

First-Time Homebuyer Credit: Scenarios

S1. If a single person (Taxpayer A) qualifies as a first-time homebuyer at the time he/she purchases a home with someone (Taxpayer B) that is not a first-time homebuyer and then later that year they marry each other, is the credit still allowed?

A. Eligibility for the first-time homebuyer credit is determined on the date of purchase. If Taxpayer A, a first-time homebuyer, buys a house and then later that year marries Taxpayer B, not a first-time homebuyer, the credit is allowable to Taxpayer A. Taxpayer A may take the maximum credit.

S2. Taxpayer A is a single first-time home buyer. Taxpayer B (parent) cosigns for A and does not qualify. Both names are on the mortgage. Can Taxpayer A claim the credit and, if so, how much?

A. Yes. Taxpayer B is not a first-time homebuyer and cannot claim any portion of the credit, but A may claim the entire credit (\$7,500 for purchase in 2008; \$8,000 for purchase in 2009), if the home was purchased as Taxpayer A's primary residence.

S3. A taxpayer owned her principal residence. Several years ago, she decided to relocate to a rented apartment, but did not sell the former residence. Instead, she rented it out to tenants. Now the taxpayer plans to buy another house and make it her new principal residence. Does she qualify for the first-time homebuyer credit?

A. A taxpayer who owned rental property within the past three years is still eligible for the credit. The taxpayer cannot have owned and used a home as his or her principal residence within the last three years.

S4. If husband and wife wanted to sell the home that the wife owned when they got married, and the husband had not owned a home within the past three years, could he qualify as a first-time homebuyer for the credit even though the wife would not qualify?

A. No. The purchase date determines whether a taxpayer is a first-time homebuyer. Since the wife had ownership interest in a principal residence within the prior three years, neither taxpayer may take the first-time homebuyer credit. Section 36(c)(1) of the Internal Revenue Code requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the prior three years from the date of purchase. The husband may not take the credit even if he filed on a separate return.

S5. Taxpayer purchased a home on April 24, 2008, while she was separated from her husband. Later in the year, they reconciled and were living together at the end of 2008. She has not owned a home since 2004 but he owned one which he sold in 2006. They remained married the entire time. Is the taxpayer eligible for the first-time homebuyer credit?

A. No. The purchase date determines whether a taxpayer is a first-time homebuyer. Since the husband had ownership interest in a principal residence within the prior three years, and the taxpayers were legally married, neither taxpayer may take the first-time homebuyer credit. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the prior three years from the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. The wife may not take the credit even if she filed on a separate return.

S6. I have been estranged from my spouse for over three years and file married filing separate. I don't know if my spouse has owned a main home in the last three years, but I have not. If I buy a house in 2009 that otherwise qualifies for the first-time homebuyer credit, can I claim the credit?

A. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the three years prior to the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. If your spouse has not owned a main home in the last three years, then you may claim the credit.

S7. I am separated from my spouse and considered unmarried, and qualify for the unmarried head of household filing status. My spouse has owned a main home in the last three years, but I have not. If I buy a home on May 1, 2009, that otherwise qualifies, can I claim the first-time homebuyer credit?

A. No. Section 36(c)(1) requires that the taxpayer and the taxpayer's spouse not have an ownership interest in a principal residence within the three years prior to the date of purchase. While individuals do not have to be married to get the credit, marriage (and legal separation) imputes ownership of a previous home upon the other spouse. The taxpayer may not take the credit even if filed on a separate return.

