

A Reprint from *Tierra Grande*

# \$8,000 Housewarming Gift



By Jerrold J. Stern

**F**irst-time homeowners may benefit from an \$8,000 tax credit under the American Recovery and Reinvestment Act of 2009. Qualifying homes must be purchased and occupied after Dec. 31, 2008, and before Dec. 1, 2009. Unlike a \$7,500 loan/credit available through the 2008 Housing Assistance Tax Act (see "Beginner's Luck," *Tierra Grande*, January 2009), this \$8,000 credit does not have to be repaid to the government.

Rather than waiting until tax filing for the \$8,000, an advance on the credit is available from the U.S. Department of Housing and Urban Development (HUD). The advance is available for first-time homebuyers using FHA-approved lenders. As an advance, the funds can be applied toward the down payment or closing costs.

Taxpayers who filed tax returns under the \$7,500 loan/credit scenario for homes purchased in 2009 can file amended tax returns for refunds. Tax form 5405 is used to claim the credit.

The \$8,000 credit's availability is phased out "ratably" (evenly) for taxpayers with adjusted gross income (salary, wages, commissions, and so forth) between \$75,000 and \$95,000 (\$150,000 and \$170,000 for married taxpayers filing jointly). Taxpayers in the middle of these ranges are eligible for only one-half of the credit. The credit can be taken against either regular tax liability or alternative minimum tax liability.

The \$8,000 credit is refundable. For example, if tax liability is \$6,000 with-

out the credit, a taxpayer with an \$8,000 credit would receive a refund of \$2,000 from the government.

The taxpayer may claim the 2009 home purchase on an amended 2008 tax return and receive the benefits when that return is filed. However, if the taxpayer's adjusted gross income is higher than the threshold in 2008 but will be below the threshold in 2009, he or she would likely be better off by including the transaction on the 2009 tax return.

If the home is purchased in 2009 and then is sold or ceases to be the taxpayer's principal residence within 36 months of purchase, the entire amount of the credit (up to the amount of gain on the sale) must be repaid (recaptured). Thus, if the gain on the sale of the home is \$5,000, only \$5,000 of the credit must be repaid. If the gain is \$20,000, then \$8,000 would have to be repaid.

**N**o recapture is necessary if the taxpayer dies before the loan is repaid. In case of divorce, the 36-month payback rule still applies to whichever spouse continues to own the home.

For the purposes of this tax credit, a first-time homebuyer is someone who has not owned (and whose spouse has not owned) a principal residence during the previous three years. Thus, a homeowner who owned home No. 1 through November 2005, sold the house, and then purchased home No. 2 in March 2009 would be considered a first-time homebuyer. If the homebuyer's spouse owned a principal residence during the

three years prior to purchasing home No. 2, then neither spouse qualifies for the credit for home No. 2, even if they file separate tax returns.

Only principal residences qualify for the credit. These residences must be used more than one-half of the year. Beach houses, condos, houseboats or house trailers qualify as well as traditional single-family homes.

A residence does not qualify for the credit if it was acquired from a relative (other than a sibling), as a gift or as an inheritance. Special rules pertain to transactions that are part sale and part gift.

**U**nder the prior \$7,500 loan/credit law, taxpayers were not allowed to finance the home with the proceeds of qualified mortgage revenue bonds. This restriction no longer exists under current law.

The 2009 tax law helps homeowners in other ways, too. The law extends the tax credit for energy-efficient home improvements through the end of 2010 and increases the tax credit rate from 10 percent to 30 percent. It also raises the lifetime cap from \$500 to \$1,500 and expands the list of eligible improvements.

While the homebuyer credit is valuable, details and special rules add complexity. Consultation with a tax accountant or tax attorney is recommended. ♣

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## THE TAKEAWAY

The American Recovery and Investment Act of 2009 includes an \$8,000 tax credit for first-time homebuyers. Unlike the \$7,500 loan/credit available through the 2008 Housing Assistance Tax Act, this credit does not have to be repaid.



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**Tierra Grande** (ISSN 1070-0234) is published quarterly by the Real Estate Center at Texas A&M University, College Station, Texas 77843-2115. Subscriptions are free to Texas real estate licensees. Other subscribers, \$20 per year. Views expressed are those of the authors and do not imply endorsement by the Real Estate Center, Mays Business School or Texas A&M University. The Texas A&M University System serves people of all ages, regardless of socioeconomic level, race, color, sex, religion, disability or national origin. Photography/Illustrations: Real Estate Center files, p. 1.