this amount, or \$500, as an additional tax on your 2010 federal tax return. Normally, \$500 will be due each year from 2010 to 2024.

There are a number of exceptions that apply to the repayment rule. Please see [Form 5405](#) and its instructions; review the first-time homebuyer credit section of [Publication 17](#), Your Federal Income Tax for Individuals; or consult your tax professional.

Q. For homes purchased in 2008, how will the IRS know if someone sells their residence before the 15 years are up?

A. Through both self reporting and third-party information.

Related Items:

- First-Time Homebuyer Credit Questions and Answers: [Basic Information](#)
- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2009](#)
- First-Time Homebuyer Credit: [Scenarios](#)
- [First-Time Homebuyer Credit](#)

Page Last Reviewed or Updated: April 10, 2009



First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2009

Q. Is the IRS currently accepting e-filed returns that claim the new \$8,000 homebuyer credit in/for the 2008 tax year?

A. Yes. Taxpayers can file [Form 5405](#), First Time Homebuyer Credit, electronically for home purchases in 2008 to claim the first-time homebuyer credit. IRS began processing these returns electronically on March 30, 2009.

Q. I plan to build a home and occupy it in 2009. Can I claim the first-time homebuyer credit now and use the funds toward the down payment or other ongoing construction costs?

A. No. To qualify for the first time home buyer credit, the residence must be purchased. By statute, a residence which is constructed by the taxpayer is treated as purchased on the date the taxpayer first occupies the residence. (05/06/09)

Q. I bought my home in 2009 (early) and filed my 2008 tax return claiming the \$7,500 first-time homebuyer credit that has to be repaid. Now the expanded law provides for an \$8,000 credit that doesn't have to be repaid. What do I need to do to get the \$8,000 credit that doesn't have to be paid back?

A. You can file an amended return.

Q. If I purchase a home in June 2009, and have already filed my 2008 tax return, can I amend my 2008 return or will I have to claim it on my 2009 return?

A. You can either file an amended return to claim it on your 2008 return or claim it on your 2009 return.

Q. I am in the process of buying a home. I expect to close the deal before December 1, 2009. Can I claim the first-time homebuyer credit now? That would allow me to use the refund for a down payment.

A. No. You may not claim the credit in anticipation of a purchase that has yet to happen. Until you have finalized the purchase of your home, which for most purchasers occurs at the time of the closing, you do not qualify for the credit. IRS [news release 2009-27](#), First-Time Homebuyers Have Several Options to Maximize New Tax Credit, contains details for filing options if the home is purchased after April 15, 2009.

Q: When must I pay back the credit for the home I purchased in 2009?

A: Generally, there is no requirement to pay back the credit for a principal residence purchased in 2009. The obligation to repay the credit on a home purchased in 2009 arises only if the home ceases to be your principal residence within 36 months from the date of purchase. The full amount of the credit received becomes due on the return for the year the home ceased being your principal residence.

Q. If I claim the first-time homebuyer credit for a purchase in 2009 and stop using the property as my principal residence before the 36 month period expires after I purchase, how is the credit repaid and how long would I have to repay it?

A. If, within 36 months of the date of purchase, the property is no longer used as your principal residence, you are required to repay the credit. Repayment of the full amount of the credit is due at that time the income tax return for the year the home ceased to be your principal residence is due. The full amount of the credit is reflected as additional tax on that year's tax return. [Form 5405](#) and its instructions will be revised for tax year 2009 to include information about repayment of the credit.

Related Items:

- First-Time Homebuyer Credit Questions and Answers: [Basic Information](#)
- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2008](#)
- First-Time Homebuyer Credit: [Scenarios](#)
- [First-Time Homebuyer Credit](#)

Page Last Reviewed or Updated: May 06, 2009



First-Time Homebuyer Credit: Scenarios

S1. If a single person (Taxpayer A) qualifies as a first-time homebuyer at the time he/she purchases a home with someone (Taxpayer B) that is not a first-time homebuyer and then later that year they marry each other, is the credit still allowed?

