

FIRST-TIME HOMEBUYER CREDIT

Following Congress approval, President Obama has signed off on the bill approving an extension of the \$8,000 new home buyer tax credit until April 30th, 2010. Also, the new provisions in the extension are NOT retroactive. Here is a summary of the new and updated provisions and their impact on you if you have or are planning to buy a house. New IRS forms and claiming instructions are also provided.

Qualification Period: First-time home buyers who bought after January 1, 2009 and before April 2010 (with closing on the home to take place before July 1, 2010), would get the \$8,000 home buyer tax credit. For the purpose of claiming the tax credit, the purchase date is the date when closing occurs and the title to the property transfers to the home owner. If you and your spouse claim the credit on a joint return (both of you must meet the income and past ownership criteria to qualify), each spouse is treated as having been allowed half of the credit for purposes of repaying the credit. So the total amount claimable is still only \$8,000 (up to April 30th, 2010)

Income Qualification Limits: The home buyer's credit would be available to individuals with a modified adjusted gross income (MAGI) of up to \$125,000 or \$250,000 for couples, up from \$75,000 for individuals and \$150,000 for couples under the original rules. The higher income limits are only for homes purchased after November 6, 2009. That is, the existing MAGI phase-outs of \$75,000 to \$95,000 or \$150,000 to \$170,000 for joint filers still apply to purchases on or before November 6, 2009. Those with incomes higher than the above limits do not qualify for any part of the tax credit.

New Current Homeowners: Current homeowners looking for a replacement primary residence could also qualify for a \$6,500 (up to \$3,250 for a married individual filing separately) under the new "long-time resident" provision. They must have lived in the same principal residence for any five-consecutive year period during the eight-year period that ended on the date the replacement home is purchased. This new provision also only applies to homes purchased after November 6, 2009. The IRS has stepped up compliance checks involving the home buyer credit for those with past homes and they must provide a Mortgage Interest Statement, Property Tax Records or Homeowner's Insurance Records, to prove compliance with past residency criteria.

Claiming the new home buyer credit: For qualifying purchases, taxpayers have the option of claiming the credit on either their 2009 or 2010 return. A new version of Form 5405, First-Time Home buyer Credit, is now available on the IRS website. Taxpayers claiming the credit on their 2009 returns, will NOT be able to file electronically because of the added documentation requirements, but instead will need to file a paper return by using the new version of Form 5405. A taxpayer who purchased a home on or before November 6, 2009, and chooses to claim the credit on an original or amended 2008 return may continue to use the current version of form 5405.

In addition to filling out a Form 5405, all eligible home buyers must include with their 2009 Tax Returns one of the following documents in order to receive the credit:

- A copy of the settlement statement showing all parties' names and signatures, property address, sales price, and date of purchase. Normally, this is the properly executed Form HUD-1, Settlement Statement.
- For mobile home purchasers who are unable to get a settlement statement, a copy of the executed retail sales contract showing all parties' names and signatures, property address, purchase price and date of purchase.
- For a newly constructed home where a settlement statement is not available, a copy of the certificate of occupancy showing the owner's name, property address and date of the certificate.

The IRS expects to start processing 2009 Tax Returns claiming the home buyer credit in mid-February after it completes the updating and testing of systems to meet the law's new requirements and to deter fraud related to the home buyer credit. Normally, it takes about four to eight weeks to get a refund claimed on a complete and accurate paper return where all required documents are attached. For those homebuyers filing early, the IRS expects the first refunds based on the homebuyer credit will be issued toward the end of March.

The new \$8,000 credit can be used towards the down payment of a house bought in the credit qualifying period. You need to work with your lender to take advantage of this provision.

Tax Credit Exclusions: Homes that cost more than \$800,000 are NOT eligible for the credit and you must be over 18 years old to claim the credit (dependents are not eligible to claim the credit either). Those who sell their new home or stop using it as their main residence within three years would have to repay the credit. You cannot claim the credit if you acquired your home by gift or inheritance OR if you acquired your home from a related person.

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 \$8,000 or 10% of the purchase price.

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 the part of the credit (I would go with 50/50 as a reasonable method if one person is not eligible for the credit)

The Purchase date is how you decide which credit you are eligible for : Only homes purchased from January 1, 2009 to April 1, 2010 are eligible for the fully refundable \$8,000 credit. If you constructed your main home, you are treated as having purchased it on the date you first occupied it.

Foreign or Overseas Homes: You are considered a first time home buyer when buying an American residence, even if you owned principal residence outside of the United States within the previous three years. Non-resident aliens cannot claim the credit.

Members of the Armed Forces: Certain federal employees serving outside the U.S. have an extra year to buy a principal residence in the U.S. and still qualify for the credit. An eligible taxpayer must buy or enter into a binding contract to buy a home by April 30, 2011, and settle on the purchase by June 30, 2011.

For more information or specifics about your personal situation, please free to contact us.

Link for the IRS Form 5405:

<http://www.irs.gov/pub/irs-pdf/f5405.pdf>