

First-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.

First-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*

Q. What is the credit?

A. The first-time homebuyer credit is a tax credit for individuals and couples who purchase a new home after April 8, 2008, and before May 1, 2010. There are several versions of the credit depending upon when the home was purchased:

- For homes purchased in 2008, the credit, with some exceptions, must be repaid and takes the form of a \$7,500 interest-free loan.
- For homes purchased in 2009 prior to November 7, the credit is for a maximum of \$8,000 and, with some exceptions, does not have to be repaid, but it's only for new home owners who have not owned a home in the prior three years.
- Beginning November 7, 2009, an additional category of new homebuyers, long-time residents (who owned their own homes), was added. The credit for this group is a maximum of \$6,500, which, with some exceptions, does not have to be repaid. (1/27/10)

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 or early 2010) 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 in 2009 or early 2010). Long-time homeowners who buy a replacement home after Nov. 6, 2009, or in early 2010 may qualify for a credit of up to \$6,500, or \$3,250 for a married person filing a separate return. (11/19/09)

Q. Which home purchases qualify for the first-time homebuyer credit?

A. Any home purchased as your 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.

For homes purchased after April 28, 2008, and before November 7, 2009, 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. For homes purchased after November 6, 2009, long-time residents can also get the credit under a special rule for a qualifying replacement home. To qualify, you must have owned and used the same home as your principal residence for at least five consecutive years of the eight-year period ending on the date you buy your new principal residence.

If you made 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. For an eligible purchase in 2010, you can choose to claim the credit on either your 2009 or 2010 return. (1/27/09)

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.

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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 are considered first-time homebuyers. 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.

In addition, under a special rule, long-time homeowners who buy a replacement home after Nov. 6, 2009, or in early 2010 can also qualify. To qualify as a long-time resident, you must have owned and used the same home as your principal residence for at least five consecutive years of the eight-year period ending on the date you buy your new principal residence. For an eligible taxpayer who, for example, bought a home on Nov. 30, 2009, the eight-year period would run from Dec. 1, 2001, through Nov. 30, 2009. (1/27/10)

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

A. Different rules apply depending upon whether a dependent buys a home after Nov. 6, 2009, or on or before that date. Dependents are not eligible to claim the credit on any purchase after Nov. 6, 2009. However, a dependent who buys a home on or before Nov. 6, 2009 may qualify for the credit. (11/19/09)

Q. Can a minor buy a home and claim the credit?

A. Usually, no. However, different rules apply to purchases after Nov. 6, 2009, and those on or before that date.

Minors are generally barred from claiming the credit on home purchases after Nov. 6, 2009. To qualify for the credit, a purchaser must be at least 18 years of age on the date of purchase. For a married couple, only one spouse must meet this age requirement. A dependent is not eligible for the credit, regardless of age.

For purchases on or before Nov. 6, 2009, the tax law does not bar a minor from buying a home and claiming the credit. 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. (11/19/09)

Q. When do I have to buy a new home to get the credit?

A. The credit is available for eligible home purchases after April 8, 2008. You must enter into a binding contract to buy the home before May 1, 2010 and close before July 1, 2010, 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. (11/19/09)

Q. How do I apply for the credit?

A. The credit is claimed on IRS [Form 5405](#), First-Time Homebuyer Credit (revised December 2009), and filed with your 2008, 2009 or 2010 federal income tax return. If you have already filed a 2008 or a 2009 tax return without claiming the credit, you can amend your return to claim the credit using [Form 1040X](#) with the December 2009 Form 5405 attached. Certain additional supporting documentation will be required when filing claim for the credit with your 2009 or 2010 return or amended return. (1/27/10)

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Q. I submitted an amended 2008 return for the first-time homebuyer credit more than eight weeks ago. How long will it take the IRS to process my return?

A. The normal processing time for amended returns is approximately 8-12 weeks. Recent changes to the tax law have resulted and will continue to result in larger than normal volumes of amended returns. This increased volume has increased our processing time to 12-16 weeks. It is not necessary for you to follow-up with the IRS regarding your amended return if you are within these time frames. (11/23/09)

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). Different income limits apply to purchases on or before Nov. 6, 2009 and those after that date.

For purchases on or before Nov. 6, 2009, 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.

For purchases after Nov. 6, 2009, for a married couple filing a joint return, the phase-out range is \$225,000 to \$245,000. For other taxpayers, the phase-out range is \$125,000 to \$145,000. This means that the full credit is available for married couples filing a joint return whose MAGI is \$225,000 or less and for other taxpayers whose MAGI is \$125,000 or less. (11/19/09)

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. (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. (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. 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 your 2008, 2009 or 2010 federal income tax return. (11/19/09)

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.

