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# NAR Issue Brief

## Homebuyer Tax Credit Changes



National Association of REALTORS® Government Affairs Division  
500 New Jersey Avenue, NW, Washington DC, 20001

Congress has extended and expanded the homebuyer tax credit. The modifications in the column labeled “December 1 – April 30, 2010” become effective when President Obama signs the bill. All changes made to the current credit become effective on that date, as well.

<b>FEATURE</b>	<b>Jan 1 – November 30, 2009 Rules as enacted February 2009</b>	<b>December 1 – April 30, 2010 Rules as enacted November 2009</b>
<b>First-time Buyer – Amount of Credit</b>	\$8000 (\$4000 married filing separate)	\$8000 (\$4000 married filing separate)
<b>First-time Buyer – Definition for Eligibility</b>	May not have had an interest in a principal residence for 3 years prior to purchase	Same
<b>Current Homeowner – Amount of Credit</b>	No Provision	\$6500 (\$3250 married filing separate)
<b>Effective Date – Current Owner</b>	No Provision	Date of Enactment
<b>Current Homeowner – Definition for Eligibility</b>	No Provision	Must have used the home sold or being sold as a principal residence consecutively for 5 of the previous 8 years
<b>Termination of Credit</b>	Purchases after November 30, 2009. (Becomes April 30, 2010 on Date of Enactment.)	Purchases after April 30, 2010
<b>Binding Contract Rule</b>	None	So long as a written binding contract to purchase is in effect on April 30, 2010, the purchaser will have until July 1, 2010 to close.
<b>Income Limits (Note: Increased income limits are effective as of date of enactment of bill)</b>	\$75,000 – single \$150,000 – married Additional \$20,000 phase out	\$125,000 – single \$225,000 – married Additional \$20,000 phase out
<b>Limitation on Cost of Purchased Home</b>	None	\$800,000 Effective Date of Enactment
<b>Purchase by a Dependent</b>	No Provision	Ineligible Effective Date of Enactment
<b>Anti-fraud Rule</b>	None	Purchaser must attach documentation of purchase to tax return

# NAR Frequently Asked Questions Homebuyer Tax Credit Changes



National Association of REALTORS® Government Affairs Division  
500 New Jersey Avenue, NW, Washington DC, 20001

Here are some of the most frequently asked questions on the changes to the Homebuyer Tax Credit

**Question:** Existing homeowner credit: Must the new house cost more than the old house?

**Answer:** *No. Thus, for example, individuals who move from a high cost area to a lower cost area who meet all eligibility requirements will qualify for the \$6500 credit.*

**Question:** I am an existing homeowner. On October 25, 2009, I signed a contract to purchase a new home. I have lived in my current home for more than 5 consecutive years and am within the new income limits. I will go to settlement on November 20. If President Obama has signed the bill by the time I go to settlement, will I qualify for the new \$6500 tax credit?

**Answer:** *Yes. The existing homeowner credit goes into effect for purchases after the date of enactment (when the bill is signed). There is no reference to the date of contract for the new credit. The provision looks solely to the date of purchase, which is generally the date of settlement.*

**Question:** I am a first-time homebuyer but was not within the prior income limits at the time I entered into my contract to purchase on October 30, 2009. I will be covered, however, by the new income limits. If the new rules have been signed into law by the time I go to settlement, will I be eligible for a credit?

**Answer:** *Yes. The new income limitations go into effect as soon as the President has signed the bill. The income limit and other eligibility rules will look to your status as of the date of purchase, which is the settlement date. So if the new rules have been signed when you go to settlement, you should be eligible for the credit (or a portion of the credit if you're within the phase-out range).*

**Question:** I am an eligible existing homeowner. I have a fair amount of equity in my home. I have found a home with a non-negotiable price of \$825,000. Will I be able to use any of the \$6500 tax credit?

**Answer:** *No. The \$800,000 cap on the cost of the purchased home is firm at \$800,000. Any amount above \$800,000 makes the home ineligible for any portion of the credit. The \$800,000 is an absolute ceiling.*

**Question:** I owned my home for 10 years, but sold it two years ago and have been renting since. If I purchase a home, will I be eligible for the \$6500 tax credit if I meet all the other eligibility tests?

