

# Economic Stimulus Package of 2009

**\$8,000 Tax Credit Q&A**



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# Tax Credit Q&A

## 1. WHO IS ELIGIBLE TO CLAIM THE \$8,000 TAX CREDIT?

First time homebuyers purchasing any kind of home—new or resale—are eligible for the tax credit. To qualify for the tax credit, a home purchase must occur on or after January 1, 2009 and before December 1, 2009. For the purposes of the tax credit, the purchase date is the date when closing occurs.

## 2. WHAT IS THE DEFINITION OF A FIRST TIME HOME BUYER?

The law defines a "first-time homebuyer" as a buyer who has not owned a principal residence during the three year period prior to the purchase. For married taxpayers, the law tests the homeownership history of both the home buyer and his/her spouse. For example, if you have not owned a home in the past three years but your spouse has owned a principal residence, neither you nor your spouse qualifies for the first-time homebuyer tax credit. However, unmarried joint purchasers may allocate the credit amount to any buyer who qualifies as a first-time buyer, such as may occur if a parent jointly purchases a home with a son or daughter.

Ownership of a vacation home or rental property not used as a principal residence does not disqualify a buyer as a first-time homebuyer.

## 3. WHAT IS THE DEFINITION OF A PRINCIPAL RESIDENCE?

A principal residence is the home where an individual spends the majority of his/her time (generally defined as more than 50%).

## 4. IS THERE AN INCOME RESTRICTION?

Yes. Individuals with an annual income of over \$75,000 and married couples with a combined annual income of over \$150,000 are phased-out, but may still be eligible for a partial credit. The credit becomes totally unavailable for individual taxpayers with a modified adjusted gross income (MAGI) of more than \$95,000 and for married taxpayers filing joint returns with an MAGI of more than \$170,000.

## 5. HOW IS A PARTIAL CREDIT DETERMINED FOR THOSE INCOMES THAT PHASE OUT?

The statute specifies that the credit is phased out completely at \$20,000 over the income limit. To determine the allowable credit, \$20,000 is divided into the amount that the individual (or couple) is over the limit. The resulting percentage is multiplied by the amount of the tax credit.

### **For Example:**

Couples Income:	\$155,000
Income Limit:	\$150,000
Excess Income:	\$5,000

In this example, the excess income of \$5,000 is divided by \$20,000. The disallowed portion of the credit is 25% or \$2,000.

$$(\$5,000/\$20,000 = 25\% \times \$8,000 = \$2,000)$$

Stated another way, the couple allowed to receive 75% of the credit or \$6,000.

*Please remember that these examples are intended to provide a general idea of how the tax credit might be applied in different circumstances. You should always consult your tax advisor for information relating to your specific circumstances.*

## 6. IS THE AMOUNT OF THE CREDIT TIED TO THE PURCHASE PRICE OF THE HOME?

Yes. The credit is for 10 percent of the cost of the home, up to a maximum of \$8,000. For example, if a home cost \$65,000, the allowable credit would be \$6,500.

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## **7. HOW DO I CLAIM THE CREDIT? DO I NEED TO COMPLETE A FORM?**

Participating in the tax credit program is easy. You claim the tax credit on your federal income tax return. Specifically, home buyers should complete IRS Form 5405 to determine their tax credit amount, and then claim this amount on Line 69 of their 1040 income tax return. No other applications or forms are required. No pre-approval is necessary; however, prospective home buyers will want to be sure they qualify for the credit under the income limits and first-time homebuyer tests.

## **8. DOES THE TAX CREDIT HAVE TO BE REPAID?**

No, unlike the \$7,500 tax credit enacted in July of 2008, this tax credit does not have to be repaid. This previous "credit" was essentially an interest-free loan, whereas this tax incentive is a true tax credit. However, home buyers must use the residence as a principal residence for at least 3 years or face recapture of the tax credit amount. Certain exceptions apply.

## **9. I HAVE HEARD THE TAX CREDIT IS REFUNDABLE, WHAT DOES THAT MEAN?**

The fact that the credit is refundable means that the homebuyer credit can be claimed even if the taxpayer has little or no federal income tax liability to offset it. Typically this involves the government sending the taxpayer a check for a portion or even the entire amount of the refundable tax credit. For example, if a qualified homebuyer expected, notwithstanding the tax credit, federal income tax liability of \$5,000 and had tax withholding of \$3,000 for the year, then without the tax credit the taxpayer would owe the IRS \$2,000 on April 15th. Suppose now that taxpayer qualified for the \$8,000 home buyer tax credit. As a result, the taxpayer would receive a check for \$6,000 (\$8,000 minus the \$2,000 owed).

## **10. CAN I USE THE TAX CREDIT AS PART OF MY DOWN PAYMENT?**

No, there is no mechanism available for using the funds as part of the down payment. Congress tried to devise a mechanism that would allow pre-funding of the credit, but found that pre-funding would require cumbersome processes that would bring the IRS into the purchase and settlement phase of the transaction.

## **11. IF I AM QUALIFIED FOR THE TAX CREDIT AND BUY A HOUSE IN 2009, CAN I APPLY THE TAX CREDIT AGAINST MY 2008 TAX RETURN?**

Yes. The law allows qualified taxpayers to choose ("elect") to treat qualified home purchases in 2009 as if the purchase occurred on December 31, 2008. This election allows them (depending on the time of the sale) to claim the credit on their 2008 tax return that is due on April 15, 2009. They may also elect to file their 2008 tax return after April 15 by filing for an automatic extension and claim the credit on the extended 2008 return. If they file their 2008 return before they have purchased the home, they may utilize this election and file an amended 2008 tax return. Of course they will always have the option of claiming the credit for the 2009 purchase on their 2009 return file in 2010.

