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Home Buyer Credits

The "Worker, Homeownership, and Business Assistance Act of 2009" made a few changes to the existing home buyer credit.

Since some things stayed the same, let's first review the existing rules that didn't change.

1. Only the purchase of a principal residence (i.e., a main home) located in the U.S. qualifies for the credit. Vacation homes and rental properties are not eligible.
2. The homebuyer credit reduces your tax liability on a dollar-for-dollar basis. If the credit is more than the tax you owe, the difference is paid to you as a tax refund.
3. For homes bought after December 31, 2008, you must pay back the homebuyer credit if you dispose of the home or stop using it as your principal residence within 36 months of purchase.
4. A "first-time homebuyer" is one (and spouse, if married) who:
    a. Had no present ownership interest in a principal residence in the U.S. during the 3-year period before the purchase of the new principal residence.
    b. Did not acquire the residence by someone they're related to.
    c. Did not acquire the residence by via a gift.

<u>What changed?</u>

The new law makes important changes to the homebuyer credit:

1. The homebuyer credit is extended to apply to a principal residence bought before May 1, 2010. The homebuyer credit also applies to a principal residence bought before July 1, 2010 by a person who enters into a written binding contract before May 1, 2010, to close on the purchase of the principal residence before July 1, 2010.
2. The credit is still 10% of the purchase price; the maximum credit is still $8,000 for purchases made by "first-time" homebuyers (see above). The maximum credit is $6,500 if bought by a "long-time resident" (see #4 below).
3. Certain service members on extended duty outside of the U.S. get an extra year to buy a qualifying home and get the credit; they also can avoid the recapture rules under certain circumstances.
4. Current homeowners who are "long-time residents" can claim a credit of up to $6,500. For purchases after November 6, 2009, you can claim the homebuyer credit if you (and, if married, your spouse) maintained the same principal residence for any period of five consecutive years during the eight years ending on the date that you buy the subsequent principal residence.

5. You don't have to sell your current home in order to qualify for a homebuyer credit on the replacement home. You can buy the replacement home to beat the new deadlines (explained above) before you sell the old home. For that matter, you can hold on to your old home in the hope of achieving a better selling price later on. However, **the replacement home must be your principal residence.**
6. The homebuyer credit is available to higher-income taxpayers. For purchases after November 6, 2009, the homebuyer credit phases out over higher levels of modified AGI, making the credit available to a bigger pool of buyers. For individuals, the phase-out range is between $125,000 and $145,000, and for those filing a joint return, it's between $225,000 and $245,000.
7. For purchases after November 6, 2009, the homebuyer credit can't be claimed for a home if its purchase price exceeds $800,000. It's important to note that there is no phase-out mechanism. A purchase price that exceeds the $800,000 threshold by even a single dollar will cause the loss of the entire credit.

Other homebuyer credit changes. The new law includes a number of new anti-abuse rules that make it tougher to claim the homebuyer credit. The most important of these are as follows:

... Beginning with the 2009 tax return, the homebuyer credit can't be claimed unless the taxpayer attaches to the return a properly executed copy of the settlement statement used to complete the purchase of the qualifying residence.

... For purchases after November 6, 2009, the homebuyer credit can't be claimed unless the taxpayer is at least 18 years old as of the date of purchase. A married person is treated as meeting this requirement if he or his spouse is at least 18 years old.

... For purchases after November 6, 2009, the homebuyer credit can't be claimed by a taxpayer who can be claimed as a dependent by another taxpayer for the tax year of purchase. It also can't be claimed for a home bought from a person related to the buyer's spouse.

... The new law makes it easier for the IRS to go after questionable homebuyer credit claims without initiating a full-scale audit.

Please feel free to send me an email if you have any further questions.

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