**Answer:** *Yes. Because you lived in the home for more than 5 consecutive years of the previous 8, you will qualify for the \$6500 credit. For example, Say John and his wife bought a home in 2000 and lived there until 2008 when he got a divorce. Whether John has been renting or bought in the interim, he WOULD INDEED be eligible for the credit because he owned a home and occupied it as his principal residence for 5 consecutive years out of the last 8 years. The keyword here is "consecutive." As long as he lived in that house for 5 years straight what he did since 3 years doesn't impact eligibility.*

**Question:** I am an eligible first-time homebuyer. I entered into a contract to purchase on November 1, 2009. Do I have to go to closing before December 1? How does the extension date affect me?

**Answer:** *You do not have to close before December 1. Once the legislation has been signed, it will be as if the Nov 30 date had never existed. Therefore, so long as the contract settles before April 30 (or July 1, worst case), the purchaser will be eligible for the credit.*

## USING THE FIRST-TIME HOME BUYER TAX CREDIT AS DOWN PAYMENT ON A FHA-INSURED MORTGAGE

On May 29, 2009, the U.S. Department of Housing and Urban Development (HUD) announced a program that allows borrowers to use the first-time home buyer tax credit for a down payment or closing costs on a FHA-insured mortgage. Since the announcement NAR has received many inquiries from our members regarding how this impacts first-time homebuyers in their state.

### HOW TO USE THE CREDIT

Currently, 11 state housing finance agencies (HFAs) offer a product buyers can use that will effectively monetize the tax credit for down payment purposes. Generally, these programs offer tax credit advances with second liens on the home being purchased. The second lien may be "soft" (silent) or require monthly payments but may not result in cash back to the borrower and may not exceed the total amount needed for the down payment, closing costs, and prepaid expenses. The 11 states offering these programs are Colorado, Delaware, Idaho, Illinois, Kentucky, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Tennessee, and Virginia. Other states are developing programs so members are encouraged to regularly follow up with their respective HFA.

### STATES WITHOUT A HFA PROGRAM

For all other states where such HFA programs do not exist the tax credit may not be used to fund the 3.5 percent downpayment required for FHA loans. As always, the 3.5 percent down payment may be a gift from a family member, employer or nonprofit, charitable organization. FHA-approved nonprofit organizations and FHA-approved lenders may monetize the tax credit for down payments in excess of 3.5 percent, closing costs and interest rate buy downs. Mortgage industry leaders have indicated that this type of product may not be immediately available to consumers.

### EXAMPLE OF TAX CREDIT IN USE WITHOUT HFA PROGRAM

In conjunction with an IdaMortgage loan, a subordinate loan will be offered to qualified first-time home buyers a maximum of 5% of the sales price up to \$7,000, not to exceed 100% combined loan to value. A fee will be charged of \$250 with \$150 refunded upon repayment of the loan on or before the loan due date. The loan will accrue interest at 3.0% with a due date of July 1, 2010. The Tax Credit Second Loan is expected to be paid off from the borrower's tax refund obtained through the application of the federal tax credit. Borrower must be a first-time home buyer and qualify for an IdaMortgage loan.

"Welcome Home Idaho". Idaho REALTORS® will pay off the interest for first-time buyers using IdaMortgage program.

For more information visit [www.realtor.org/government\\_affairs](http://www.realtor.org/government_affairs)



NATIONAL ASSOCIATION OF REALTORS®

*The Voice for Real Estate*



## How to Get the Extended Home Buyer Tax Credit

You've decided to purchase a home and take advantage of the Extended Home Buyer Tax Credit. Here's what you have to do to get your benefit:

1. Close on your home purchase between the date President Obama signs the bill and April 30, 2010, or have a binding written contract by April 30, 2010 and close by July 1, 2010.
2. Decide whether to:
  - apply the credit to your 2009 tax return, filed on or before April 15, 2010;
  - file an amended 2009 return; or,
  - apply the credit on your 2010 return, filed on or before April 15, 2011.
3. Attach documentation of purchase to your return.