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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.
- 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 are a nonresident alien.

Also, if the home is purchased after November 6, 2009, and you are a minor, you are generally barred from claiming the credit. To qualify for the credit, a purchaser must be at least 18 years of age on the date of purchase. For a married couple, only one spouse must meet this age requirement. A dependent is not eligible for the credit, regardless of age. For more information on this, please see the Q and A "Can a minor buy a home and claim the credit?" (1/27/10)

Q. Does previously inheriting a home and living in it automatically disqualify me as a first-time homebuyer if I buy a different home on or before Nov. 6, 2009?

A. Yes, an ownership interest in a prior principal residence would bar you from being considered a first-time homebuyer. As long as you owned and used the prior home as your principal residence, you are not a first-time homebuyer. There is no exception for taxpayers who did not buy their prior residences. (11/19/09)

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 your principal residence, you are required to repay the credit. Repayment of the full amount of the credit is due at the 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. See Form 5405 and its instructions about repayment of the credit. (5/6/09, 1/27/10)

Q. If a person does not actually make the payments on a home that's their principal residence, but the deed and mortgage documents are in their name, can they be considered a first-time homebuyer?

A. Yes. If a taxpayer purchases a home to be used as a principal 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. (5/6/09)

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. Yes. They may be eligible for the first-time homebuyer credit when they purchase a new principal residence. (11/19/09)

First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2009 or 2010

New legislation signed 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*

General Information

Q. How does the first-time homebuyer credit differ for homes purchased in 2009 and 2010 compared to the credit for homes purchased in 2008?

A. First-time homebuyers who purchased new homes in 2008, subject to certain criteria, were eligible for a maximum credit of \$7,500, which must be repaid over a 15-year period.

Eligibility for the credit and the amount of the available credit for new homes purchased in 2009 were subject to a variety of changing rules depending upon when the home was purchased. First-time homebuyers who purchased new homes in 2009, subject to certain criteria, were eligible for a maximum credit of \$8,000, which does not have to be repaid. Long-time residents who purchased homes after November 6, 2009, subject to certain criteria, were eligible for a maximum credit of \$6,500, which does not have to be repaid. First-time homebuyers and long-time residents who purchase new homes in 2010 before May 1, 2010, subject to certain criteria, are eligible for a maximum credit of \$8,000 or \$6,500, respectively, which does not have to be repaid.

The credit for home purchases made in 2008 should be claimed on 2008 tax returns. The credit for purchases made in 2009 can be claimed on either the 2008 or 2009 tax return. The credit for homes purchased in 2010 can be claimed on either the 2009 or 2010 tax return. (1/27/10)

Long-Time Homeowners

Q. I understand that even if I have previously owned a home, I may be eligible for the homebuyer credit. Can you explain the rules?

A. If you are a long-time resident and owner of the same main home and you buy a new home, the law may allow you to claim the homebuyer credit. You must buy your new home after Nov. 6, 2009, and before May 1, 2010. Alternatively, if you sign a binding contract on or before April 30, 2010, you must purchase or close on the new home on or before June 30, 2010. If you claim the credit as a long-time resident of the same main home, please provide documentation showing you lived in that home for a five-consecutive-year period during the eight years ending on the date you buy the new home. (1/26/10)

Q. I'm already a homeowner. If I buy another home after Nov. 6, 2009, to use as my principal residence, do I have to sell my home to qualify for the homebuyer tax credit?

A. No. If you meet all of the requirements for the credit, the law does not require you to sell or otherwise dispose of your current principal residence to qualify for a credit of up to \$6,500 when you buy a replacement home to use as your principal residence. The requirements are that you must buy, or enter into a binding contract to buy, the replacement principal residence after Nov. 6, 2009, and on or before April 30, 2010, and close on the home by June 30, 2010. Additionally, you 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. For example, if you bought a home on Nov. 30, 2009, the eight-year period would run from Dec. 1, 2001, through Nov. 30, 2009. (11/17/09)

Q. Do I need to own a home at the time I buy my new home to get the credit as a long-time resident of the same main home?

A. No, you do not have to own a home at the time you make your new purchase. But you must satisfy the criteria for having owned and lived in a home as your primary residence for a five-consecutive year period that falls somewhere within the eight-year timeframe that ends on the date you buy the home on which you are claiming the credit.

