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TAX REPORT | NOVEMBER 12, 2009

The Lowdown on Home-Buyer Tax Credits

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By LAURA SAUNDERS

Last week, President Barack Obama signed a law that extends through next spring a temporary tax credit of up to \$8,000 for some first-time home buyers, which was due to expire Nov. 30. The law also adds a new tax credit of up to \$6,500 for certain repeat home buyers. The package, which the government estimates will cost a total of \$11 billion, is intended to help spur housing sales, a critical part of the economy.

Here are some answers to common questions about the new rules.

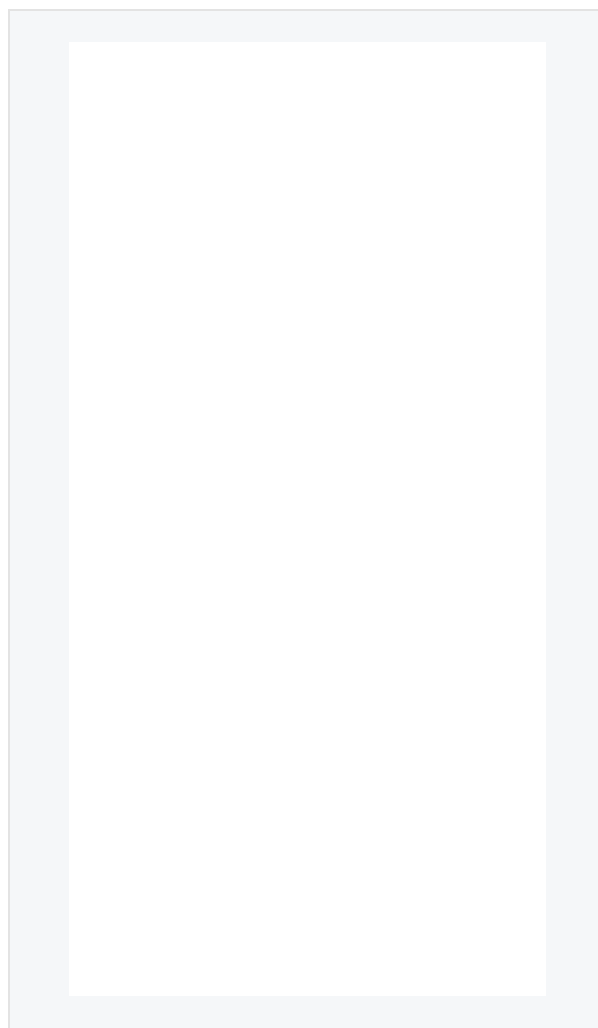
Q: What has stayed the same in the new law?

- 1) First-time home buyers still get a credit of as much as 10% of the purchase price, up to a maximum \$8,000. "First-time" means people, including both partners of a married couple, who haven't owned a principal residence for three years before the purchase.
- 2) All taxpayers who claim a credit must use the home as a principal residence for the next three consecutive years.
- 3) The credits offer dollar-for-dollar reductions of tax and are refundable. This means that a taxpayer who doesn't pay enough tax to offset the credit can get a refund. For example, if you qualify for an \$8,000 credit but only owe \$5,000 in tax, you could receive a \$3,000 check from the Internal Revenue Service.
- 4) Under the new law, as under the old, 2009 home buyers may claim the credit on either their 2008 or 2009 returns, and 2010 buyers may claim the credit on either their 2009 or 2010 returns.
- 5) Taxpayers do not qualify for a credit if they buy from a lineal ancestor or descendent, including parents or grandparents and children or grandchildren.

Q: What has changed?

Several important features took effect as of Nov. 6:

- 1) To take advantage of the tax credits, a buyer must have a contract in place before May 1, 2010, and the deal must close before July 1, 2010. No further extension is expected.
- 2) The price of the house is now capped. For purchases made after Nov. 6, no credit is available for any home costing more than \$800,000.
- 3) There is now a tax credit for repeat buyers as well as for first-time buyers. Taxpayers who have lived in one residence for five consecutive years of the past eight can now qualify for a



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tax credit of as much as 10% of the purchase price, up to a maximum \$6,500, of a new principal residence. The new home does not have to cost more than the old one.

