

## **Information regarding the 2009 Instructions for Form 5405, First-Time Homebuyer Credit and Repayment of the Credit**

**Note Regarding Settlement Statement:** While the Form 5405 instructions indicate that a properly executed settlement statement should show the signatures of all parties, the IRS recognizes that the elements of the settlement document, often a Form HUD-1, may vary from jurisdiction to jurisdiction and may not reflect the signatures of the buyer and seller. The settlement statement that must be attached to the return is considered to be properly executed if it is complete and valid according to local law. In locations where signatures are not required, the IRS encourages the buyer to sign the settlement statement prior to attaching it to the tax return even in cases where the settlement form does not include a signature line.

# Instructions for Form 5405

(Rev. December 2009)



Department of the Treasury  
Internal Revenue Service

## First-Time Homebuyer Credit and Repayment of the Credit

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions

#### What's New

The Worker, Homeownership, and Business Assistance Act of 2009 changed the rules for the first-time homebuyer credit. The changes are summarized below.

1. The time period for purchasing a home has been extended by 5 months—until April 30, 2010. You can also claim a credit for a home purchased after April 30, 2010, and before July 1, 2010, if you entered into a binding contract before May 1, 2010, to purchase the property before July 1, 2010.
2. Members of the uniformed services or Foreign Service and employees of the intelligence community who meet certain requirements do not have to repay the credit and have an extra year to purchase a main home. See *Repaying the Credit (for Purchases After 2008)* on page 2, the instructions for line D on page 3, and the instructions for line 12 on page 4.
3. A qualified long-time resident of the same main home is treated as a first-time homebuyer and can claim a reduced credit for a new main home purchased after November 6, 2009. See *Who Can Claim the Credit* on this page.
4. The modified adjusted gross income (MAGI) limits are increased for individuals who purchase homes after November 6, 2009. See *Amount of the Credit* on page 2.
5. You cannot claim the credit for a home purchased after November 6, 2009, if any of the following apply.
  - a. The purchase price of the home is more than \$800,000.
  - b. You can be claimed as a dependent on another person's tax return.
  - c. You (and your spouse if married) are under age 18 on the date of purchase.
  - d. You acquire the home from a person related to your spouse.
6. The credit for homes purchased in 2009 or later years does not have to be repaid over 15 years.
7. You may have to attach a copy of certain documentation to your return. See *What To Attach to Your Return* on page 2.



You cannot file Form 1040 electronically if you attach Form 5405.

#### Purpose of Form

Use Form 5405 to claim the first-time homebuyer credit (including the reduced credit for a qualified long-time resident of the same main home). The credit may give you a refund even if you do not owe any tax. You generally must repay the credit if, during the 36-month period beginning on the purchase date, you dispose of the home or it ceases to be your main home. See *Repaying the Credit (for Purchases After 2008)* on page 2.

This revision of Form 5405 can be used to claim the credit only in the following situations.

- You are claiming the credit on your 2008 original or amended return for a home you purchased in 2009.
- You are claiming the credit on your 2009 original or amended return for a home you purchased in 2009 or 2010.

Also use this revision of Form 5405 to notify the IRS that the home for which you claimed the credit was disposed of or

ceased to be your main home in 2009 and to figure the amount of the credit you must repay. Complete Part III and, if applicable, Part IV.

#### Who Can Claim the Credit

In general, you can claim the credit if you are a first-time homebuyer or a long-time resident of the same main home (defined below).

**First-time homebuyer.** You are considered a first-time homebuyer if you meet all of the following requirements.

1. You purchased your main home located in the United States:
  - a. After December 31, 2008, and before May 1, 2010, or
  - b. After April 30, 2010, and before July 1, 2010, **and** you entered into a binding contract before May 1, 2010, to purchase the property before July 1, 2010.
2. You (and your spouse if married) did not own any other main home during the 3-year period ending on the date of purchase.
3. You do not meet any of the conditions listed under *Who Cannot Claim the Credit* on page 2.

**Long-time resident of the same main home.** You are considered a long-time resident of the same main home if you meet all of the following requirements.