Thus, if you make a qualifying home purchase on Nov. 30, 2009, the eight-year period would run from Dec. 1, 2001, to Nov. 30, 2009. If you bought your previous home on Nov. 1, 2003, and continued living in it as your main home until at least Oct. 31, 2008, you will meet the five-consecutive year requirement. In this situation, you will still qualify for the credit even if you didn't own a home from Nov. 1, 2008, to Nov. 30, 2009, but you instead, for example, lived in a rental home during that period. (1/26/10)

Q. I know that I can only get the credit if I owned and lived in my home for at least five consecutive years. How is the eligibility period figured?

A. You must own a home and use it as your principal residence for any five-consecutive-year period during the eight-year period ending on the date you buy the home on which you are claiming the credit. The five-consecutive year period can cover any uninterrupted time span during the eight-year period. For example, suppose you make a qualifying home purchase on Nov. 30, 2009. The eight-year period would run from Dec. 1, 2001, to Nov. 30, 2009. If you bought and began living in your previous home on Nov. 1, 2003, and continued to own and live in that home until at least Oct. 31, 2008, you meet the five-consecutive-year requirement. (1/26/10)

Q. Does the five year period need to be five consecutive calendar years?

A. No. The five-consecutive-year-period does not have to run from January 1 through December 31 provided it spans a continuous five-year period during the eight years prior to the purchase date of the new residence for which you are claiming the credit. For example, if you bought and began living in your previous home on Nov. 1, 2003, and continued to own and live in that home until at least Oct. 31, 2008, you would meet the five-consecutive-year requirement. (1/26/10)

Married and Co-Purchasing Homebuyers

Q. I am a long-time resident (have owned and used my current home as a principal residence for five consecutive years out of the eight-year period ending on the date of purchase of the new residence) but my spouse has lived there for only three years. Can we qualify for the long-time resident homebuyer credit if we purchase a new principal residence?

A. No. Both spouses must have owned and used the same previous principal residence for five consecutive years out of the 8-year period ending on the date of purchase of the new principal residence to qualify for the credit. (12/14/09)

Q. I am a long-time resident and current homeowner and my spouse is a first-time homebuyer (has had no ownership interest in a principal residence during the three-year period ending on the date of purchase of a new principal residence) and we purchased a new principal residence. Can we qualify for either the first-time homebuyer credit or the long-time resident homebuyer credit if we purchase a new principal residence?

A. No. Both you and your spouse must be first-time homebuyers in order to qualify for the first-time homebuyer tax credit. Since you had an ownership interest in a principal residence during the three-year period ending on the date of purchase, neither you nor your spouse qualifies for the credit. Similarly, both you and your spouse must be long-time homeowners of the same previous principal residence in order to qualify for the long-time resident homebuyer credit. Since your spouse is not a long-time homeowner of your current principal residence, neither of you qualify for the credit. (12/14/09)

Q. I am a long-time homeowner of a principal residence and my spouse is a long-time homeowner of a different principal residence. Can we qualify for the long-time resident homebuyer credit if we purchase a new principal residence?

A. No. Both spouses must have owned and used the same previous principal residence for five consecutive years out of the eight-year period ending on the date of purchase of the new principal residence to be eligible for the credit. Since you and your spouse owned and used different principal residences, neither of you qualify. (12/14/09)

Q. How does the allocation provision work when unmarried taxpayers purchase a home together and both qualify for the first-time homebuyer credit under different tests?

A. Co-purchasers who are not married may allocate the credit using a reasonable method. A reasonable method is any method that does not allocate any portion of the credit to a taxpayer who is not eligible for that portion of the credit. The maximum credit for a taxpayer who qualifies under the long-time resident test is \$6,500, and the maximum credit for a taxpayer who qualifies under the first-time homebuyer test is \$8,000. One example of a reasonable method is to allocate \$6,500 to the long-time resident homebuyer and \$1,500 to the first-time homebuyer. (12/14/09)

Home Construction

Q. I plan to build a home and occupy it in 2009 or early 2010. 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 entered into a written home construction contract with a homebuilder before May 1, 2010, and the contract provides for completion of the home before July 1, 2010. Can I take the credit for the construction costs?

A. Your home construction contract qualifies as a binding contract, entered into on or before April 30, 2010, to close on the purchase of a principal residence on or before June 30, 2010. If you occupy the home on or before June 30, 2010, and meet the other requirements, you can take the credit. (12/17/09)

Q. I entered into a written home construction contract with a homebuilder before May 1, 2010, and the contract provides for completion of the home before September 1, 2010. Can I take the credit for the construction costs?

