

NAR Issue Brief

Homebuyer Tax Credit Changes



National Association of REALTORS® Government Affairs Division
500 New Jersey Avenue, NW, Washington DC, 20001

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

NAR Frequently Asked Questions

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Here are some of the most frequently asked questions on the changes to the Homebuyer Tax Credit

Question: **Existing homeowner credit: Must the new house cost more than the old house?**

Answer: No. Thus, for example, individuals who move from a high cost area to a lower cost area who meet all eligibility requirements will qualify for the \$6500 credit.

Question: **I am an existing homeowner. On October 25, 2009, I signed a contract to purchase a new home. I have lived in my current home for more than 5 consecutive years and am within the new income limits. I will go to settlement on November 20. If President Obama has signed the bill by the time I go to settlement, will I qualify for the new \$6500 tax credit?**

Answer: Yes. The existing homeowner credit goes into effect for purchases after the date of enactment (when the bill is signed). There is no reference to the date of contract for the new credit. The provision looks solely to the date of purchase, which is generally the date of settlement.

Question: **I am a first-time homebuyer but was not within the prior income limits at the time I entered into my contract to purchase on October 30, 2009. I will be covered, however, by the new income limits. If the new rules have been signed into law by the time I go to settlement, will I be eligible for a credit?**

Answer: Yes. The new income limitations go into effect as soon as the President has signed the bill. The income limit and other eligibility rules will look to your status as of the date of purchase, which is the settlement date. So if the new rules have been signed when you go to settlement, you should be eligible for the credit (or a portion of the credit if you're within the phase-out range).

Question: **I am an eligible existing homeowner. I have a fair amount of equity in my home. I have found a home with a non-negotiable price of \$825,000. Will I be able to use any of the \$6500 tax credit?**

Answer: No. The \$800,000 cap on the cost of the purchased home is firm at \$800,000. Any amount above \$800,000 makes the home ineligible for any portion of the credit. The \$800,000 is an absolute ceiling.

Question: **I owned my home for 10 years, but sold it two years ago year and have been renting since. If I purchase a home, will I be eligible for the \$6500 tax credit if I meet all the other eligibility tests?**

Answer: Yes. Because you lived in the home for more than 5 consecutive years of the previous 8, you will qualify for the \$6500 credit. For example, Say John and his wife bought a home in 2000 and lived there until 2008 when he got a divorce. Whether John has been renting or bought in the interim, he **WOULD INDEED** be eligible for the credit because he owned a home and occupied it as his principal residence for 5 consecutive years out of the last 8 years. The keyword here is "consecutive." As long as he lived in that house for 5 years straight what he did since 3 years doesn't impact eligibility.

Question: **I am an eligible first-time homebuyer. I entered into a contract to purchase on November 1, 2009. Do I have to go to closing before December 1? How does the extension date affect me?**

Answer: You do not have to close before December 1. Once the legislation has been signed, it will be as if the Nov 30 date had never existed. Therefore, so long as the contract settles before April 30 (or July 1, worst case), the purchaser will be eligible for the credit.