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2009 Home Buyer Tax Credit Overview

In an effort to stimulate the economy and revive the housing market, Congress has enacted legislation providing a tax credit for first-time home buyers. The American Recovery and Reinvestment Act of 2009 authorizes a tax credit of up to \$8,000 for qualified first-time home buyers purchasing a principal residence on or after January 1, 2009 and before December 1, 2009.

- 1. The tax credit is for first-time homebuyers only.**
 - The Law Defines "First Time Home Buyer" as a buyer who has not owned a principal residence during the three year period prior to the purchase. For married taxpayers, the law tests the homeownership history of both the homebuyer and his/her spouse.

- 2. The tax credit does not have to be repaid.**
 - This is a true tax credit however buyers must use the residence as their principal residence for at least 3 years or face recapture of the tax credit amount. Certain exceptions apply see IRS form 5405 for details.

- 3. The tax credit is equal to 10 percent of the home's purchase price up to a maximum of \$8,000.**

- 4. The \$8,000 Homebuyer tax credit can be combined with the MRB homebuyer program.**

- 5. Prospective homebuyers who believe they qualify for the tax credit are permitted to reduce their income tax withholding.**
 - Reducing tax withholding (up to the amount of the eligible credit) will enable the buyer to accumulate cash by raising his/her take home pay. This money can then be applied to the down payment. Specific rules and guidelines do apply.



2009 Home Buyer Tax Credit Q & A

Are there any income limits for claiming the tax credit?

The tax credit amount is reduced for buyers with a modified adjusted gross income (MAGI) of more than \$75,000 for single taxpayers and \$150,000 for married taxpayers filing a joint return. The tax credit amount is reduced to zero for taxpayers with MAGI of more than \$95,000 (single) or \$170,000 (married) and is reduced proportionally for taxpayers with MAGIs between these amounts.

What is "modified adjusted gross income"?

Modified adjusted gross income or MAGI is defined by the IRS. To find it, a taxpayer must first determine "adjusted gross income" or AGI. AGI is total income for a year minus certain deductions (known as "adjustments" or "above-the-line deductions"), but before itemized deductions from Schedule A or personal exemptions are subtracted. On Forms 1040 and 1040A, AGI is the last number on page 1 and first number on page 2 of the form. For Form 1040-EZ, AGI appears on line 4 (as of 2007). Note that AGI includes all forms of income including wages, salaries, interest income, dividends and capital gains. Partial credits of less than \$8,000 are available for some taxpayers whose MAGI exceeds the phaseout limits.

How is this home buyer tax credit different from the tax credit that Congress enacted in July of 2008?

The most significant difference is that this tax credit does not have to be repaid. Because it had to be repaid, the previous "credit" was essentially an interest-free loan. This tax incentive is a true tax credit.

How does a home buyer claim the tax credit? Do they need to complete a form or application?

Participating in the tax credit program is easy. The buyer claims the tax credit on their federal income tax return. Specifically, home buyers should complete IRS Form 5405 to determine their tax credit amount, and then claim this amount on Line 69 of their 1040 income tax return. No other applications or forms are required, and no pre-approval is necessary. However, they will want to be sure that they qualify for the credit under the income limits and first-time home buyer tests.

What types of homes will qualify for the tax credit?

Any home that will be used as a principal residence will qualify for the credit. This includes new and resale homes.

It states that the tax credit is "refundable." What does that mean?

The fact that the credit is refundable means that the home buyer credit can be claimed even if the taxpayer has little or no federal income tax liability to offset. Typically this involves the government sending the taxpayer a check for a portion, or all the amount of the refundable tax credit.

If a buyer purchased a home in early 2009 and have already filed to receive the \$7,500 tax credit on their 2008 tax returns, how can they claim the new \$8,000 tax credit instead?

Home buyers in this situation may file an amended 2008 tax return with a 1040X form. Buyers should consult with a tax advisor to ensure they file this return properly.

A buyer is not a U.S. citizen. Can they claim the tax credit?

Maybe, anyone who is not a nonresident alien (as defined by the IRS), who has not owned a principal residence in the previous three years and who meets the income limits test may claim the tax credit for a qualified home purchase. The IRS provides a definition of "nonresident alien" in IRS Publication 519.

Is a tax credit the same as a tax deduction?

No. A tax credit is a dollar-for-dollar reduction in what the taxpayer owes. That means that a taxpayer who owes \$8,000 in income taxes and who receives an \$8,000 tax credit would owe nothing to the IRS. A tax deduction is subtracted from the amount of income that is taxed.

If a buyer is qualified for the tax credit and buys a home in 2009, can they apply the tax credit against their 2008 tax return?

Yes. The law allows taxpayers to choose ("elect") to treat qualified home purchases in 2009 as if the purchase occurred on December 31, 2008. This means that the 2008 income limit (MAGI) applies and the election accelerates when the credit can be claimed (tax filing for 2008 returns instead of for 2009 returns). A benefit of this election is that a home buyer in 2009 will know their 2008 MAGI with certainty, thereby helping the buyer know whether the income limit will reduce their credit amount.

