

First-Time Homebuyer Credit

Presented by
Earned Income Tax Credit/Pre-
Refund Office
and
Taxpayer Advocate Service



Homebuyer Credit Laws

- The Housing and Economic Recovery Act of 2008 (HERA)
- The American Recovery and Reinvestment Act of 2009 (ARRA)
- The Worker, Homeownership and Business Assistance Act of 2009 (WHBAA)
- Homebuyer Assistance and Improvement Act of 2010



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Homebuyer Assistance and Improvement Act of 2010

- Eligible Taxpayers who contracted to buy a home before the end of April 2010 now have until Sept 30, 2010 to close on the deal.
- President Obama signed this act into law July 2, 2010

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WHBAA 2009 and FTHBC

- May be first-time homebuyer or long-time resident
- AGI limits increased
- Purchase price cannot exceed \$800,000
- Must be age 18 or older (for MFJ, only one spouse must be age 18 or older)

WHBAA 2009 and FTHBC

- Must be main home
- Buyer or spouse (if MFJ) cannot be a dependent of another person
- Cannot be acquired from spouse or related person or a related person of spouse

Math Error Authority

The Worker, Homeownership and Business Assistance Act of 2009 gave IRS the authority to adjust returns using Math Error Authority



Common Eligibility Questions

Q. What is considered a primary residence?

A. Generally, the residence used the majority of the year will be considered the taxpayer's principal residence.



Common Eligibility Questions

Q. Can the credit be claimed prior to closing?

A. No. This is a hard concept for some taxpayers - some advertisements may lead a taxpayer to believe they can claim the credit in order to buy a home.



Common Eligibility Questions

Q. What about land contracts?

A. This one is a little complicated.....



Common Eligibility Questions



Q. Who is considered a related person?

A. The law (IRC 36(c)(5)) specifically states that a family only includes spouse, ancestors and lineal descendants.

Common Eligibility Questions

Q. Can the credit be claimed on a home acquired by gift or inheritance?

A. No, there must be a purchase from an unrelated party.



Common Eligibility Questions

Q. Are there exceptions for military personnel?

A. Yes. Under WHBAA, members of the military and intelligence community serving outside the U.S. have an additional year to purchase a principal residence in the U.S. and qualify for the credit.



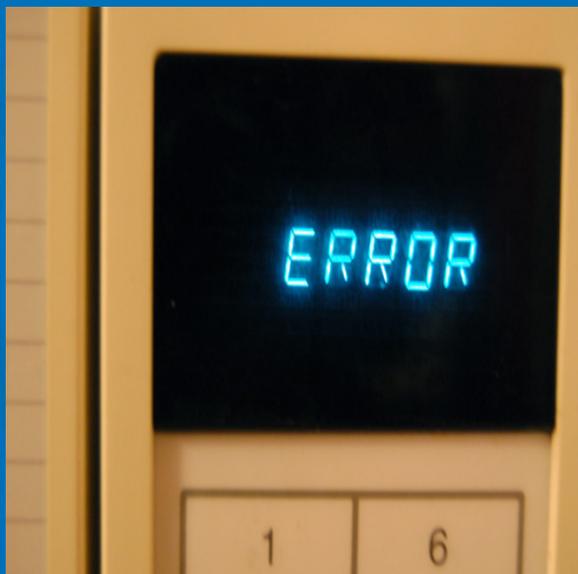
Requirements to File Form 5405

- Claim the First-Time Homebuyer Credit
- Disposition of home
- Repayment of credit



Common FTHBC Filing Errors

- Credit claimed prior to closing or occupancy of home
- Incomplete/incorrect Form 5405
- MFS taxpayers both claim the full credit on separate returns
- Taxpayer owned home in last three years (not applicable to the Long Time Resident credit)



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Audit Documentation

- Copy of closing contract (HUD-1)
- Most recent mortgage statement
- Occupancy permit, if newly-constructed
- At least two of the following showing name and address:
 - Current driver's license or state ID
 - Recent pay statement
 - Recent bank statement
 - Current automobile registration



Repayments of Credit

- HERA (2008 purchases) - repaid in 15 equal, annual installments beginning 2010
- If the home ceases to be a main home this may cause an acceleration of repayments
- ARRA/WHBAA (2009/2010 purchases) – no repayment unless a repayment trigger occurs within 3 years
- WHBAA - provides an exception for certain military and intelligence personnel



Repayment Trigger Events

- Home ceases to be main home before end of 15-year recapture period
- Home ceases to be main home within 36-month period from purchase date
- Primary residence is sold (or otherwise disposed of) to an unrelated individual - repayment is limited to gain realized

Repayment Trigger Events

- Sale of home to a related person
- Primary residence is destroyed or condemned and taxpayer does not acquire new home within 2 years
- The entire home is converted to business or rental property



Special Events That Waive Repayment

- Death of taxpayer
- Primary residence destroyed or condemned - taxpayer acquires new home in 2 years
- Primary residence sold to unrelated individual - no gain on the sale



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Special Events That Waive Repayment

- Individuals (and spouses, if married) on qualified extended duty outside U.S. - home disposed of or ceases to be primary residence
- Primary residence is foreclosed and there is no gain

Recapture and Repayment Strategy

- Reminder notices to taxpayers
 - 15 year annual reminder notice to taxpayers who purchased main home in 2008
 - 3 year annual educational notice to taxpayers who purchased main home in 2009/2010
- Utilize math error authority for 15 year repayment

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Recapture and Repayment Strategy

- Assess use of third party data sources to validate purchases and identify unreported dispositions
- Expand post refund audits for the campus and the field
- Continue to identify schemes and pursue investigations

Penalties

- Penalties may be imposed for negligence, substantial understatement of tax, filing an erroneous refund claim and fraud
- Criminal penalties may be imposed for tax evasion or making a false statement



To Contact TAS

- Call 1-877-777-4778
- Visit <http://www.irs.gov/advocate>
- File Form 911, *Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance order)*

For Updated Information

- Visit <http://www.taxtoolkit.irs.gov>

Resources

- IRS.gov
 - Search “ARRA information center”
 - Search “first time homebuyer credit”
- Publication 523, Selling Your Home
- Form 5405, First-Time Homebuyer Credit
- Publication 530, Tax Information for Homeowners





Thank you!

- Questions?

