

SEC. 36. FIRST-TIME HOMEBUYER CREDIT.

(a) ALLOWANCE OF CREDIT. In the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of the residence.

(b) LIMITATIONS.

(1) DOLLAR LIMITATION.

(A) IN GENERAL. Except as otherwise provided in this paragraph, the credit allowed under subsection (a) shall not exceed ~~\$7,500~~ **\$8,000**.

(B) MARRIED INDIVIDUALS FILING SEPARATELY. In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting ~~'\$3,750 \$4,000'~~ for ~~'\$7,500 \$8,000'~~.

(C) OTHER INDIVIDUALS. If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed ~~\$7,500~~ **\$8,000**.

(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.

(A) IN GENERAL. The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so allowable as

(i) the excess (if any) of

(I) the taxpayer's modified adjusted gross income for such taxable year, over

(II) \$75,000 (\$150,000 in the case of a joint return), bears to

(ii) \$20,000.

(B) MODIFIED ADJUSTED GROSS INCOME. For purposes of subparagraph (A), the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

(c) DEFINITIONS. For purposes of this section

(1) FIRST-TIME HOMEBUYER. The term 'first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence to which this section applies.

(2) PRINCIPAL RESIDENCE. The term 'principal residence' has the same meaning as when used in section 121.

(3) PURCHASE.

(A) IN GENERAL. The term 'purchase' means any acquisition, but only if—

(i) the property is not acquired from a person related to the person acquiring such property, and

(ii) the basis of the property in the hands of the person acquiring such property is not determined

(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(II) under section 1014(a) (relating to property acquired from a decedent).

(B) CONSTRUCTION. A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

(4) PURCHASE PRICE. The term 'purchase price' means the adjusted basis of the principal residence on the date such residence is purchased.

(5) RELATED PERSONS. A person shall be treated as related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants).

(d) EXCEPTIONS. No credit under subsection (a) shall be allowed to any taxpayer for any taxable year with respect to the purchase of a residence if

(1) a credit under section 1400C (relating to first-time homebuyer in the District of Columbia) is allowable to the taxpayer (or the taxpayer's spouse) for such taxable year or any prior taxable year,

(2) the residence is financed by the proceeds of a qualified mortgage issue the interest on which is exempt from tax under section 103,

(3) the taxpayer is a nonresident alien, or

(4) the taxpayer disposes of such residence (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the close of such taxable year.

(e) REPORTING. If the Secretary requires information reporting under section 6045 by a person described in subsection (e)(2) thereof to verify the eligibility of taxpayers for the credit allowable by this section, the exception provided by section 6045(e) shall not apply.

(f) RECAPTURE OF CREDIT.

(1) IN GENERAL. Except as otherwise provided in this subsection, if a credit under subsection (a) is allowed to a taxpayer, the tax imposed by this chapter shall be increased by 6-2/3 percent of the amount of such credit for each taxable year in the recapture period.

(2) ACCELERATION OF RECAPTURE. If a taxpayer disposes of the principal residence with respect to which a credit was allowed under subsection (a) (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the end of the recapture period

(A) the tax imposed by this chapter for the taxable year of such disposition or cessation shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and

(B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year.

(3) LIMITATION BASED ON GAIN. In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).

(4) EXCEPTIONS.

(A) DEATH OF TAXPAYER. Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer's death.

(B) INVOLUNTARY CONVERSION. Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence during the 2-year period beginning on the date of the disposition or cessation referred to in paragraph (2). Paragraph (2) shall apply to such new principal

residence during the recapture period in the same manner as if such new principal residence were the converted residence.

(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

In the case of a transfer of a residence to which section 1041(a) applies

- (i) paragraph (2) shall not apply to such transfer, and
- (ii) in the case of taxable years ending after such transfer, paragraphs (1) and (2) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

(D) WAIVER OF RECAPTURE FOR PURCHASES IN 2009. In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before December 1, 2009

- (i) paragraph (1) shall not apply, and
- (ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.

(5) **JOINT RETURNS.** In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

(6) **RETURN REQUIREMENT.** If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

(7) **RECAPTURE PERIOD.** For purposes of this subsection, the term 'recapture period' means the 15 taxable years beginning with the second taxable year following the taxable year in which the purchase of the principal residence for which a credit is allowed under subsection (a) was made.

(g) **ELECTION TO TREAT PURCHASE IN PRIOR YEAR.** In the case of a purchase of a principal residence after December 31, 2008, and before ~~July 1, 2009~~ **December 1, 2009**, a taxpayer may elect to treat such purchase as made on December 31, 2008, for purposes of this section (other than ~~subsection (e)~~ **subsections (c) and f(4)(D)**).

(h) **APPLICATION OF SECTION.** This section shall only apply to a principal residence purchased by the taxpayer on or after April 9, 2008, and before ~~July 1, 2009~~ **December 1, 2009**.