1. You (and your spouse if married) previously owned and used the same main home as your main home for any 5-consecutive-year period during the 8-year period ending on the date you purchased your new main home.
2. You purchased your new main home located in the United States:
  - a. After November 6, 2009, and before May 1, 2010, or
  - b. After April 30, 2010, and before July 1, 2010, **and** you entered into a binding contract before May 1, 2010, to purchase the property before July 1, 2010.
3. You do not meet any of the conditions listed under *Who Cannot Claim the Credit* on page 2.

**Additional year to purchase a home for members of the uniformed services or Foreign Service and employees of the intelligence community.** Members of the uniformed services or Foreign Service and employees of the intelligence community who are on qualified official extended duty outside the United States may have an additional year to purchase a home and qualify for the credit. See the instructions for line D on page 3 to find out how to qualify.

**Note.** If you were unmarried when you purchased your home and qualified for the credit, then married someone who does not qualify for the credit, and are claiming the credit for the year in which you are married, you can do one of the following.

- You can claim up to an \$8,000 credit (\$6,500 credit if a long-time resident) on a joint return.
- You can claim up to a \$4,000 credit (\$3,250 credit if a long-time resident) on a married filing separate return and your spouse is not allowed to claim any part of the credit on his or her return.

**Main home.** Your main home is the one you live in most of the time. It can be a house, houseboat, mobile home, cooperative apartment, or condominium.

## Who Cannot Claim the Credit

You cannot claim the credit if any of the following apply.

1. The purchase price of the home (defined in the instructions for line 1 on page 3) is more than \$800,000. This rule applies to homes purchased after November 6, 2009.
2. Your modified adjusted gross income is:
  - a. \$95,000 or more (\$170,000 or more if married filing jointly) and you purchased your home before November 7, 2009, or
  - b. \$145,000 or more (\$245,000 or more if married filing jointly) and you purchased your home after November 6, 2009. See the instructions for line 5 on page 4.
3. You cannot claim the credit for any year for which you can be claimed as a dependent on another person's tax return. This rule applies to homes purchased after November 6, 2009.
4. You (and your spouse if married) are under age 18 on the date of purchase. This rule applies to homes purchased after November 6, 2009.
5. You are a nonresident alien.
6. Your home is located outside the United States.
7. You sell the home, or it ceases to be your main home, before the end of the year in which you purchased it. This rule does not apply if you are a member of the uniformed services or Foreign Service, or an employee of the intelligence community on qualified official extended duty as defined in the instructions for line 12 on page 4 and you sell the home, or it ceases to be your main home, after 2008. You can claim the credit on the return for the year of purchase or choose to claim it on your return for the year before the year in which you purchased the home if you otherwise qualify for the credit.
8. You acquired the home by gift or inheritance.
9. You acquired your home from a related person. This includes:
  - a. Your spouse, ancestors (parents, grandparents, etc.), or lineal descendants (children, grandchildren, etc.).
  - b. A corporation in which you directly or indirectly own more than 50% in value of the outstanding stock of the corporation.
  - c. A partnership in which you directly or indirectly own more than 50% of the capital interest or profits interest.For more information about related persons, see the discussion under *Nondeductible Loss* in Chapter 2 of Pub. 544, *Sales and Other Dispositions of Assets*. When determining whether you acquired your main home from a related person, family members in that discussion include only the people mentioned in 9a above.
10. You acquired your home after November 6, 2009, from a person related to your spouse. This includes your spouse's ancestors or lineal descendants (for example your parents-in-law or your stepchildren), and any relationships described in 9b or 9c above that your spouse has.

## Amount of the Credit

**First-time homebuyer.** Generally, the credit is the smaller of:

- \$8,000 (\$4,000 if married filing separately), or
- 10% of the purchase price of the home.

**Long-time resident of the same main home.** Generally, the credit is the smaller of:

- \$6,500 (\$3,250 if married filing separately), or
- 10% of the purchase price of the home.

**Phase-out of the credit for homes purchased before November 7, 2009.** You are allowed the full amount of the credit if your modified adjusted gross income (MAGI) is \$75,000 or less (\$150,000 or less if married filing jointly). The phase-out of the credit begins when your MAGI exceeds \$75,000 (\$150,000 if married filing jointly). The credit is eliminated completely when your MAGI reaches \$95,000 (\$170,000 if married filing jointly).

