First-Time Homebuyer Credit

Updated Nov. 6, 2009, to reflect new legislation — more to be added soon

New Legislation

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

- Extends deadlines for purchasing and closing on a home.
- Authorizes the credit for long-time homeowners buying a replacement principal residence.
- Raises the income limitations for homeowners claiming the credit.

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.

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.

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.

General Information

Homebuyers who purchased a home in 2008, 2009 or 2010 may be able to take advantage of the first-time homebuyer credit. The credit:

- Applies only to homes used as a taxpayer's principal residence.
- Reduces a taxpayer's tax bill or increases his or her refund, dollar for dollar.
- Is fully refundable, meaning the credit will be paid out to eligible taxpayers, even if they owe no tax or the credit is more than the tax owed.

The credit is claimed using Form 5405, which you file with your original or amended tax return.

For 2008 Home Purchases

The Housing and Economic Recovery Act of 2008 established a tax credit for first-time homebuyers that can be worth up to $7,500. For homes purchased in 2008, the credit is similar to a no-interest loan and must be repaid in 15 equal, annual installments beginning with the 2010 income tax year.

For 2009 Home Purchases

The American Recovery and Reinvestment Act of 2009 expanded the first-time homebuyer credit by increasing the credit amount to $8,000 for purchases made in 2009 before Dec. 1. However, the new Worker, Homeownership and Business Assistance Act of 2009 has extended the deadline. Now, taxpayers who have a binding contract to purchase a home before May 1, 2010, are eligible for the credit. Buyers must close on the home before July 1, 2010. *[Added Nov. 12, 2009]*

For home purchased in 2009, the credit does not have to be paid back unless the home ceases to be the taxpayer's main residence within a three-year period following the purchase.

First-time homebuyers who purchase a home in 2009 can claim the credit on either a 2008 tax return, due April 15, 2009, or a 2009 tax return, due April 15, 2010. The credit may not be claimed before the closing date. But, if the closing occurs after April 15, 2009, a taxpayer can still claim it on a 2008 tax return by requesting an extension of time to file or by filing an amended return. News release 2009-27 has more information on these options.

Questions and Answers

More information is available in the question and answer section.

Related Items

- IR-2009-83, First-Time Homebuyer Credit Provides Tax Benefits to 1.4 Million Families to Date
- The American Recovery and Reinvestment Act of 2009: Information Center

Time Homebuyer Credit Questions and Answers: Basic Information

Updated Nov. 6, 2009, to note new legislation. The new legislation extends and expands the first-time homebuyer credit allowed by previous Acts. The new law:

- *extends deadlines for purchasing and closing on a home*

- *authorizes the credit for long-time homeowners buying a replacement principal residence*
- *raises the income limitations for homeowners claiming the credit*

This page will be reviewed and revised as appropriate soon based on the new legislation.

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)

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

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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. Suppose a member of the military who purchased a home and qualified for the credit receives orders to deploy overseas for possibly 18 months. If they sell the home within 3 years from the date of purchase, do they have to pay back the credit?

A. Section 36 does not provide any recapture exceptions for military personnel who are deployed and sell their home within 36 months from the purchase date. If the taxpayer does not sell the residence, then the military deployment may be considered a "temporary absence" and the home may still be the taxpayer's principal residence if the taxpayer intends to return to the residence after the deployment.

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.

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 informant

*F*irst-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 one which he sold 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. I **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.

Source:
http://www.irs.gov/newsroom/article/0,,id=204671,00.html