A. Eligibility for the first-time homebuyer credit is determined on the date of purchase. If Taxpayer A, a first-time homebuyer, buys a house and then later that year marries Taxpayer B, not a first-time homebuyer, the credit is allowable to Taxpayer A. Taxpayer A may take the maximum credit.

S2. Taxpayer A is a single first-time home buyer. Taxpayer B (parent) cosigns for A and does not qualify. Both names are on the mortgage. Can Taxpayer A claim the credit and, if so, how much?

A. Yes. Taxpayer B is not a first-time homebuyer and cannot claim any portion of the credit, but A may claim the entire credit (\$7,500 for purchase in 2008; \$8,000 for purchase in 2009), if the home was purchased as Taxpayer A's primary residence.

S3. A taxpayer owned her principal residence. Several years ago, she decided to relocate to a rented apartment, but did not sell the former residence. Instead, she rented it out to tenants. Now the taxpayer plans to buy another house and make it her new principal residence. Does she qualify for the first-time homebuyer credit?

A. A taxpayer who owned rental property within the past three years is still eligible for the credit. The taxpayer cannot have owned and used a home as his or her principal residence within the last three years.

S4. If husband and wife wanted to sell the home that the wife owned when they got married, and the husband had not owned a home within the past three years, could he qualify as a first-time homebuyer for the credit even though the wife would not qualify?

A. No. The purchase date determines whether a taxpayer is a first-time homebuyer. Since the wife had ownership interest in a principal residence within the prior three years, neither taxpayer may take the first-time homebuyer credit. Section 36(c)(1) of the Internal Revenue Code requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the prior three years from the date of purchase. The husband may not take the credit even if he filed on a separate return.

S5. Taxpayer purchased a home on April 24, 2008, while she was separated from her husband. Later in the year, they reconciled and were living together at the end of 2008. She has not owned a home since 2004 but he owned sold his home in 2006. They remained married the entire time. Is the taxpayer eligible for the first-time homebuyer credit?

A. No. The purchase date determines whether a taxpayer is a first-time homebuyer. Since the husband had ownership interest in a principal residence within the prior three years, and the taxpayers were legally married, neither taxpayer may take the first-time homebuyer credit. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the prior three years from the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. The wife may not take the credit even if she filed on a separate return.

S6. have been estranged from my spouse for over three years and file married filing separate. I don't know if my spouse has owned a main home in the last three years, but I have not. If I buy a house in 2009 that otherwise qualifies for the first-time homebuyer credit, can I claim the credit?

A. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the three years prior to the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. If your spouse has not owned a main home in the last three years, then you may claim the credit.

S7. I am separated from my spouse and considered unmarried, and qualify for the unmarried head of household filing status. My spouse has owned a main home in the last three years, but I have not. If I buy a home on May 1, 2009 that otherwise qualifies, can I claim the first-time homebuyer credit?

A. No. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the three years prior to the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. The taxpayer may not take the credit even if filed on a separate return.

S8. A qualifying taxpayer bought a home in August 2008 that needed a lot of work before occupying. They finished the renovations and moved in the home in January 2009. Can they claim the \$8,000, since they did not occupy the home until 2009?

A. No. Taxpayers who purchase an existing home and renovate the property before moving in are eligible for the first-time homebuyer credit based on the date of purchase, not the date of occupancy.

Related Items:

- First-Time Homebuyer Credit Questions and Answers: [Basic Information](#)
- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2008](#)
- First-Time Homebuyer Credit Questions and Answers: [Homes Purchased in 2009](#)
- [First-Time Homebuyer Credit](#)

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First-Time Homebuyer Credit

▶ Attach to Form 1040

Name(s) shown on return

Your social security number

Part I General Information

A Address of home qualifying for the credit (if different from the address shown on return)

B Date acquired (see instructions)

C If you are choosing to claim the credit on your 2008 return for a main home bought after December 31, 2008, and before December 1, 2009, check here (see instructions)

Part II Credit

1 Enter the **smaller** of:

- \$7,500 (\$8,000 if you purchased your home in 2009), but only half of that amount if married filing separately, **or**
- 10% of the purchase price of the home.

