

JOHN INCORVAIA, P.A.

Attorney at Law

JOHN INCORVAIA, ESQ.

JD, LLM in Taxation

14 Boulder Rock Drive
Palm Coast, FL 32137

1629 K Street NW, Ste 300
Washington D.C. 20006

Admitted in FL, DC and the US Tax Court

Tel. (386) 246-8550
Fax (386) 246-7631
yourlawadvisor.com

info@yourlawadvisor.com

FIRST TIME HOME BUYERS CREDIT **Updated by HR 3548 - Extensions, Limitations and New Provisions**

House of Representatives Bill 3548 passed by overwhelming vote in both the Senate and the House. On November 6, 2009, the President signed this bill into law. This new law changes the First Time Home Buyer credit by extending it, limiting it, and offering it in new ways. This article attempts to simply and explain those changes.

The First Time Home Buyers Credit will be extended in TWO ways.

First, any purchase of a principal residence that closes before May 1, 2010 will qualify the buyer for the credit.

Second, any

- written binding contract
- for purchase of a principal residence
- entered into before May 1, 2010, AND
- closed before July 1, 2010

also qualifies the buyer for the credit.

Current Homeowners can qualify for a reduced credit.

A lower credit will become available to current homeowners. To qualify, a buyer must have owned a principal residence for 5 CONSECUTIVE years in the past 8 years ending on the date of purchase. If the buyer meets those requirements, then the buyer qualifies for a credit of \$6,500 (\$3,250 if married filing separately).

Higher income phaseout of credit.

The credit will progressively phaseout for taxpayers earning over \$125,000.00 (\$225,000 for married filing jointly), and completely at \$145,000.00 (\$245,000 for married filing joint).

No credit for purchases over \$800,000.00.

Home purchases over \$800,000.00 do not qualify for the First Time Home Buyer credit. So, \$800,000.00 = GOOD, but \$800,000.01 = NO GOOD.

NEW - Three Special Rules for Members of Armed Forces.

If an active member of the military buys after December 31, 2008 but sells before the end of 2009, due to “qualified extended duty service”, they still get the credit with no recapture of the credit triggered.

If an active member of the military bought before January 1, 2009 and sells before the end of this year due to “qualified extended duty service”, then there is no 6 2/3% additional tax imposed.

If an active member of the military serves on “qualified extended duty service” outside the US for at least 90 days after December 31, 2008 and before May 1, 2010, (and if married the same must apply to their spouse) THEN they qualify for the credit if they

- enter into a written binding contract
- for purchase of a principal residence
- before May 1, 2011, AND
- close before July 1, 2011.

Dependents are Excluded from the Credit.

Buyer must not be a dependent on someone else’s tax return. They must claim themselves on their own (or their joint) tax return to qualify for the credit.

Age Requirements.

Taxpayer OR their spouse must be at least 18 years old as of the date of purchase. Only one of them need be at least 18 years of age.

Filing Requirements.

The taxpayers must attach the HUD-1 to the tax return upon which the credit is claimed. Therefore, the taxpayer cannot electronically file when claiming the credit. As a result, the taxpayer can expect a delay in receiving the refund UNLESS the IRS chooses to “pay now and examine later.” For this answer, we will have to wait and see.