## Documentation of Purchase

Details concerning the precise documents required to confirm your purchase have not yet been released. When this information becomes available, we will include instructions and links to the appropriate forms.

## When to Apply the Credit

Buyers purchasing homes on or before December 31, 2009 may claim the credit on their 2009 tax returns.

Buyers purchasing in 2010 will have the option to:

- Claim the credit on their 2009 return, even if the purchase is completed after December 31, 2009;
- File an amended return for 2009 if their purchase is completed after April 15, 2010; or,
- Claim the credit on their 2010 tax returns.

If you, or your client, purchased a home between January 1, 2009 and the date President Obama signs the bill, please see: [How to Get the 2009 First-Time Home Buyer Tax Credit](#).

## Applying the Credit to Your 2009 Taxes

You will need to do three things to claim the credit on your 2009 tax return:

1. Fill out Form 5405 to determine the amount of your available credit;
2. Apply the credit when you file your 2009 tax return or file an amended return;
3. Attach documentation of purchase to your return or amended return.

## Applying the Home Buyer Tax Credit to Your 2008 Return

To claim the credit on your 2008 taxes, you must file an amendment to your 2008 return. To do this you will need two forms: [Form 1040X](#) (PDF 365K ) for filing an amended return; and [Form 5405](#) (PDF 257K) for the home buyer tax credit.

You can visit the IRS site using the links, print out, and fill in the forms manually or type into the forms and save them on your computer. Be aware, though, that the 1040X tax form can only be filed in hard copy, and cannot be submitted electronically.

1. First, fill out Form 5405 using the instructions in [Determining the Amount of Your Home Buyer Tax Credit](#).
2. Then fill out Form 1040X.

On the 1040X you'll find a section called "Payments." Look for Line 15, "Credits." On this line you have three columns. On the first you list the credits you took in your original filing (for most people, this will likely be zero); on the second you list any new credits; and on the third you list the "correct" amount (that is, what the new amount should be).

3. If in your original filing you took no credits, you enter a zero in the first column.
4. In the second column you enter the amount of your credit, which for many people will be the full \$8,000.
5. And in the third column you list the correct amount, which in most cases simply means restating the \$8,000.
6. Add your housing tax credit amount to any other amendments you're making then total all the amendments up.
7. On the back of the form, write an explanation of why you're filing the amendment. Here you should explain in 2-3 sentences why you want to take the credit. You should include the day that you closed on the house and mention that you're electing to amend your 2008 return rather than wait until 2009.
8. Finally, attach Form 5405 to Form 1040X and file your amended return.

### Collecting Your Refund

Any adjustment to your 2008 taxes along with any refund for which you qualify will be sent to you. Since the tax credit is fully refundable even if your tax liability is less than the tax credit amount, you get the full value of the credit. That means the IRS will cut you a check for the balance.

## Determining Your First-Time Home Buyer Credit Amount: Form 5405

Regardless of whether you're applying the first-time home buyer tax credit on your [2008 return](#) or your [2009 return](#), you'll need to visit the IRS Web site and download [Form 5405](#) (PDF 257KB) . This form has just six lines and takes only a minute to complete.

1. On the first line enter either \$8,000 or 10 percent of the home purchase price, whichever is smaller.

Since the national median home price is around \$175,200 (March 2009), in most cases the \$8,000 will be the smaller of the two. In order for 10 percent of the home price to be smaller, the home purchase price would have to be \$79,999 or less.

2. On the second line enter your adjusted gross income.

You will find your gross adjusted income on line 37 of Form 1040, which you submitted when you filed your 2008 return. The tax credit form actually requires you to note your modified adjusted gross income, but that affects few people, so most will just use their adjusted gross income.

3. If your adjusted gross income is more than \$75,000 (individual) or your income is more than \$150,000 (joint) you'll have to complete some additional calculations to determine the credit amount for which you qualify.

Everyone else will simply enter the tax credit amount on Line 6.