**Phase-out of the credit for homes purchased after November 6, 2009.** You are allowed the full amount of the credit if your modified adjusted gross income (MAGI) is \$125,000 or less (\$225,000 or less if married filing jointly). The

phase-out of the credit begins when your MAGI exceeds \$125,000 (\$225,000 if married filing jointly). The credit is eliminated completely when your MAGI reaches \$145,000 (\$245,000 if married filing jointly).

## What To Attach to Your Return

If you claim the credit on your 2009 (or later) original or amended tax return, you must attach the following documentation regarding your main home (as applicable). **If you do not attach the documentation, the credit may not be allowed.**

Attach a copy of your settlement statement showing all parties' names and signatures, the property address, the contract sales price, and the date of purchase. In most cases, your settlement statement is your properly executed Form HUD-1, Settlement Statement.

If you are unable to obtain a settlement statement because you purchased a mobile home, attach a copy of your executed retail sales contract showing all parties' names and signatures, the property address, the purchase price, and the date of purchase.

If you are claiming the credit for a newly constructed home and you do not have an executed settlement statement, attach a copy of your certificate of occupancy showing your name, the property address, and the date of the certificate.

**Additional documentation.** You should also attach the following documentation, if applicable, to avoid delays in the processing of your return and the issuance of any refund.

- If you checked the "Yes" box on line C, attach a copy of the pages from a signed contract to make a purchase showing all parties' names and signatures, the property address, the purchase price, and the date of the contract.
- If you are claiming the credit as a long-time resident of the same main home, attach copies of one of the following: Form 1098, Mortgage Interest Statement (or substitute statement), property tax records, or homeowner's insurance records. These records should be for 5 consecutive years of the 8-year period ending on the purchase date of the new main home.

## Repaying the Credit (for Purchases After 2008)

If you purchased the home after 2008, you generally must repay the credit if, during the 36-month period beginning on the purchase date and after the year for which you claim the credit, you dispose of the home or it ceases to be your main home. This includes situations where you sell the home, you convert the entire home to business or rental property, the home is destroyed, condemned, or disposed of under threat of condemnation, or the lender forecloses on the mortgage.

You repay the credit by including it as additional tax on the return for the year you dispose of the home or it ceases to be your main home. However, if the home is destroyed, condemned, or disposed of under threat of condemnation, and you do not acquire a new home within 2 years of the event, you must repay the entire repayment amount with the return for the year in which the 2-year period ends.



*If you own the home and use it as your main home for at least 36 months beginning on the purchase date, you do not have to repay any of the credit or file Form 5405 again.*

If you and your spouse claim the credit on a joint return, each spouse is treated as having been allowed half of the credit for purposes of repaying the credit.

**Exceptions.** The following are exceptions to the repayment rule.

- If you sell the home to someone who is **not** related to you, the repayment in the year of sale is limited to the amount of gain on the sale. The amount of the credit in excess of the gain does not have to be repaid. (See item 9 under *Who Cannot Claim the Credit* on this page for the definition of a related

person.) When figuring the gain, reduce the adjusted basis of the home by the amount of the credit.

- If the home is destroyed, condemned, or disposed of under threat of condemnation, you do not have to repay the credit if you purchase a new main home within 2 years of the event and you own and use it as your new main home during the remainder of the 36-month period.
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for repaying the credit if, during the 36-month period beginning on the purchase date, he or she disposes of the home or it ceases to be his or her main home and none of the other exceptions apply.
- Members of the uniformed services or Foreign Service and employees of the intelligence community (defined below) do not have to repay the credit if, after 2008, they sell the home or the home ceases to be their main home because they received Government orders to serve on qualified official extended duty (see the instructions for line 12 on page 4).
- If you die, repayment of the credit is not required. If you claimed the credit on a joint return and then you die, your surviving spouse would be required to repay his or her half of the credit if, during the 36-month period beginning on the purchase date, he or she disposes of the home or it ceases to be his or her main home and none of the other exceptions apply.

