

Internal Revenue Code Section 36(c)(5)

First-time homebuyer credit

(a) Allowance of credit. In the case of an individual who is a first-time homebuyer of a principal residence in the United States during a taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for such taxable year an amount equal to 10 percent of the purchase price of the residence.

(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.

(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) \$75,000 (\$150,000 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.

(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, 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).

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