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PERSONAL FINANCE

You may qualify for a home-buyer tax credit

This time, income limits have been raised, so millions more people are eligible. You don't have to be a first-timer either.

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Personal Finance

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Millions of additional people may be able to take advantage of the new and improved first-time home-buyer tax credit now, and it's not just for first-time home buyers anymore. You may qualify.

President Obama signed legislation Friday to extend unemployment benefits to American workers. The law also includes provisions that vastly expand the number of people eligible for home-buyer credits by boosting the income eligibility limits, giving buyers more time, creating a \$6,500 credit for longtime homeowners and launching more-accommodating rules for members of the military. Here are the details.

The \$8,000 credit

If you were locked out of the first-time home-buyer credit in the past simply because you earned too much, there's good news.

Now you can qualify for the full \$8,000 first-time home-buyer credit with a single income of up to \$125,000 and married income of up to \$225,000. Those who earn more will be phased out.

The credit ends completely once single income exceeds \$145,000 and married income exceeds \$245,000. Still, that's a big boost from the previous law that shut off the credit for singles earning more than \$95,000 and married couples who earned more than \$170,000. **Other eligibility rules**

* You must not have owned another home for at least the previous three years.

* You must buy a home (or have a binding contract to buy) by April 30, 2010. Under the new law, if

the sale doesn't close on time, you can still get the credit as long as you've got a binding contract on the ending date, said Jackie Perlman, tax analyst with the Tax Institute at H&R Block in Kansas City.

- * You must be older than 18 and not claimed as a dependent by any other taxpayer.
- * The property you purchase cannot have been acquired from a relative.
- * You must attach a copy of your settlement statement with your tax return to claim the credit.
- * Most buyers also must continue to own this new home for at least three years. If they sell in less time, the government will demand that they pay the credit back, said Clint Stretch, director of tax policy with Deloitte Tax.

Special rules for military

The government will not require repayment of the credit if you are a member of the military and had to sell or stop using the home as a residence because of extended duty, however.

In addition, those serving outside of the U.S. during any part of 2009 or early 2010 will get an additional year to claim the credit. In other words, the credit ends for most people on April 30, 2010, but it lasts until April 30, 2011, for active-duty service members working overseas.

The \$6,500 credit

The new law carves out an additional credit for current homeowners.

If you have owned and lived in a home for at least five consecutive years of the last eight years, you could qualify for a \$6,500 tax credit, if you buy a new home between now and April 30.

The "five-of-eight" requirement means that this credit could accommodate people who lost their homes in the last year or two to foreclosure or even sold a house and didn't immediately replace it, said John W. Roth, senior tax analyst with CCH Inc., a Riverwoods, Ill., publisher of tax information.

Would you have to sell your residence for it to qualify for the \$6,500 credit, if you wanted to buy a new one? Not necessarily, Roth said. The home you purchase must become your principal residence, so you would have to move there. But nothing in the law says you cannot keep your existing residence as a second home or rental, he said.

If you do choose to sell your existing residence, you need to pay close attention to how much you earn on that sale, Stretch said. That's because taxable profits from the sale of your residence will be added to your other earnings to determine whether your adjusted gross income exceeds the allowable thresholds.

This credit also phases out for singles earning more than \$125,000 and married couples earning more than \$225,000.

On the bright side, some profits from the sale of a personal residence don't count. That's because taxpayers are allowed to exclude up to \$250,000 per person or \$500,000 per couple in profits on the sale of their personal residence from tax, if they lived in that home for two of the last five years, Stretch said. Only profits exceeding those excluded amounts would be included in income, he noted.

Getting muddled? Let's look at an example to clarify.

John and Sue Smith own a home that they bought for \$100,000 in 1965. They're now retired and want to scale back, selling that home, which is now worth \$750,000, and buying a smaller home with the help of the new \$6,500 credit.

Their net profit on this sale would be \$650,000, but they can exclude \$500,000 of that gain from tax, based on existing law. They will have to add the remaining \$150,000 capital gain to their adjusted gross income to determine whether they can qualify for the new credit.

If all of their other income adds up to less than \$75,000, they have no worries because the \$150,000 and \$75,000 add up to \$225,000 -- the beginning of the credit's phase-out range for married couples. If they earn more, however, they begin to lose their ability to take the credit.

There are other arcane rules relating to profits earned on the sale of a home, so those with substantial profits may want to consult a tax professional before banking on the credit.

"It's really confusing," Roth allowed. "It's as if they took the old law and threw it in a Mixmaster. Some things still apply; others don't. The time frames are all new. This is going to keep a lot of tax accountants in business for a long time."

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NAR ISSUE BRIEF

HOMEBUYER TAX CREDIT CHANGES

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.

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

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