Form **5405**

Department of the Treasury
Internal Revenue Service

Credit for Purchase or Construction of New Principal Residence

▶ Attach to Form 1040.

1976

Name(s) as shown on Form 1040 | Your social security number

Note: Except in the case of self-construction, you must attach to your return a certification by the seller that the purchase price is the lowest price at which the residence was offered for sale after February 28, 1975, and that construction began before March 26, 1975. (See Instruction E.)

Part I Computation of Credit

1 If new principal residence was purchased: **(a)** Date new principal residence was acquired . . . . .

(b) Date on which you entered into a binding contract to purchase . . . . . .

2 If new principal residence is self-constructed, date construction began . . . . . .

3 Date you occupied new principal residence . . . . . .

4 Cost of new principal residence. (See Instruction F.) . . . . . .

5 Less: Any gain from the sale of an old principal residence which is not recognized (from attached Form 2119). If your new residence was self-constructed see next to last paragraph of Instruction F . . . . . .

6 Adjusted basis of new principal residence. Subtract line 5 from line 4. (See Instruction F.)

Part II Recapture of Credit (Complete this part only if in your previous taxable year you sold the residence on which you claimed the credit. See Instruction H.)

11 Amount of credit claimed on residence sold. If you had an involuntary disposition as described in instruction H, do not fill in remainder of this form, check here ▶ ☐ and explain ▶

12 Date you acquired residence on which you claimed credit. (If self-constructed, date you first occupied the residence.) . . .

13 Date you sold residence. (If the date on line 13 is not within 36 months of the date on line 12, omit lines 14 through 18 and enter zero on line 19, you do not have to recapture any of the credit on line 11.) . .

14 Date replacement residence acquired. (If self-constructed, check here ▶ ☐ and give date construction began and date you occupied the residence. If residence was not replaced within the replacement period, omit lines 15 through 18 and enter on line 19 the amount on line 11.) . . . . . .

15 Enter adjusted sales price of residence sold, from Form 2119, line 10 . . . . . .

16 Cost (basis) of replacement residence, from Form 2119. (If line 16 is equal to or is more than line 15, omit lines 17 and 18 and enter zero on line 19, there is no recapture.) (If line 16 is less than line 15 complete lines 17 through 19.) . . . .

17 Balance. (Subtract line 16 from line 15, if below zero enter zero.) . . . . . .

18 Divide amount on line 17 by amount on line 15 and enter the percentage here . . . . . %

19 **Credit to be recaptured.** (Multiply amount on line 11 by the percentage on line 18.) Enter here and include the amount of the recapture in the total for line 16 on your 1976 Form 1040 . . . . . .

Instructions

(Section references are to the Internal Revenue Code unless otherwise specified)

A. General rule.—You are allowed a credit against your income tax in an amount of 5 percent of the adjusted basis of a new principal residence purchased or constructed by you, if constructed, acquired, and occupied within specified periods. The maximum credit is $2,000 ($1,000 if you are married and filing a separate return), and the credit may not exceed the amount of your tax liability (Form 1040, line 20 without regard to this credit and the credit for child care expenses). Also the credit is allowed with respect to only one residence of a taxpayer.

(1) The residence must be your new principal residence,

(2) The construction must have begun before March 26, 1975,

(3) The residence must have been acquired and occupied as your principal residence after March 12, 1975 and before January 1, 1977,

(4) Except in the case of self-construction, a binding contract for the purchase of the residence must have been entered into before January 1, 1976, and

(5) Except in the case of self-construction, you must attach to your return a certification by the seller that the purchase price is the lowest price at which the residence was offered for sale after February 28, 1975, and that construction began before March 26, 1975.

residence, the original use of which commences with you. The term "principal residence" refers to the place where you lived most of the year and has the same meaning as under section 1034. The term "residence" includes a single family structure, a residential unit in a condominium or cooperative housing project, your portion of a duplex or a row house, and a mobile home. The residence must be new. A renovated building does not qualify as new for this purpose, regardless of the extent of the renovation. The "original use" of the new principal residence by you means that such residence has never been lived in prior to acquisition. For these purposes, a residence will be treated as never having been lived in prior to acquisition if the first occupancy was by you pursuant

pursuant to a lease arrangement where a written option to purchase was contained in the original lease agreement.