## Applying the Home Buyer Tax Credit to Your 2009 Return

### Breaking News: [Tax Credit Can Be Used on Closing Costs.](#)

To claim the credit as part of your 2009 return, you will need: The standard Form 1040 and Form 5405 for the home buyer tax credit.

1. First begin Form 1040.
2. Be sure to take note of your adjusted gross income, which you enter on lines 37 of the form. Form 5405 actually requires you to note your modified adjusted gross income, but that affects few people, so most will just use their adjusted gross income.
3. When you come to Line 69 you'll be asked to enter your tax credit amount. To do that, you'll need to first complete Form 5405.
4. Once you complete Form 5405, enter the amount on Line 69, then complete your return.
5. Attach Form 5405 to your return.

### Collecting Your Refund

Any refund for which you qualify will be sent to you

# Applying the Home Buyer Tax Credit to Your 2009 Return

## Bridge Loans: Using the Home Buyer Tax Credit Up-Front

In mid-May 2009, the U.S. Department of Housing and Urban Development (HUD) launched a program that would allow federally approved lenders to offer bridge loans to cover closing costs for borrowers who take the 2009 First-Time Homebuyer Tax Credit and who use financing backed by the Federal Housing Administration (FHA). These loans allow buyers who are eligible for the credit to apply those funds towards their downpayments and closing costs, using the credit as collateral. Once buyers receive the credit after filing their 2009 tax returns, the money will then be used to repay the bridge loan.

Due to considerable challenges in making these loans widely available, few lenders are currently offering these bridge loans. However, there are still many other funding sources to explore, including:

1. State Housing Finance Agencies
2. Local Governments and Nonprofit Agencies

## State Housing Finance Agencies

### Determining whether your state has a program

As of mid-2009, more than a dozen state housing finance agencies (HFAs) were offering bridge loans to prospective buyers, and many more were planning to do so. Currently, the following states have programs in place: Colorado, Delaware, Idaho, Illinois, Kentucky, Missouri, Nebraska, New Jersey, New Mexico, Ohio, Pennsylvania, Tennessee, Texas, and Virginia.

To determine whether or not your state has begun offering these loans, you can:

- Find your state's HFA phone number on the [National Council of State Housing Agencies' \(NCSHA\) member list](#).
- Consult the NCSHA's [list of HFA's offering bridge loans](#).

If your state offers these loans, information should be available on the state's HFA web site, which should be listed on one of the pages above.

### Things you should expect from a state HFA advance loan

Although state HFA bridge loans differ from state to state, here are some typical characteristics

- Buyers will need to make a minimum down payment from their own funds—probably approximately \$1,000.
- A local lender approved by the HFA will need to originate the loan, since HFAs themselves do not originate loans.
- Buyers will use HFA-backed financing for their mortgages.

#### **Other things to note about HFA bridge loans**

- Some are interest-free, others are not. So be sure to check with your lender.
- HFAs have limited funds to devote to these bridge loans, so they are often made on a first-come, first-served basis.

#### **Applying for an HFA loan**

Since this financing often includes a below-market interest rate, it requires borrowers to meet eligibility criteria—often these include being a first-time buyer, and meeting income requirements. For the bridge loans, there's a good chance the criteria will be similar to what's required for the tax credit.

## **Local Government/Non-Profit Associations**

If your state HFA does not offer loans, the staff may be able to direct you to local nonprofit organizations that do have programs—if any exist.

Another good place to start a search is [NeighborWorks](#), a national nonprofit which maintains a list of more than 200 local affiliates that provide housing assistance. Each affiliates' loan program will be different, so buyers should be sure that the organization offers bridge loans repayable with the tax credit, and that they understand the underwriting standards and loan terms.

## **FHA-Approved Lenders**

If you are unable to identify other sources of funding, you may be able to obtain loans from FHA-approved lenders. Although as of mid-2009 many lenders had not yet begun offering these loans, it is possible that more will launch bridge loan programs before the credit expires.

Unlike loans from state and local agencies or nonprofits, the bridge loans provided by private, for-profit FHA-approved lenders must be structured in the form of a personal loan or line of credit. These loans are collateralized by the tax credit and cannot be structured as a second mortgage.