A. Your home construction contract does not qualify as a binding contract to close on the purchase of a principal residence on or before June 30, 2010. Therefore, you do not qualify for the two-month extension of the deadline for completing the purchase in the case of a binding contract. However, if you occupy the home on or before April 30, 2010, and meet the other requirements, you can take the credit. If you do not occupy the home on or before April 30, 2010, you cannot take the credit. (12/17/09)

Claiming the Credit

Q. I bought my home in early 2009, before the new \$8,000 credit was enacted. I filed my 2008 return claiming the old \$7,500 credit that has to be repaid. What do I need to do to get the \$8,000 credit?

A. You can file an amended return.

Q. I purchased a home in 2009, after I filed my 2008 return. Do I claim the credit on my 2009 return or can I claim it on an amended 2008 return?

A. You can either file an amended return to claim it on your 2008 return or you can claim it on your 2009 return.

Q. I am in the process of buying a home. 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.

Repaying the Credit

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 or early 2010. The obligation to repay the credit 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. If I claim the first-time homebuyer credit for a purchase in 2009 or early 2010 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 the 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: Claiming the Credit on Your Tax Return

Legislative changes in November 2009 added documentation requirements for claiming the credit. Due to increased compliance checks by the IRS, failure to submit documentation will slow down your refund.

2009 and 2010 Tax Returns

Q: I'm eligible for the first-time homebuyer credit. How do I claim the credit on my tax return?

A. There are certain requirements for claiming the credit. In simplest terms, they are as follows:

- You must use [Form 1040](#) to claim the credit (reported on line 67 of the 2009 return).
 - You cannot use Form 1040-EZ or 1040-A.
 - If you have already filed your tax return, you can amend it using [Form 1040-X](#).
- You must attach [Form 5405](#), First-Time Homebuyer Credit and Repayment of the Credit.
- You must attach documentation showing the purchase of a home between the applicable dates.
- You must file a paper, not electronic, return.

Don't forget to attach your regular wage and tax statement, Form W-2, W-2G or 1099-R, or enclose your 1040-V payment voucher, as applicable.

The IRS recommends that, to avoid processing delays for compliance checks, those claiming the credit as a long-time homeowner buying a new main home also attach documentation showing proof of home ownership of a prior main home during the applicable time period.

Detailed information on the filing and documentation requirements, as well as on eligibility for the credit, is contained in the questions and answers below and in the other pages about the homebuyer tax credit on this Web site.

Q. Can you give me more information on how I claim the first-time homebuyer credit on my 2009 tax return?

A. You can claim the credit on your 2009 tax return by using the December 2009 revision of Form 5405, First-Time Homebuyer Credit and Repayment of the Credit. You must attach this form to a printed copy of your 2009 tax return, along with additional documents that support the claim for the credit, and mail them to the appropriate IRS office. IRS Form 5405, should be attached to any of the following returns that might claim the credit: 2008, 2009 or 2010 federal income tax return.

Q. What do I have to attach to my 2009 or 2010 return to prove that I bought a new home in order to claim the credit?

A. If you claim the credit on a 2009 (or later) return, you must attach a copy of your settlement statement. For most homebuyers, this will be a properly executed Form HUD-1, Settlement Statement (U.S. Department of Housing and Urban Development) that includes:

- Names and signatures (if available) of all parties involved,
- Property address,
- Purchase price, and
- Date of purchase.

If you purchased a mobile home and do not have a settlement statement, you should attach a copy of your executed retail sales contract showing all parties' names and signatures, the property address, the purchase price and the date of purchase.

If you are claiming the credit for a newly constructed home and you do not have an executed settlement statement, you should attach a copy of your certificate of occupancy showing the name of the taxpayer, the property address, and the date of the certificate.

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Q. What do I do if my settlement sheet does not have any signatures?

A. The IRS encourages buyers seeking the homebuyer credit to sign the settlement statement when they file their tax return -- even in cases where the settlement form does not include a signature line. The IRS recognizes that elements of the settlement document, often a Form HUD-1, may vary from jurisdiction to jurisdiction and may not reflect the signatures of both the buyer and seller. While the Form 5405 instructions indicate that a properly executed settlement statement should show the signatures of all parties, the IRS has clarified that it will accept a settlement statement if it is complete and valid according to local law. In areas where signatures are not required on the settlement document, the IRS encourages the buyer to sign the settlement statement prior to attaching it to the tax return. In situations where the signature of the seller is not on the settlement document, the IRS advises the buyer to still sign the document.

Q. What additional documentation, if any, should I attach to my return to claim the credit?

A. If you are a long-time resident of the same main home and you buy a new home, the law may allow you to claim the homebuyer credit. To qualify, you must have lived in the same main home for at least a five-consecutive-year period during the eight-year period ending on the purchase date of the new home.