If someone other than a spouse also held an interest in the home, enter only your share of this amount (see instructions)

2 Enter your modified adjusted gross income (see instructions)

3 Is line 2 more than \$75,000 (\$150,000 if married filing jointly)?

No. Skip lines 3 through 5 and enter the amount from line 1 on line 6.

Yes. Subtract \$75,000 (\$150,000 if married filing jointly) from the amount on line 2 and enter the result

4 Divide line 3 by \$20,000 and enter the result as a decimal (rounded to at least three places).

Do not enter more than 1.000

5 Multiply line 1 by line 4

6 Subtract line 5 from line 1. This is your **credit**. Enter here and on Form 1040, line 69

1					
2					
3					
4				X	
5					
6					

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Use Form 5405 to claim the first-time homebuyer credit. The credit may give you a refund even if you do not owe any tax.

For homes purchased in 2008, the credit operates much like an interest-free loan. You generally must repay it over a 15-year period. For homes purchased in 2009, you must repay the credit only if the home ceases to be your main home within the 36-month period beginning on the purchase date. See *Repayment of Credit* on page 2.

Who Can Claim the Credit

In general, you can claim the credit if you are a first-time homebuyer. You are considered a first-time homebuyer if:

- You purchased your main home located in the United States after April 8, 2008, and before December 1, 2009.
- You (and your spouse if married) did not own any other main home during the 3-year period ending on the date of purchase.

If you constructed your main home, you are treated as having purchased it on the date you first occupied it.

Main home. Your main home is the one you live in most of the time. It can be a house, houseboat, house trailer, cooperative apartment, condominium, or other type of residence.

Who Cannot Claim the Credit

You cannot claim the credit if any of the following apply.

1. Your modified adjusted gross income is \$95,000 or more (\$170,000 or more if married filing jointly). See the instructions for line 2.
2. You are, or were, eligible to claim the District of Columbia first-time homebuyer credit for any tax year. This rule does not apply for a home purchased in 2009.
3. Your home financing comes from tax-exempt mortgage revenue bonds. This rule does not apply for a home purchased in 2009.
4. You are a nonresident alien.
5. Your home is located outside the United States.
6. You sell the home, or it ceases to be your main home, before the end of 2008.
7. You acquired your home by gift or inheritance.
8. You acquired your home from a related person.

A related person includes:

- a. Your spouse, ancestors (parents, grandparents, etc.), or lineal descendants (children, grandchildren, etc.).
- b. A corporation in which you directly or indirectly own more than 50% in value of the outstanding stock of the corporation.
- c. A partnership in which you directly or indirectly own more than 50% of the capital interest or profits interest.

For more information about related persons, see *Nondeductible Loss* in Chapter 2 of Pub. 544, *Sales and Other Dispositions of Assets*. When determining whether you acquired your main home from a related person, family members in that discussion (except item 7) include only the people mentioned in 8a above.

Amount of the Credit

Generally, the credit is the smaller of:

- \$7,500 (\$8,000 if you purchased your home in 2009), but only half of that amount if married filing separately, **or**
- 10% of the purchase price of the home.

You are allowed the full amount of the credit if your modified adjusted gross income (MAGI) is \$75,000 or less (\$150,000 or less if married filing jointly). The phase-out of the credit begins when your MAGI exceeds \$75,000 (\$150,000 if married filing jointly). The credit is eliminated completely when your MAGI reaches \$95,000 (\$170,000 if married filing jointly).

Repayment of Credit

Homes purchased in 2008. You generally must repay the credit over a 15-year period in 15 equal installments. The repayment period begins in 2010 and you must include the first installment as additional tax on your 2010 tax return.