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## Specific Instructions

### Part I. General Information

**Line B.** Enter the date you purchased the home (or the date you first occupied it if you constructed your main home).

**Line C.** See *What To Attach to Your Return* on page 2.

**Line D.** You have an additional year to purchase a home if you (or your spouse if married):

1. Are a member of the uniformed services or Foreign Service or an employee of the intelligence community (defined below), and
2. Are on qualified official extended duty (defined on this page) outside the United States for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010.

If you meet both of these conditions, you do not have to purchase your home during the time periods listed on page 1 in item 1, under *First-time homebuyer*, and in item 2, under *Long-time resident of the same main home*. Instead, you can qualify for the credit if you purchase your main home:

1. Before May 1, 2011, or
2. After April 30, 2011, and before July 1, 2011, and you enter into a binding contract before May 1, 2011, to purchase the property before July 1, 2011.

**Uniformed services.** The uniformed services are:

- The Armed Forces (the Army, Navy, Air Force, Marine Corps, and Coast Guard),
- The commissioned corps of the National Oceanic and Atmospheric Administration, and
- The commissioned corps of the Public Health Service.

**Foreign Service member.** For purposes of the credit, you are a member of the Foreign Service if you are any of the following.

- A Chief of mission.
- An Ambassador at large.
- A member of the Senior Foreign Service.
- A Foreign Service officer.
- Part of the Foreign Service personnel.

**Employee of the intelligence community.** For purposes of the credit, you are an employee of the intelligence community if you are an employee of any of the following.

- The Office of the Director of National Intelligence.
- The Central Intelligence Agency.

- The National Security Agency.
- The Defense Intelligence Agency.
- The National Geospatial-Intelligence Agency.
- The National Reconnaissance Office and any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs.
- Any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy, and the Coast Guard.
- The Bureau of Intelligence and Research of the Department of State.
- Any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.

**Qualified official extended duty.** You are on qualified official extended duty while:

- Serving at a duty station that is at least 50 miles from your main home, or
- Living in Government quarters under Government orders.

**Line E.** Check the “Yes” box if:

- You purchased the home from a related person, or
- You purchased the home after November 6, 2009, from a person related to your spouse.

If you do not meet either of the above conditions, check the “No” box.

For the definition of a related person or a person related to your spouse, see item 9 or 10 on page 2 under *Who Cannot Claim the Credit*.

**Line F.** Check the box if you are making one of the following choices.

- You are choosing to claim the credit on your 2008 original or amended return for a main home purchased in 2009.
- You are choosing to claim the credit on your 2009 original or amended return for a main home purchased in 2010.

### Part II. Credit

**Line 1.** The purchase price is the adjusted basis of your home on the date you purchased it. This includes certain settlement or closing costs (such as legal fees and recording fees) and your down payment and debt to purchase the home (such as a first or second mortgage or notes you gave the seller in payment for the home). If you build, or contract to build, a new home, your purchase price includes costs of construction. For more information about adjusted basis, see Pub. 551, *Basis of Assets*.

If you purchase a home with a detached garage or other outbuilding that you use solely for business purposes, but you use the house solely as a personal residence, you must allocate the purchase price between the house and the garage or outbuilding. Enter on line 1 the purchase price allocated to the house.

**Line 3.** See *Who Can Claim the Credit* on page 1 to find out if you can claim the credit as a first-time homebuyer or a long-time resident.

**Line 4.** If two or more unmarried individuals buy a main home, they can allocate the credit among the individual owners using any reasonable method. If married individuals buy a main home and do not claim the credit on a joint return, they can also allocate the credit between them using any reasonable method. A reasonable method is any method that does not allocate all or a part of the credit to a co-owner who is not eligible to claim that part of the credit.

For first-time homebuyers, the total amount allocated cannot exceed the smaller of \$8,000 or 10% of the purchase price. For long-time residents, the total amount allocated cannot exceed the smaller of \$6,500 or 10% of the purchase price. For married taxpayers filing separate returns, the amount of the credit allocated to each spouse cannot exceed the smaller of (a) the amount on line 3 or (b) the excess of line 2 over the amount allocated to the other spouse on the other spouse’s Form 5405, line 4.