Also, although FHA allows you to use the bridge loan to cover closing costs or to buy down your interest rates, you can put it towards the down payment only after you've covered the 3.5 percent minimum that is required on any FHA loan. Therefore buyers will need to contribute the 3.5 percent minimum down payment themselves or find another funding source to cover it. However, buyers should be aware that seller-funded down-payment programs are not permitted to be used.

HUD provides complete details in [Mortgagee Letter on "Using First-Time Homebuyer Tax Credits"](#). However, since individual FHA-approved lenders will be making the loan, actual loan terms will vary. At a minimum, though, the bridge loan must meet certain restrictions, which are intended to eliminate fraud or ensure that borrowers do not get in over their heads. Restrictions include:

- a. Loans can not result in cash back to the borrower
- b. The amount can't exceed the amount required for the down payment, closing costs, and prepaid expenses
- c. Monthly repayments must be included within the qualifying ratios and, when combined with the first mortgage, cannot exceed the borrower's reasonable ability to pay.
- d. Payments must be deferred for at least 36 months to not be included in the qualifying ratios.
- e. There can be no balloon payment required before ten years



## First-Time Homebuyer Credit

**ALERT:** You must close on a new home by Nov. 30, 2009, to qualify for this tax credit. With the deadline approaching, potential homebuyers should consult with their real estate professionals to ensure they have enough time left to close on a home.

### Overview

Video: [English](#) | [Spanish](#) | [ASL](#)

Audio: [English](#) | [Spanish](#)

First-time homebuyers may be able to take advantage of a tax credit for homes purchased in 2008 or 2009. The credit:

- | Applies to purchases that close after April 8, 2008, and before Dec. 1, 2009.
- | Applies only to homes used as a taxpayer's principal residence.
- | Reduces a taxpayer's tax bill or increases his or her refund, dollar for dollar.
- | Is fully refundable, meaning the credit will be paid out to eligible taxpayers, even if they owe no tax or the credit is more than the tax owed.

The credit is claimed using [Form 5405](#), which you file with your original or amended tax return.

### For 2008 Home Purchases

The Housing and Economic Recovery Act of 2008 established a tax credit for first-time homebuyers that can be worth up to \$7,500. [For homes purchased in 2008, the credit is similar to a no-interest loan](#) and must be repaid in 15 equal, annual installments beginning with the 2010 income tax year.

### For 2009 Home Purchases

The American Recovery and Reinvestment Act of 2009 expanded the first-time homebuyer credit by [increasing the credit amount to \\$8,000](#) for purchases made in 2009 before Dec. 1.

For home purchased in 2009, the credit does not have to be paid back unless the home ceases to be the taxpayer's main residence within a three-year period following the purchase.

First-time homebuyers who purchase a home in 2009 can claim the credit on either a 2008 tax return, due April 15, 2009, or a 2009 tax return, due April 15, 2010. The credit may not be claimed before the closing date. But, if the closing occurs after April 15, 2009, a taxpayer can still claim it on a 2008 tax return by requesting an extension of time to file or by filing an amended return. [News release 2009-27 has more information on these options.](#)

### Questions and Answers

More information is available in the [question and answer section](#).

### Related Items

- | [IR-2009-83](#), First-Time Homebuyer Credit Provides Tax Benefits to 1.4 Million Families to Date
- | [The American Recovery and Reinvestment Act of 2009: Information Center](#)

*Page Last Reviewed or Updated: November 06, 2009*

**First-Time Homebuyer Credit**

► Attach to Form 1040

Name(s) shown on return

Your social security number

**Part I General Information**

**A** Address of home qualifying for the credit (if different from the address shown on return)

**B** Date acquired (see instructions)

**C** If you are choosing to claim the credit on your 2008 return for a main home bought after December 31, 2008, and before December 1, 2009, check here (see instructions) . . . . . ►