Claiming the credit on their 2008 return means that the 2008 income limit (MAGI) applies and the election accelerates when the credit can be claimed (tax filing for 2008 returns instead of for 2009 returns). A benefit of this election is that a home buyer in 2009 will know their 2008 MAGI with certainty, thereby helping the buyer know whether the income limit will reduce their credit amount.

## **12. IS THERE A WAY TO ACCESS THE MONEY ALLOCABLE TO THE TAX CREDIT SOONER THAN WAITING TO FILE A TAX RETURN?**

Yes. Prospective homebuyers who believe they qualify for the tax credit are permitted to reduce their income tax withholding. Reducing tax withholding (up to the amount of the credit) will enable the future homebuyer to accumulate cash by raising his/her take home pay. This money can then be applied to the down payment. Buyers should adjust their withholding amount on their W-4 via their employer or through their quarterly estimated tax payment. IRS Publication 919 contains rules and guidelines for income tax withholding.

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## 13. I PURCHASED A HOME IN EARLY 2009 AND HAVE ALREADY FILED TO RECEIVE THE \$7,500 TAX CREDIT ON MY 2008 RETURNS. CAN I CLAIM THE NEW \$8,000 TAX CREDIT INSTEAD?

Yes, home buyers in this situation may file an amended 2008 tax return with a 1040X form. You should consult with a tax advisor to ensure you file this return properly.

## 14. I BOUGHT A HOME IN 2008. DO I QUALIFY FOR THIS CREDIT?

No, but if you purchased your first home between April 9, 2008 and January 1, 2009, you may qualify for a different tax credit. See our information on the \$7,500 tax credit.

## 15. WHAT IS THE DIFFERENCE BETWEEN A TAX CREDIT AND A TAX DEDUCTION?

A tax credit is a dollar-for-dollar reduction in what the taxpayer owes. That means that a taxpayer who owes \$8,000 in income taxes and who receives an \$8,000 tax credit would owe nothing to the IRS. A tax deduction is subtracted from the amount of income that is taxed. Using the same example, assume the taxpayer is in the 15 percent tax bracket and owes \$8,000 in income taxes. If the taxpayer receives an \$8,000 deduction, the taxpayer's tax liability would be reduced by \$1,200 (15 percent of \$8,000), or lowered from \$8,000 to \$6,800.

## 16. WHAT IS "MODIFIED ADJUSTED GROSS INCOME?"

Modified adjusted gross income or MAGI is defined by the IRS. To find it, a taxpayer must first determine "adjusted gross income" or AGI. AGI is total income for a year minus certain deductions (known as "adjustments" or "above-the-line deductions"), but before itemized deductions from Schedule A or personal exemptions are subtracted. On Forms 1040 and 1040A, AGI is the last number on page 1 and first number on page 2 of the form. For Form 1040-EZ, AGI appears on line 4 (as of 2008). Note that AGI includes all forms of income including wages, salaries, interest income, dividends and capital gains. To determine modified adjusted gross income (MAGI), add to AGI certain amounts such as foreign income, foreign-housing deductions, student-loan deductions, IRA-contribution deductions and deductions for higher-education costs.

## 17. WHAT TYPES OF HOMES WILL QUALIFY FOR THE TAX CREDIT?

Any home purchased by an eligible first-time homebuyer will qualify for the credit, provided that the home will be used as a principal residence and the buyer has not owned a home in the previous three years. This includes single-family detached homes, attached homes like townhouses and condominiums, manufactured homes (also known as mobile homes) and houseboats. The definition of principal residence is identical to the one used to determine whether you may qualify for the \$250,000 / \$500,000 capital gain tax exclusion for principal residences.

## 18. ARE THERE ANY RESTRICTIONS ON THE LOCATION OF THE PROPERTY?

Yes, eligible property must be located in the United States.

## 19. I HAVE HIRED A CONTRACTOR TO CONSTRUCT A HOME ON A LOT I ALREADY OWN. CAN I STILL CLAIM THE TAX CREDIT?

Yes. For the purposes of the homebuyer tax credit, a principal residence that is constructed by the home owner is treated by the tax code as having been "purchased" on the date the owner first occupies the house. In this situation, the date of first occupancy must be on or after January 1, 2009 and before December 1, 2009. In contrast, for newly-constructed homes bought from a home builder, eligibility for the tax credit is determined by the settlement date.

## 20. CAN I CLAIM THE CREDIT IF I FINANCE THE PURCHASE OF MY HOME UNDER A MORTGAGE REVENUE BOND (MRB) PROGRAM?

Yes. The tax credit can be combined with the MRB home buyer program. Note that first-time home buyers who purchased a home in 2008 may *not* claim the tax credit if they are participating in an MRB program.

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**21. DOES THE CREDIT AMOUNT DIFFER IF YOU FILE AS SINGLE OR MARRIED? WHAT IF I BUY THE HOUSE WITH A FRIEND OR FAMILY MEMBER?**

No. The purchase of a residence will generate a tax credit amount that will total up to no more than \$8,000, no matter how many unmarried purchasers are buying the house.

**22. CAN I CLAIM THE CREDIT IF I BUY A HOME FROM A RELATIVE?**

No. Any purchase of a principal residence (or interest in a principal residence) from a related party such as a sibling, parent, grandparent, aunt or uncle is ineligible for the tax credit.

**23. CAN I CLAIM THE TAX CREDIT IF I AM NOT A US CITIZEN?**

Maybe. Anyone who is not a nonresident alien (as defined by the IRS), who has not owned a principal residence in the previous three years and who meets the income limits test may claim the tax credit for a qualified home purchase. The IRS provides a definition of "nonresident alien" in IRS Publication 519.