TAR Governmental Affairs Department Report
Breakdown of \$8,000 Tax Credit
February 13, 2009

This week Congress passed an economic stimulus package that included an extension and increase in the previous \$7,500 first-time tax credit from last summer to \$8,000. There are also some attractive features of the new version. NAR President Charles McMillan said of the bill:

“Here's our take on the Stimulus Bill and Treasury announcements made this week. We look at the Stimulus package AND the Treasury's package holistically, in compliment with each other - mostly because that's how the Obama team is looking at it. Your representatives, the NAR Board of Directors, asked us in November to do 4 things (with an unspoken but clearly understood mandate to PRESERVE what we already have). Here they are: 1) get loan limits raised for high cost areas, 2) make the \$7,500 tax credit NOT a loan, 3) try to find ways to push interest rates down (which are higher than they should be due to systemic risk right now) by 200 basis points, and 4) help provide solutions to the foreclosure/short sale problem.

“So here's what we have achieved: 1) the loan limits will be raised to \$727,000 in high cost areas, 2) the tax credit will be raised to \$8,000 with NO payback [a true credit], 3) interest rates have come down 125-150 basis points, and 4) the bill has over \$50 billion in it for foreclosure mitigation, with Geitners' Treasury plan signaling that the second half of TARP and TALF will be used to mitigate foreclosures through a government guarantee, drive down interest rates by buying another \$200-300 billion of mortgage paper from the GSEs thereby freeing them up to do the same with new mortgages, and Fannie has just agreed to lift the cap of 4 investment properties eligible for loans and raise it to 10.”

Specifically the changes from the 2008 \$7,500 tax credit are:

- Maximum credit amount is increased to \$8,000.
- An eligible property is any single family residence; including condos, co-ops, or townhouses that will be used as your principal residence. Investment or second home properties do not qualify.
- It's refundable unlike the former 'credit'. That means you can reduce or eliminate your income tax liability up to the \$8,000 limit for the year of purchase. Any unused amount can be refunded to you in cash in the year following your qualifying home purchase.
- An individual with adjusted gross income of not more than \$75,000 or \$150,000 on a joint return are eligible.
- Although it's called the “First Time Homebuyer” tax credit, as long as you have not owned a home in the past 3 years that was your principal residence you probably qualify.
- Homebuyers who use state revenue bond financing, in Tennessee that would be the Tennessee Housing Development Authority (THDA) qualify under the new, \$8,000 credit; they did not under the \$7,500 program.
- The \$8,000 is a true credit and does not have to be repaid.

- If you sell the house you buy and claim credit for during the 3 years following the purchase all of the credit is subject to recapture (you have to pay it back).
- This program begins January 1, 2009 and ends December 1, 2009.
- Any revisions are effective as of January 1, 2009.

The breakdown from NAR:

FIRST-TIME HOMEBUYER TAX CREDIT
 As Modified in the American Recovery and Reinvestment Act
 Major Modifications Shaded
 February 2009

FEATURE	CREDIT AS CREATED JULY 2008 APPLIES TO ALL QUALIFIED PURCHASES ON OR AFTER APRIL 9, 2008	REVISED CREDIT – EFFECTIVE FOR PURCHASES ON OR AFTER JANUARY 1, 2009 AND BEFORE DECEMBER 1, 2009
Amount of Credit	Lesser of 10 percent of cost of home or \$7500	Maximum credit amount increased to \$8000
Eligible Property	Any single family residence (including condos, co-ops, townhouses) that will be used as a principal residence.	No change All principal residences eligible.
Refundable	Yes. Reduces (or can eliminate) income tax liability for the year of purchase. Any unused amount of tax credit refunded to purchaser.	No change Purchasers will continue to receive refund for unused amount when tax return is filed.
Income Limit	Yes. Full amount of credit available for individuals with adjusted gross income of no more than \$75,000 (\$150,000 on a joint return). Phases out above those caps (\$95,000 and \$170,000).	No change Same income limits continue to apply.
First-time Homebuyer Only	Yes. Purchaser (and purchaser's spouse) may not have owned a principal residence in 3 years previous to purchase.	No change Still available for first-time purchasers only. Three-year rule continues to apply.
Revenue Bond Financing	No credit allowed if home financed with state/local bond funding.	Purchasers who utilize revenue bond financing can use credit.
Repayment	Yes. Portion (6.67% of credit or \$500) to be repaid each year for 15 years, starting with 2010 tax filing.	No repayment for purchases on or after January 1, 2009 and before December 1, 2009
Recapture	If home sold before 15-year repayment period ends, then outstanding balance of repayment amount recaptured on sale.	If home is sold within three years of purchase, entire amount of credit is recaptured on sale. Applies only to homes purchased in 2009.

Termination	July 1, 2009 (But note program changes for 2009)	December 1, 2009
Effective Date	Purchases on or after April 9, 2008 and before January 1, 2009. Repayment to begin for 2010 tax year.	All revisions are effective as of January 1, 2009