**Part II Credit**

<p><b>1</b> Enter the <b>smaller</b> of:</p> <ul style="list-style-type: none"> <li>• \$7,500 (\$8,000 if you purchased your home in 2009), but only half of that amount if married filing separately, <b>or</b></li> <li>• 10% of the purchase price of the home.</li> </ul> <p>If someone other than a spouse also held an interest in the home, enter only your share of this amount (see instructions) . . . . .</p>	<b>1</b>		
<p><b>2</b> Enter your modified adjusted gross income (see instructions) . . . . .</p>	<b>2</b>		
<p><b>3</b> Is line 2 more than \$75,000 (\$150,000 if married filing jointly)?</p> <p><b>No.</b> Skip lines 3 through 5 and enter the amount from line 1 on line 6.</p> <p><b>Yes.</b> Subtract \$75,000 (\$150,000 if married filing jointly) from the amount on line 2 and enter the result . . . . .</p>	<b>3</b>		
<p><b>4</b> Divide line 3 by \$20,000 and enter the result as a decimal (rounded to at least three places).  <b>Do not</b> enter more than 1.000 . . . . .</p>	<b>4</b>	X	
<p><b>5</b> Multiply line 1 by line 4 . . . . .</p>	<b>5</b>		
<p><b>6</b> Subtract line 5 from line 1. This is your <b>credit</b>. Enter here and on Form 1040, line 69 . . . . .</p>	<b>6</b>		

**General Instructions**

Section references are to the Internal Revenue Code.

**Purpose of Form**

Use Form 5405 to claim the first-time homebuyer credit. The credit may give you a refund even if you do not owe any tax.

For homes purchased in 2008, the credit operates much like an interest-free loan. You generally must repay it over a 15-year period. For homes purchased in 2009, you must repay the credit only if the home ceases to be your main home within the 36-month period beginning on the purchase date. See *Repayment of Credit* on page 2.

**Who Can Claim the Credit**

In general, you can claim the credit if you are a first-time homebuyer. You are considered a first-time homebuyer if:

- You purchased your main home located in the United States after April 8, 2008, and before December 1, 2009.
- You (and your spouse if married) did not own any other main home during the 3-year period ending on the date of purchase.

If you constructed your main home, you are treated as having purchased it on the date you first occupied it.

**Main home.** Your main home is the one you live in most of the time. It can be a house, houseboat, house trailer, cooperative apartment, condominium, or other type of residence.

**Who Cannot Claim the Credit**

You cannot claim the credit if any of the following apply.

1. Your modified adjusted gross income is \$95,000 or more (\$170,000 or more if married filing jointly). See the instructions for line 2.
2. You are, or were, eligible to claim the District of Columbia first-time homebuyer credit for any tax year. This rule does not apply for a home purchased in 2009.
3. Your home financing comes from tax-exempt mortgage revenue bonds. This rule does not apply for a home purchased in 2009.
4. You are a nonresident alien.
5. Your home is located outside the United States.
6. You sell the home, or it ceases to be your main home, before the end of 2008.
7. You acquired your home by gift or inheritance.
8. You acquired your home from a related person.

A related person includes:

- a. Your spouse, ancestors (parents, grandparents, etc.), or lineal descendants (children, grandchildren, etc.).
- b. A corporation in which you directly or indirectly own more than 50% in value of the outstanding stock of the corporation.
- c. A partnership in which you directly or indirectly own more than 50% of the capital interest or profits interest.

For more information about related persons, see *Nondeductible Loss* in Chapter 2 of Pub. 544, *Sales and Other Dispositions of Assets*. When determining whether you acquired your main home from a related person, family members in that discussion (except item 7) include only the people mentioned in 8a above.

## Amount of the Credit

Generally, the credit is the smaller of:

- \$7,500 (\$8,000 if you purchased your home in 2009), but only half of that amount if married filing separately, **or**
- 10% of the purchase price of the home.

You are allowed the full amount of the credit if your modified adjusted gross income (MAGI) is \$75,000 or less (\$150,000 or less if married filing jointly). The phase-out of the credit begins when your MAGI exceeds \$75,000 (\$150,000 if married filing jointly). The credit is eliminated completely when your MAGI reaches \$95,000 (\$170,000 if married filing jointly).

## Repayment of Credit

**Homes purchased in 2008.** You generally must repay the credit over a 15-year period in 15 equal installments. The repayment period begins in 2010 and you must include the first installment as additional tax on your 2010 tax return.