You can avoid refund delays by attaching documentation, such as the following, covering the five-consecutive-year period:

- Forms 1098, Mortgage Interest Statement, or substitute mortgage interest statements,
- Property tax records, or
- Homeowner's insurance records.

It is not necessary to have five years of the same documentation. Any combination of these documents that help verify that you owned and lived in your home as a principal residence for at least five consecutive years is acceptable. For example, suppose you owned and lived in your previous home from Nov. 1, 2003, to Oct. 31, 2008. You could send a copy of Form 1098 showing the mortgage interest you paid for the part of 2003 during which you owned and lived in the home, as well as 1098s for 2004, 2005 and 2006, a copy of homeowners insurance records for 2007 and a property tax statement for the part of 2008 during which you owned and lived in the home.

In addition, if you purchased the home after April 30, 2010, and you are claiming the credit, either as a first-time homebuyer or under the special rules for long-time residents, you should attach a copy of the pages from a signed binding contract to make a purchase showing all parties' names and signatures, the property address, the purchase price and the date of the contract.

Q. The instructions to Form 5405 state that I should send copies of various documents to the IRS showing that I lived in the home for a period of at least five consecutive years. I have some of these documents but not all of them for all years. How do I decide which documents to send along with my return?

A. Send the best available documentation you have. If your records are missing or incomplete for any year, please include an explanation. The IRS will evaluate the adequacy of any documents you send.

Q. Why must I file a paper return rather than e-file my return?

A. Currently, the e-file system is not able to handle the wide variety of required and recommended supporting documents that would have to be scanned and submitted.

Q. Will the fact that my return has to be mailed to the IRS delay my refund?

A. While e-filed returns that also use direct deposit can result in a refund in as little as 10 days, it normally 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 some of the earliest filers, the updates that the IRS must put into place may mean that refunds will take an additional two to three weeks. The IRS expects the first refunds based on the homebuyer credit will be issued toward the end of March.

Q. Can my return be prepared using electronic software?

A. Yes. You or your tax professional can prepare your return electronically using tax preparation software, but you must file a paper return. If you qualify for the credit, the IRS urges you to use tax-preparation software to fill out your return because the software helps to avoid needless mistakes as the return is prepared. New documentation requirements mean that everyone claiming the homebuyer credit must file a paper return rather than filing electronically. You can still use electronic filing software, including IRS Free File, to prepare your return, but the return must be printed out and sent to the IRS, along with all required documentation.

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Q. Do I have to wait to file my return?

A. No. With the release of Form 5405, First-Time Homebuyer Credit and Repayment of the Credit, and the related instructions, you can go ahead and file your 2009 tax return. 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. If you file in January or early February, the IRS expects the first refunds based on the homebuyer credit will be issued toward the end of March. For some of the earliest filers, the updates that the IRS must put into place may mean that refunds will take an additional two to three weeks.

Q. Can I e-file my return without the first-time homebuyer credit and then amend my return later to claim the first-time homebuyer credit and mail in the supporting documents?

A. While it is possible for you to e-file an original 2009 Form 1040 return without claiming the credit and then later amend your return to claim the homebuyer credit, you may have to wait longer to get a refund, based on the credit.

Before you decide to use that approach, consider that amended returns cannot be filed electronically. Routine processing of amended returns generally takes 8 to 12 weeks. Recently, however, because of higher than normal amended return volumes, it is now taking 12 to 16 weeks to process these returns. If you file a complete and accurate original paper 2009 tax return in January or early February, your refund, including the homebuyer credit, should be issued toward the end of March. This may be sooner, and possibly much sooner, than if you e-file early and then subsequently amend your 2009 return to claim the homebuyer credit.

Q. What is the IRS doing to deter fraud?

A. To ensure that the credit is given only to qualified taxpayers and to deter fraud, the IRS has put in place critical systemic checks to deter fraud related to the homebuyer credit. The additional supporting documents that you should submit with your tax return are important steps to maintain the integrity of the tax system, to allow the IRS to ensure compliance with the law and to screen out people who are not entitled to the credit. You can insure you get the credit quickly and in full by attaching complete documentation to your return.

2008 Tax Return

Q. Can I still amend my 2008 tax return for a home purchased in 2009?

A. If you purchased a home in 2009, you can use the [December 2009 revision of Form 5405](#), First-Time Homebuyer Credit and Repayment of the Credit, along with [Form 1040X](#), Amended U.S. Individual Income Tax Return, to amend your 2008 tax return. This means you have the option of claiming the credit on either a 2009 return or an amended 2008 return. Keep in mind, however, that it is currently taking longer than normal — about 12 to 16 weeks — to process 2008 amended returns. Thus, you'll likely get your refund sooner if you claim the credit on your 2009 return.