

# **Talking Points – \$8000 Home Buyer Tax Credit Basics**

*(American Recovery & Reinvestment Act 2009)*

Lots of questions---some answers!

There will be many scenarios and questions about who does and who does not qualify for the \$8000 maximum tax credit for first-time homebuyers...and even the term “First-time homebuyer” is not entirely correct!

The tax credit discussed in these Talking Points is only for homes purchased by first-time homebuyers (see definition below) between January 1 and November 30, 2009...for a total of 11 months!

Here are some of the top questions compiled and answered by the National Association of Mortgage Brokers, the National Association of Realtors and tax advisors! This is a tutorial. Always advise your clients to seek legal and tax advice!

## **Who Is Considered a First-Time Home Buyer?**

There are other scenarios to consider! This one is easy—anyone who has not owned a home within the last 3 years. If they sold a home 3 years ago, the date on the HUD 1 is the determining factor.

For a married couple, if one person owned a home within the last 3 years and the other did not, they don't qualify for the tax credit.

However, if an unmarried couple jointly buys a home, and one person owned a home (within 3 years) and the other did not, they can “designate” the tax credit to that person who will be able to claim it on their individual tax return. This rule also applies for parents to co-sign on a mortgage. The parents own a home. The son or daughter is FTHB—the child can claim the tax credit.

Okay, one more scenario. If the FTHB owns a vacation home or rental property, which was not used as a primary residence within the last 3 years, they may qualify but will have to be able to prove it!

A non-US citizen, who meets resident-alien status (defined by the IRS Publication 519) is also eligible as long as they meet the requirements above and income limits

## **Types of Homes**

Pretty much any type of home qualifies—as long as it is a principal residence (as defined by the IRS). Single family, town homes and condos, manufactures or mobile homes and yes, houseboats all qualify! A newly constructed home purchased from a homebuilder is determined by the date on the HUD 1.

However, If a borrower is building a home (for a principal residence) and owned the land prior to January 1, 2009, the tax code says that the “purchase date” is the date that the owner “first occupies” the home which must be between January 1 and November 30, 2009.

## **Is It a Tax Credit Or a Loan?**

If someone purchased a home between April 9 and December 31, 2008, they called it a “tax credit” because you get the tax credit money upfront—but it really was an “interest-free” loan which is paid back for the next 15 years or upon the sale of the home (within 3 years of purchase). The “payback” is based upon the balance owed and not the entire tax credit received.

The next set of rules applies if a home is purchased between January 1 and November 30, 2009. It is a true tax credit and does not have to be repaid. However, if the home is sold within 3 years of the purchase date, the **entire** tax credit has to be paid back.

## How The Dollar Amount of Tax Credit is Figured

Simply calculation here: 10% of the home's purchase price or a maximum of \$8000. A tax credit can be claimed regardless if they obtain a mortgage, a tax-revenue mortgage or the buyer paid cash when purchasing the home.

## Income Limits

This is a little more complicated and first-time homebuyers should seek advice from a tax expert. Here is the "simple" explanation based on several scenarios but keep in mind that the magic income number is always based on Modified ADJUSTED GROSS INCOME (MAGI). You will find that the MAGI income on the following lines of the 3 tax forms.

IRS 1040 Form - line #37  
IRS Form 1040A - line 21  
IRS1040EZ - line 4

Single taxpayer: MAGI of \$75,000 or less  
Married taxpayer: MAGI of \$150,000 or less

However, there is a provision for those single and married who EXCEED the income limits to claim a partial tax credit. A "tax credit formula" has been created to determine the dollar amount. For example, if a single tax payer's MAGI is \$82,000, they could get a partial tax credit of \$5200.

Now, here's the biggie: Taxpayers can choose to claim their tax credit on either their 2008 tax returns or wait until the 2009 tax year to file. For example, if they exceed the income limit in 2008 (which would only qualify them for a partial credit) but their income has been decreased in 2009 due to a temporary layoff or cut back in over time, they can wait until 2009 to claim the tax credit (for the full tax credit).

## Potpourri

For home buyers who do not want to wait until the end of the year to claim their tax credit, they should consider filing a W-4 form with their employer, decreasing the amount withheld for federal taxes. They may not get a check at the end of the year, but it will increase the dollar amount of their paycheck.

Another option for FTHB's is to borrow the dollar amount of the expected tax credit from a relative (usually a parent) and pay it back when the tax credit is received. It could be used towards down payment and closing costs and FHA and VA will allow it. Be sure to check with the lender and the documentation required.

This is more complicated than it seems on the surface. Always, always, always, refer your clients to their tax advisor!