The Extended and Expanded
First-Time Homebuyer Tax Credit

New legislation was signed into law on Nov. 6, 2009, which extends and expands the first-time homebuyer credit allowed by previous Acts. The new law:

- **Extends deadlines for purchasing and closing on a home.**
  Under the new law, an eligible taxpayer must buy, or enter into a binding contract to buy, a principal residence on or before April 30, 2010 and close on the home by June 30, 2010. For qualifying purchases in 2010, taxpayers have the option of claiming the credit on either their 2009 or 2010 return.

- **Authorizes the credit for long-time homeowners buying a replacement principal residence.**
  For the first time, long-time homeowners who buy a replacement principal residence may also claim a homebuyer credit of up to $6,500 (up to $3,250 for a married individual filing separately). 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.

- **Raises the income limitations for homeowners claiming the credit.**
  People with higher incomes can now qualify for the credit. The new law raises the income limits for homes purchased after Nov. 6, 2009. The credit phases out for individual taxpayers with modified adjusted gross income (MAGI) between $125,000 and $145,000 or between $225,000 and $245,000 for joint filers. 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 Nov. 6, 2009.

For more information, refer to the Quick Comparison Chart and the Frequently Asked Questions below. If we can be of assistance, you can email us or call us at 248.304.6700.

Questions and Answers: Basic Information from IRS.gov

Q. What is the credit?

A. The first-time homebuyer credit is a new tax credit included in the 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. It was further expanded in late 2009 to extend deadlines and to allow long-time homeowners buying replacement homes and people with higher incomes to qualify for the credit. *(Nov. 12, 2009)*

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 ($80,000 if purchased after Dec. 31, 2008, and before Dec. 1, 2009).

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 May. 1, 2010 (with closing to take place before July 1), 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. If a taxpayer purchases a mobile home (manufactured home) with land and qualifies for the credit, is the amount of the credit based on the combined cost of the home and land?

A. Yes. The first-time homebuyer credit is ten percent of the purchase price of a principal residence. The total purchase price (mobile home and land) is used to determine the amount of the first-time homebuyer credit.

Q. Is a taxpayer who purchases a mobile home and places the home on leased land eligible for the first-time homebuyer credit?

A. Yes. A mobile home may qualify as a principal residence and it is not necessary that the taxpayer own the land to qualify for the first-time homebuyer credit.

Q. Can a taxpayer who purchases a travel trailer qualify for the credit?

A. A travel trailer that is affixed to land may qualify as a principal residence.

Q. Can an individual who has lived in an RV qualify for the credit?

A. For purposes of the first-time homebuyer credit, an RV with a built-in motor is personal property that is not affixed to land and does not qualify as a principal residence. Accordingly, someone who has owned and lived in an RV within the past three years may still qualify as a first-time homebuyer.

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. Can a dependent on someone else's tax return claim the first time homebuyer credit if they otherwise qualify?

A. Yes. There is no limitation under section 36 that a first-time homebuyer cannot be a dependent. However, taxpayers who do not otherwise qualify for the credit do not become eligible for the credit simply by using a minor child's name. In addition, under state law children under the age of 18 generally are not bound by any contract they sign and cannot be required to comply with the terms of the contract. Thus, it is extremely unlikely that a seller of a home, or a lender if financing is required, would enter into a bona fide sale of a home to a child. Merely using the child's name to purchase a home does not qualify the child for the credit if, in substance, the child is not a bona fide purchaser of a home.

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. Can a taxpayer claim the first-time homebuyer credit after entering into a contract for the purchase of a residence but before closing on the purchase?

A. No. Taxpayers cannot claim the credit before there is a completed sale and purchase of the residence. The sale and purchase are generally completed at the time of closing on the purchase. *(New 7/2/09)*

Q. Can a taxpayer claim the first-time homebuyer credit if the purchase is pursuant to a seller financing arrangement (for example, a contract for deed, installment land sale contract, or long-term land contract), and the seller retains legal title to secure the taxpayer's payment obligations?

A. If the taxpayer obtains the "benefits and burdens" of ownership of a residence in a seller financing arrangement, then the taxpayer can claim the credit even though the seller retains legal title. Factors that indicate that a taxpayer has the benefits and burdens of ownership include: 1. the right of possession, 2. the right to obtain legal title upon full payment of the purchase price, 3. the right to construct improvements, 4. the obligation to pay property taxes, 5. the risk of loss, 6. the responsibility to insure the property and 7. the duty to maintain the property. *(New 7/2/09)*

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. I purchased a duplex home with two separate dwelling units. I will live in one dwelling and will rent out the other dwelling unit and report the rental income on Schedule E. May I qualify for the first-time homebuyer credit, and what amount do I use for the purchase price to determine the amount of the credit?

A. Yes, you may qualify for the credit for the dwelling unit that you use as your principal residence. To determine the amount of your credit, you must allocate the purchase price of the duplex between the two separate dwelling units. Your credit is 10% of the portion of the purchase price of the duplex allocated to your dwelling unit that you use as your principal residence, up to a maximum credit of $8,000. You may not use the entire purchase price of the duplex to determine the amount of your credit.

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 principal 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 descendents 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)

Source: IRS.gov
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