

Internal Revenue Code Section 36(b)(2)(A)(i)(II)

First-time homebuyer credit

(b) Limitations.

(1) Dollar limitation.

(A) In general. Except as otherwise provided in this paragraph, the credit allowed under subsection (a) shall not exceed \$8,000.

(B) Married individuals filing separately. In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting "\$4,000" for "\$8,000".

(C) Other individuals. If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed \$8,000.

(D) Special rule for long-time residents of same principal residence. In the case of a taxpayer to whom a credit under subsection (a) is allowed by reason of subsection (c)(6), subparagraphs (A), (B), and (C) shall be applied by substituting "\$6,500" for "\$8,000" and "\$3,250" for "\$4,000".

(2) Limitation based on modified adjusted gross income.

(A) In general. The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so allowable as—

(i) the excess (if any) of—

(I) the taxpayer's modified adjusted gross income for such taxable year, over

 (II) \$125,000 (\$225,000 in the case of a joint return), bears to

(ii) \$20,000.

(B) Modified adjusted gross income. For purposes of subparagraph (A), the term "modified adjusted gross income" means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

(3) Limitation based on purchase price. No credit shall be allowed under subsection (a) for the purchase of any residence if the purchase price of such residence exceeds \$800,000.

(4) Age limitation. No credit shall be allowed under subsection (a) with respect to the purchase of any residence unless the taxpayer has attained age 18 as of the date of such purchase. In the case of any taxpayer who is married (within the meaning of section 7703), the taxpayer shall be treated as meeting the age requirement of the preceding sentence if the taxpayer or the taxpayer's spouse meets such age requirement.

(c) Definitions. For purposes of this section—

(1) First-time homebuyer. The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence to which this section applies.

(2) Principal residence. The term "principal residence" has the same meaning as when used in section 121.

(3) Purchase.

(A) In general. The term "purchase" means any acquisition, but only if—

(i) the property is not acquired from a person related to the person acquiring such property (or, if married, such individual's spouse), and

(ii) the basis of the property in the hands of the person acquiring such property is not determined—

(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

(II) under section 1014(a) (relating to property acquired from a decedent).

(B) Construction. A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer on the date the taxpayer first occupies such residence.

(4) Purchase price. The term "purchase price" means the adjusted basis of the principal residence on the date such residence is purchased.

(5) Related persons. A person shall be treated as related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants).

(6) Exception for long-time residents of same principal residence. In the case of an individual (and, if married, such individual's spouse) who has owned and used the same residence as such

individual's principal residence for any 5-consecutive-year period during the 8-year period ending on the date of the purchase of a subsequent principal residence, such individual shall be treated as a first-time homebuyer for purposes of this section with respect to the purchase of such subsequent residence.

(d) Exceptions. No credit under subsection (a) shall be allowed to any taxpayer for any taxable year with respect to the purchase of a residence if—

- (1) the taxpayer is a nonresident alien,
- (2) the taxpayer disposes of such residence (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the close of such taxable year, or
- (3) a deduction under section 151 with respect to such taxpayer is allowable to another taxpayer for such taxable year, or
- (4) the taxpayer fails to attach to the return of tax for such taxable year a properly executed copy of the settlement statement used to complete such purchase.