If your home ceases to be your main home before the 15-year period is up, you must include all remaining annual installments as additional tax on the return for the tax year that happens. This includes situations where you sell the home, you convert it to business or rental property, or the home is destroyed, condemned, or disposed of under threat of condemnation.

If you and your spouse claim the credit on a joint return, each spouse is treated as having been allowed half of the credit for purposes of repaying the credit.

**Example 1.** You claimed a \$7,500 credit on your 2008 tax return. You must include \$500 ( $\$7,500 \div 15$ ) as additional tax on your 2010 tax return and on each tax return for the next 14 years.

**Example 2.** You claimed a \$7,500 credit on your 2008 tax return. In 2009, you sold the home to your son. You must include \$7,500 as additional tax on your 2009 tax return.

**Exceptions.** The following are exceptions to the repayment rule.

- If you sell the home to someone who is **not** related to you, the repayment in the year of sale is limited to the amount of gain on the sale. (See item 8 under *Who Cannot Claim the Credit* for the definition of a related person.) When figuring the gain, reduce the adjusted basis of the home by the amount of the credit you did not repay.
- If the home is destroyed, condemned, or disposed of under threat of condemnation, and you acquire a new main home within 2 years of the event, you continue to pay the installments over the remainder of the 15-year repayment period.
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for making all subsequent installment payments.

- If you die, any remaining annual installments are not due. If you filed a joint return and then you die, your surviving spouse would be required to repay his or her half of the remaining repayment amount.

**Homes purchased in 2009.** You must repay the credit only if the home ceases to be your main home within the 36-month period beginning on the purchase date. This includes situations where you sell the home, you convert it to business or rental property, or the home is destroyed, condemned, or disposed of under threat of condemnation. You repay the credit by including it as additional tax on the return for the year the home ceases to be your main home. If the home continues to be your main home for at least 36 months beginning on the purchase date, you do not have to repay any of the credit.

If you and your spouse claim the credit on a joint return, each spouse is treated as having been allowed half of the credit for purposes of repaying the credit.

**Exceptions.** The following are exceptions to the repayment rule.

- If you sell the home to someone who is **not** related to you, the repayment in the year of sale is limited to the amount of gain on the sale. (See item 8 under *Who Cannot Claim the Credit* for the definition of a related person.) When figuring the gain, reduce the adjusted basis of the home by the amount of the credit.
- If the home is destroyed, condemned, or disposed of under threat of condemnation, and you acquire a new main home within 2 years of the event, you do not have to repay the credit.
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for repaying the credit.
- If you die, repayment of the credit is not required. If you filed a joint return and then you die, your surviving spouse would be required to repay his or her half of the credit.

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## Specific Instructions

### Part I General Information

**Line B.** Enter the date you acquired the home. This is the date you purchased it (or the date you first occupied it if you constructed your main home).

**Line C.** You can choose to claim the credit on your 2008 Form 1040 for a main home purchased after December 31, 2008, and before December 1, 2009. If you make this choice, check the box.

### Part II Credit

**Line 1.** If two or more unmarried individuals buy a main home, they can allocate the credit among the individual owners using any reasonable method. The total amount allocated cannot exceed the smaller of \$7,500 (\$8,000 if you purchased your home in 2009) or 10% of the purchase price. See *Purchase price* on page 3.

**Note.** A reasonable method is any method that does not allocate all or a part of the credit to a co-owner who is not eligible to claim that part of the credit.

**Purchase price.** The purchase price is the adjusted basis of your home on the date you purchased it. This includes certain settlement or closing costs (such as legal fees and recording fees) and your down payment and debt (such as a first or second mortgage or notes you gave the seller in payment for the home). If you build, or contract to build, a new home, your purchase price can include costs of construction. For more information about adjusted basis, see Pub. 551, Basis of Assets.

**Line 2.** Your modified adjusted gross income is the amount from Form 1040, line 38, increased by the total of any:

- Exclusion of income from Puerto Rico, and
- Amount from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15.

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**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.