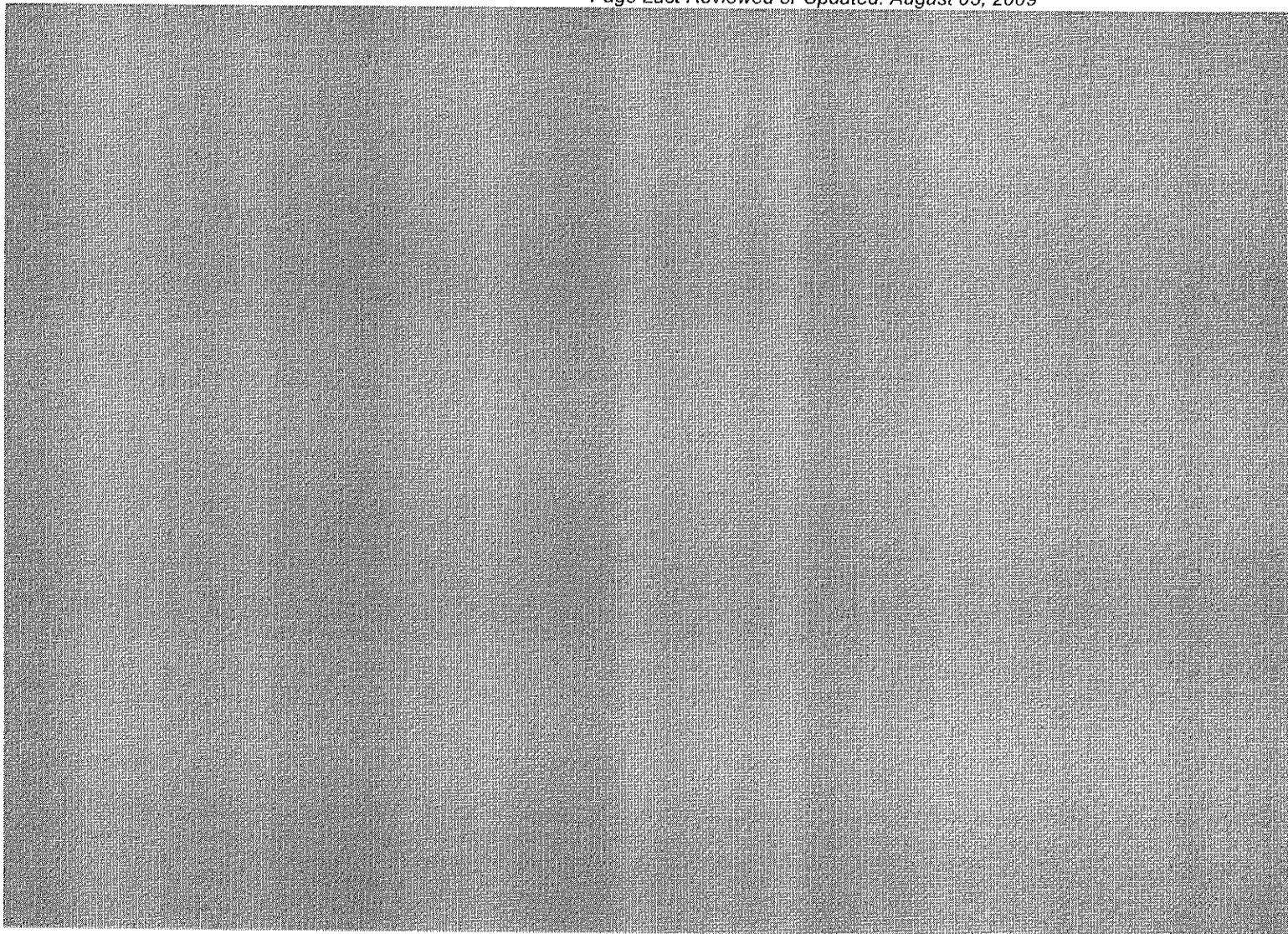
S8. A qualifying taxpayer bought a home in August 2008 that needed a lot of work before occupying. They finished the renovations and moved in the home in January 2009. Can they claim the \$8,000, since they did not occupy the home until 2009?

A. No. Taxpayers who purchase an existing home and renovate the property before moving in are eligible for the first-time homebuyer credit based on the date of purchase, not the date of occupancy.