C. Date construction commenced.—The credit applies only to a new principal residence the construction of which began before March 26, 1975. For this purpose, construction is considered to commence when actual physical work of a significant amount has occurred at the building site. A significant amount of construction requires more than drilling to determine soil conditions, preparation of an architect's sketches, securing of a building permit, or grading of the land. However, digging of the footings, excavation of the building foundation, or similar work constitutes a significant amount of construction.

Construction of a mobile home or a factory-built house is considered to commence when construction of important parts of the mobile home or factory-built house commenced. Construction or assembly of a minor portion of the components of the mobile home or factory-built house does not constitute commencement of construction.

D. Acquisition and occupancy test.—The credit applies only to property you acquired and occupied as your principal residence after March 12, 1975, and before January 1, 1977. However, where your residence was acquired by purchase, rather than self-construction, it must also have been acquired by you under a binding contract entered into before January 1, 1976. For these purposes, you have "acquired" a residence when legal title to it is conveyed to you at settlement, or you have possession of it pursuant to a binding contract under which you make periodic payments until you become entitled under the contract to demand conveyance of title. The credit may not be claimed until both the acquisition and occupancy tests have been satisfied.

E. How to claim credit.—Attach this form to your tax return on which the credit is claimed. Attach Form 2119 if you have any gain from the sale of an old principal residence that is not recognized. Except in the case of self-construction, you must also attach a certification by the seller that the purchase price is the lowest price at which the residence was offered for sale after February 28, 1975, and that construction began before March 26, 1975.

The seller's written certification may be in any form so long as it is signed by the seller and contains the required information on purchase price and the date construction commenced.

The following form for the certification statement will be accepted:

> I certify that the construction of the residence at (specify address) was begun before March 26, 1975, and that this residence has not been offered for sale after February 28, 1975 in a listing, a written private offer, or an offer by means of advertisement at a lower purchase price than (state price), the price at which I sold the residence to (state name, present address, and social security number of purchaser) by contract dated (give date).
>
> (Date, seller's signature and taxpayer identification number.)

An offer to sell is limited to a listing, a written private offer or an offer by means of advertisement to sell a specified residence at a specified purchase price.

In determining whether your new residence was sold at the lowest purchase price offered after February 28, 1975, appropriate adjustment shall be made for differences in financing terms and closing costs that increase both the seller's actual net proceeds and your actual cost. Where the sale to you includes property that was not the subject of the prior offer or excludes property that was included in the prior offer, the amount of the prior offer shall be adjusted to reflect the fair market value of such property, provided that, with respect to any property included in the sale which was not a part of the residence at the time of execution of the contract of purchase, you had the option to require inclusion or exclusion of such property. The fair market value of any excluded property is to be determined at the time of the prior offer, while all additions are to be valued at their fair market value on the date of execution of the contract of sale.

F. Adjusted basis.—The cost of your new principal residence includes all amounts that are attributable to the acquisition or construction of your new principal residence, but only to the extent that such amounts constitute capital expenditures and are not allowable as deductions in computing taxable income. To obtain your adjusted basis reduce the cost of your residence by any gain from the sale of an old principal residence that is not recognized due to the application of section 1033 or section 1034. The credit does not in any way affect your basis in your new principal residence.

Where self-construction of your new principal residence was begun before March 13, 1975, only that portion of the basis of the property allocable to construction after March 12, 1975, and before January 1, 1977, shall be taken into consideration in determining the amount of the credit allowable. For example, if prior to March 13, 1975, a taxpayer who qualifies for the credit has constructed a portion of a residence at a cost of $20,000 and the total cost of the residence is $50,000, $30,000 will be subject to the credit.