**Line 5.** Your modified adjusted gross income is the amount from Form 1040, line 38, increased by the total of any:

- Exclusion of income from Puerto Rico, and
- Amount from Form 2555, lines 45 and 50; Form 2555-EZ, line 18; and Form 4563, line 15.

### Part III. Disposition or Change of Main Home for Which the Credit Was Claimed

Complete Part III if you claimed the first-time homebuyer credit on your original or amended 2008 return and you disposed of the home or it ceased to be your main home in 2009. This includes situations where:

- You sold the home,
- You converted the entire home to business or rental property,
- You abandoned the home,
- The home was destroyed, condemned, or disposed of under threat of condemnation,
- The lender foreclosed on the mortgage, or
- The taxpayer who claimed the credit died in 2009.

Also complete Part III if you are claiming the credit on your 2009 return and line 12, 13f, 13g, or 13h applies.

**Line 12.** Check the box if you (or your spouse if married):

- Are a member of the uniformed services or Foreign Service or an employee of the intelligence community (defined on page 3), and
- Sold the home or the home ceased to be your main home after 2008 because you (or your spouse if married) received Government orders to serve on qualified official extended duty (defined below).

If you (or your spouse if married) meet both of these conditions, you do not have to repay the credit.

**Qualified official extended duty.** You are on qualified official extended duty while:

- Serving at a duty station that is at least 50 miles from your main home, or
  - Living in Government quarters under Government orders.
- You are on extended duty when you are called or ordered to active duty for a period of more than 90 days or for an indefinite period.

**Lines 13a, 13b, and 13c.** See item 9 under *Who Cannot Claim the Credit* on page 2 for the definition of a related person. If the person does not meet the definition of a related person, that person is not related to you.

**Line 13d.** Do not check this box or file this form if you converted only a part of the home to rental or business use and you continue to use the other part as your main home. If you purchased your home in 2008, repayment of the credit over a 15-year period will begin with your 2010 tax return. If you purchased your home in 2009, see *Repaying the Credit (for Purchases After 2008)* on page 2 for when you may have to repay the credit.

**Line 13f.** If you purchased the home in 2009 (or a later year), you do not have to repay the credit if you acquire a new main home within 2 years of the event and you own and use it as your main home during the remainder of the 36-month period.

**Line 13g.** If you do not acquire a new home within the 2-year period, the following rules apply.

- If you purchased the home in 2008, you must include all remaining installments as additional tax on the tax return for the year in which the 2-year period ends.
- If you purchased the home in 2009 (or a later year), you must include the credit as additional tax on the tax return for the year in which the 2-year period ends.

**Line 13h.** Do not check this box if you are filing a joint return for 2009 with the deceased taxpayer and you claimed the credit on a joint return. If you did not dispose of the home and the home did not cease to be your main home, do not check any box on line 13. If you did dispose of the home or it ceased to be your main home, check the appropriate box on lines 13a through 13g. (These instructions also apply if you are not filing a joint return with the deceased taxpayer for 2009.)

### Part IV. Repayment of Credit Claimed for 2008



*If you purchased the home in 2008 and you owned it and used it as your main home during all of 2009 and 2010, repayment of the credit over a 15-year period will begin with your 2010 return. Do not file Form 5405 for 2009. Instead, you will have to file the 2010 revision of Form 5405 with your 2010 Form 1040.*

If you are required to repay the credit because you disposed of a home you purchased in 2008 or that home ceased to be your main home, you generally must repay the credit with your 2009 tax return. An exception applies if your home was destroyed, condemned, or disposed of under threat of condemnation, and you did not acquire a new main home within 2 years of the event. In that case, you repay the credit with the tax return for the year in which the 2-year period ended.

Another exception applies for certain members of the uniformed services or Foreign Service or employees of the intelligence community (see the instructions for line 12 on this page).

**Line 14.** If you claimed the credit on a joint return for 2008 but your spouse died, enter one-half of the credit you claimed on Form 5405 for 2008. The remaining half (that is, your spouse's half) does not have to be repaid. If you and your spouse claimed the credit for 2008 and the home was later transferred to you as part of a divorce settlement, enter the total credit claimed for 2008 by both you and your ex-spouse.

**Line 15.** See Pub. 523 for information on how to figure the gain on the sale of your main home.

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**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

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