If your home ceases to be your main home before the 15-year period is up, you must include all remaining annual installments as additional tax on the return for the tax year that happens. This includes situations where you sell the home, you convert it to business or rental property, or the home is destroyed, condemned, or disposed of under threat of condemnation.

If you and your spouse claim the credit on a joint return, each spouse is treated as having been allowed half of the credit for purposes of repaying the credit.

Example 1. You claimed a \$7,500 credit on your 2008 tax return. You must include \$500 ($\$7,500 \div 15$) as additional tax on your 2010 tax return and on each tax return for the next 14 years.

Example 2. You claimed a \$7,500 credit on your 2008 tax return. In 2009, you sold the home to your son. You must include \$7,500 as additional tax on your 2009 tax return.

Exceptions. The following are exceptions to the repayment rule.

- If you sell the home to someone who is **not** related to you, the repayment in the year of sale is limited to the amount of gain on the sale. (See item 8 under *Who Cannot Claim the Credit* for the definition of a related person.) When figuring the gain, reduce the adjusted basis of the home by the amount of the credit you did not repay.
- If the home is destroyed, condemned, or disposed of under threat of condemnation, and you acquire a new main home within 2 years of the event, you continue to pay the installments over the remainder of the 15-year repayment period.
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for making all subsequent installment payments.

- If you die, any remaining annual installments are not due. If you filed a joint return and then you die, your surviving spouse would be required to repay his or her half of the remaining repayment amount.

Homes purchased in 2009. You must repay the credit only if the home ceases to be your main home within the 36-month period beginning on the purchase date. This includes situations where you sell the home, you convert it to business or rental property, or the home is destroyed, condemned, or disposed of under threat of condemnation. You repay the credit by including it as additional tax on the return for the year the home ceases to be your main home. If the home continues to be your main home for at least 36 months beginning on the purchase date, you do not have to repay any of the credit.

If you and your spouse claim the credit on a joint return, each spouse is treated as having been allowed half of the credit for purposes of repaying the credit.

Exceptions. The following are exceptions to the repayment rule.

- If you sell the home to someone who is **not** related to you, the repayment in the year of sale is limited to the amount of gain on the sale. (See item 8 under *Who Cannot Claim the Credit* for the definition of a related person.) When figuring the gain, reduce the adjusted basis of the home by the amount of the credit.
- If the home is destroyed, condemned, or disposed of under threat of condemnation, and you acquire a new main home within 2 years of the event, you do not have to repay the credit.
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for repaying the credit.
- If you die, repayment of the credit is not required. If you filed a joint return and then you die, your surviving spouse would be required to repay his or her half of the credit.

Specific Instructions

Part I General Information

Line B. Enter the date you acquired the home. This is the date you purchased it (or the date you first occupied it if you constructed your main home).

Line C. You can choose to claim the credit on your 2008 Form 1040 for a main home purchased after December 31, 2008, and before December 1, 2009. If you make this choice, check the box.

Part II Credit

Line 1. If two or more unmarried individuals buy a main home, they can allocate the credit among the individual owners using any reasonable method. The total amount allocated cannot exceed the smaller of \$7,500 (\$8,000 if you purchased your home in 2009) or 10% of the purchase price. See *Purchase price* on page 3.

Note. A reasonable method is any method that does not allocate all or a part of the credit to a co-owner who is not eligible to claim that part of the credit.

Purchase price. The purchase price is the adjusted basis of your home on the date you purchased it. This includes certain settlement or closing costs (such as legal fees and recording fees) and your down payment and debt (such as a first or second mortgage or notes you gave the seller in payment for the home). If you build, or contract to build, a new home, your purchase price can include costs of construction. For more information about adjusted basis, see Pub. 551, Basis of Assets.

Line 2. Your modified adjusted gross income is the amount from Form 1040, line 38, increased by the total of any:

- Exclusion of income from Puerto Rico, and
- Amount from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.