Where you self-construct your new principal residence and you have a gain on the sale of an old residence which is not recognized due to the application of section 1033 or section 1034, only that portion of the gain allocable to cost of construction after March 12, 1975, and before January 1, 1977 is to be deducted to obtain the adjusted basis of your new principal residence. Thus, if in the above example the taxpayer had a $5,000 gain from the sale of an old principal residence which is not recognized the taxpayer would report $3,000 on line 5 and the adjusted basis on line 6 would be $27,000.

$$\left(\frac{\$30,000}{\$50,000} \times \$5,000 = \$3,000\right).$$

Where a new principal residence is purchased by more than one person other than you and your spouse, the amount of the credit allowed will be allocated among the purchasers in proportion to their respective ownership interests in such residence, with the limitation that the sum of the credits allowed to all such persons shall not exceed $2,000. For this purpose, joint tenants with right of survivorship are treated as equal owners.

G. Purchase.—To qualify, the acquired property cannot be acquired by gift (in whole or in part), by bequest, devise, or inheritance, or by purchase from a person whose relationship would result in disallowance of a loss under section 267 or 707(b) (relating to transactions between related taxpayers). For this purpose, the family of a taxpayer includes only the taxpayer's spouse, ancestors, and lineal descendents.

H. Recapture of credit.—The amount allowed as a credit on a purchase is recaptured in the event you sell or otherwise dispose of your residence within 36 months after the date on which you acquired the residence (or, in the case of self-construction, after the day on which you first occupied the residence) as your principal residence. There are exceptions for reinvestment in a new principal residence and for certain involuntary dispositions.

If the residence is not replaced, the credit to be repaid is added to your tax for the taxable year in which your replacement period ends. Thus, a December 1975 sale need not be recaptured until 1977. If within the replacement period you acquire a new principal residence (original use of which commences with you), the cost of which at least equals the adjusted sales price of the old residence, no portion of the credit allowed is recaptured. However, if the cost of acquiring the new residence is less than the adjusted sales price of the old residence, the tax for the year following the year of sale is increased by an amount which is the following fractional portion of the credit allowed:

$$\frac{\text{Adjusted sales price of the old residence reduced (but not below zero) by cost of acquiring the new resdence}}{\text{Adjusted sales price of the old residence.}}$$

The recapture does not apply to the following types of dispositions:

(1) A disposition of a residence made on account of the death of the purchaser,

(2) Disposition on account of complete or substantial destruction of a residence by fire, storm, or other casualty,

(3) Compulsory and involuntary conversion of the residence, or

(4) In a divorce or legal separation proceeding where the other spouse retains the residence as a principal residence.

I. Penalties.—Civil penalties and criminal fines and imprisonment could result from false certification by a seller. If it is found that the price for which the residence was sold is not in fact the lowest price for which the residence was offered for sale after February 28, 1975, then the statute provides that a seller who certified that it was, is liable to the purchaser for damages in an amount equal to three times the excess over the lowest purchase price plus reasonable attorney's fees. No income tax deduction is allowed to the seller for two-thirds of any damages paid or incurred pursuant to a judgment entered against the seller in a suit brought by a purchaser on this issue. An individual who falsely certifies may be liable for criminal penalties such as those under section 1001 of Title 18 of the United States Code.

J. Denial of credit.—In the absence of the taxpayer's participation in, or knowledge of, a false certification by the seller, the credit is not denied to a taxpayer who otherwise qualifies for the credit solely because the seller has falsely certified that the new principal residence was sold at the lowest offer. However, if certification as to the commencement of construction is false, no credit is allowed since such residence does not qualify as a new principal residence construction of which began before March 26, 1975.

For more information get **Publication 523**, Tax Information on Selling or Purchasing Your Home, available at any Internal Revenue Service office.

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