

Internal Revenue Code Section 36(f)(4)(D)

First-time homebuyer credit

(f) Recapture of credit.

- (1) In general. Except as otherwise provided in this subsection, if a credit under subsection (a) is allowed to a taxpayer, the tax imposed by this chapter shall be increased by 6 2/3 percent of the amount of such credit for each taxable year in the recapture period.
- (2) Acceleration of recapture. If a taxpayer disposes of the principal residence with respect to which a credit was allowed under subsection (a) (or such residence ceases to be the principal residence of the taxpayer (and, if married, the taxpayer's spouse)) before the end of the recapture period—
 - (A) the tax imposed by this chapter for the taxable year of such disposition or cessation shall be increased by the excess of the amount of the credit allowed over the amounts of tax imposed by paragraph (1) for preceding taxable years, and
 - (B) paragraph (1) shall not apply with respect to such credit for such taxable year or any subsequent taxable year.
- (3) Limitation based on gain. In the case of the sale of the principal residence to a person who is not related to the taxpayer, the increase in tax determined under paragraph (2) shall not exceed the amount of gain (if any) on such sale. Solely for purposes of the preceding sentence, the adjusted basis of such residence shall be reduced by the amount of the credit allowed under subsection (a) to the extent not previously recaptured under paragraph (1).
- (4) Exceptions.
 - (A) Death of taxpayer. Paragraphs (1) and (2) shall not apply to any taxable year ending after the date of the taxpayer's death.
 - (B) Involuntary conversion. Paragraph (2) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence during the 2-year period beginning on the date of the disposition or cessation referred to in paragraph (2). Paragraph (2) shall apply to such new principal residence during the recapture period in the

same manner as if such new principal residence were the converted residence.

(C) Transfers between spouses or incident to divorce. In the case of a transfer of a residence to which section 1041(a) applies—

(i) paragraph (2) shall not apply to such transfer, and

(ii) in the case of taxable years ending after such transfer, paragraphs (1) and (2) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).



(D) Waiver of recapture for purchases in 2009. In the case of any credit allowed with respect to the purchase of a principal residence after December 31, 2008, and before December 1, 2009—

(i) paragraph (1) shall not apply, and

(ii) paragraph (2) shall apply only if the disposition or cessation described in paragraph (2) with respect to such residence occurs during the 36-month period beginning on the date of the purchase of such residence by the taxpayer.

(5) Joint returns. In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

(6) Return requirement. If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.

(7) Recapture period. For purposes of this subsection, the term "recapture period" means the 15 taxable years beginning with the second taxable year following the taxable year in which the purchase of the principal residence for which a credit is allowed under subsection (a) was made.