Related Items:

- [First-Time Homebuyer Credit Questions and Answers: Basic Information](#)
- [First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2008](#)
- [First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2009](#)
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First-Time Homebuyer Credit Questions and Answers: Homes Purchased in 2009

New legislation extends and expands the first-time homebuyer credit allowed by previous Acts. The new law:

- extends deadlines for purchasing and closing on a home
- authorizes the credit for long-time homeowners buying a replacement principal residence
- raises the income limitations for homeowners claiming the credit

Q. I plan to build a home and occupy it in 2009. Can I claim the first-time homebuyer credit now and use the funds toward the down payment or other ongoing construction costs?

A. No. To qualify for the first time home buyer credit, the residence must be purchased. By statute, a residence which is constructed by the taxpayer is treated as purchased on the date the taxpayer first occupies the residence. (05/06/09)

Q. I bought my home in 2009 (early) and filed my 2008 tax return claiming the \$7,500 first-time homebuyer credit that has to be repaid. Now the expanded law provides for an \$8,000 credit that doesn't have to be repaid. What do I need to do to get the \$8,000 credit that doesn't have to be paid back?

A. You can file an amended return.

Q. If I purchase a home in June 2009, and have already filed my 2008 tax return, can I amend my 2008 return or will I have to claim it on my 2009 return?

A. You can either file an amended return to claim it on your 2008 return or claim it on your 2009 return.

Q. I am in the process of buying a home. I expect to close the deal before December 1, 2009. Can I claim the first-time homebuyer credit now? That would allow me to use the refund for a down payment.

A. No. You may not claim the credit in anticipation of a purchase that has yet to happen. Until you have finalized the purchase of your home, which for most purchasers occurs at the time of the closing, you do not qualify for the credit. IRS [news release 2009-27](#), First-Time Homebuyers Have Several Options to Maximize New Tax Credit, contains details for filing options if the home is purchased after April 15, 2009.

Q: When must I pay back the credit for the home I purchased in 2009?

A: Generally, there is no requirement to pay back the credit for a principal residence purchased in 2009. The obligation to repay the credit on a home purchased in 2009 arises only if the home ceases to be your principal residence within 36 months from the date of purchase. The full amount of the credit received becomes due on the return for the year the home ceased being your principal residence.

Q. Suppose a member of the military who purchased a home and qualified for the credit receives orders to deploy overseas for possibly 18 months. If they sell the home within 3 years from the date of purchase, do they have to pay back the credit?

A. Section 36 does not provide any recapture exceptions for military personnel who are deployed and sell their home within 36 months from the purchase date. If the taxpayer does not sell the residence, then the military deployment may be considered a "temporary absence" and the home may still be the taxpayer's principal residence if the taxpayer intends to return to the residence after the deployment.

Q. If I claim the first-time homebuyer credit for a purchase in 2009 and stop using the property as my principal residence before the 36 month period expires after I purchase, how is the credit repaid and how long would I have to repay it?

A. If, within 36 months of the date of purchase, the property is no longer used as your principal residence, you are required to repay the credit. Repayment of the full amount of the credit is due at that time the income tax return for the year the home ceased to be your principal residence is due. The full amount of the credit is reflected as additional tax

on that year's tax return. [Form 5405](#) and its instructions will be revised for tax year 2009 to include information about repayment of the credit.

Q: I'm already a homeowner. If I buy a replacement home to use as my principal residence, do I have to sell my home to qualify for the homebuyer tax credit?

A: If you meet all of the requirements for the credit, the law does not require you to sell or otherwise dispose of your current principal residence to qualify for a credit of up to \$6,500 when you buy a replacement home to use as your principal residence. You must buy, or enter into a binding contract to buy, a principal residence on or before April 30, 2010 and close on the home by June 30, 2010. Additionally, you must have lived in the same principal residence for any five-consecutive year period during the eight-year period that ended on the date the replacement home is purchased. (11/17/09)

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