4) Income limits for people who qualify for a tax credit are far more generous than under the previous law. For single filers, the credits now phase out between \$125,000 and \$145,000 of modified adjusted gross income; for married couples, the range is \$225,000 to \$245,000. For most people, modified adjusted gross income will be the same as adjusted gross income.

5) The new law contains anti-abuse measures designed to stem fraud, which became a problem with the previous home-buyer tax credit. Most buyers must be 18 or older, and no taxpayer may take a credit if he or she is claimed as a dependent on someone else's return. Taxpayers taking the credit will also have to furnish proof of purchase. According to Robert Dietz of the National Association of Home Builders, this will usually be a HUD-1 form.

6) People taking the tax credit, as under the old law, aren't allowed to buy a home from a lineal ancestor or descendent. The new law, applying to purchases made after Nov. 6, also says a person may not take a credit if the home is purchased from a spouse or the spouse's lineal relatives.

Q: If I bought a house last spring or summer, can I get a tax credit?

You qualify if you are a first-time buyer and meet the other requirements, but not if you are a repeat buyer. The new credit for repeat buyers applies only to purchases made after Nov. 6.

Q: What is the definition of "principal residence"?

If you own more than one home, your principal residence is usually the one where you spend most of your time. In determining residence the IRS may also consider where your family lives and your mailing address for bills and correspondence, among other factors.

Q: Can a principal residence be something besides a conventional house?

Yes. A principal residence may also be a condominium, co-op apartment, attached or semi-attached townhouse, or even—if it has eating, sleeping and toilet facilities—a boat, motor home or trailer. Manufactured homes qualify in some states.

Q: Does the person who claims the credit have to use the home as a principal residence?

Yes.

Q: If I buy a new home and live in it, do I also have to sell my old one in order to take advantage of the credit?

This is unclear. The law appears to allow repeat buyers to retain their old home, for which no tax credit was given, while claiming a credit for the new one. What is clear is that if you buy a new home using the credit, you must use it as your principal residence.

Q: How may the credits be allocated among two or more unmarried buyers?

This also is unclear. But if the IRS adopts the rules that applied to the previous tax credit, which are detailed in IRS Notice 2009-12, there is room for planning. The notice says that taxpayers may use "any reasonable manner" to allocate the credit. It even provides an example in which two unmarried buyers allocate the credit to the lower earner in order to qualify for it.

Q: I need the credit refund to help make the down payment. What can I do?

There's no rushing the IRS. But one option is to adjust your current withholding from your paychecks to reflect the fact that you will be taking the credit later. But be careful: If you don't make the purchase, then you may owe interest and penalties. Consult a tax adviser.

Q: Is it possible to qualify for a credit if I am building a home on a lot I already own?

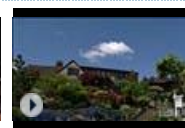
Yes, according to the National Association of Home Builders. The purchase date is usually considered to be the date of first occupancy, so you would need to move in before July 1, 2010.

Q: May I take a credit if I am building a large addition to my home?

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No; these credits apply only to the purchase of a home.

Q: Are there special rules for the military?

Yes. In general, members of the military and foreign-service and intelligence communities who are serving overseas on "official extended duty" for at least 90 days during 2009 and the first four months of 2010 have an extra year to take advantage of these credits. Consult a tax adviser who specializes in this area.

Q: Where can I get more information?

Go to federalhousingtaxcredit.com, a Web site sponsored by the National Association of Home Builders. You can also look for links from the IRS's home page, www.irs.gov, or search for Homebuyer Credit. Another option is to consult a professional tax adviser.

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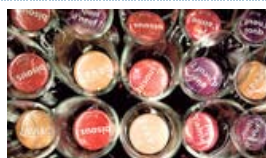
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