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Client Newsletter

Homebuyer Credit Update

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On Nov. 6, 2009, President Obama signed into law the Worker, Homeownership, and Business Assistance Act of 2009 (the Act). One of the key provisions of the new law was an extension and modification of the first-time homebuyer credit.

The Act is really the third crack at a homebuyer credit and is generally more favorable than the previous two. This article skips the background of the two previous credits and addresses the current provision.

Homebuyer credit #3. Created by the Act; signed by President Obama on Nov. 6, 2009. This law extends the deadline to April 30, 2010 for the $8,000 first-time homebuyer credit and raises the MAGI income limits to $125,000-$145,000 for single taxpayers and $225,000-$245,000 for joint filers. *It also provides a new credit of up to $6,500 for "long-time residents" who have owned and lived in their home for five out of the last eight years.* Unfortunately, the previous credit provisions were very popular with fraudsters, so the Act closes some of the loopholes that made it possible for fraudsters to claim the credit.

Who qualifies?
Since the law now applies to both first-time homebuyers and long-time homeowners, there is a much larger target audience that should be aware of the credit.

Long-time homeowners
Many existing homeowners may now be eligible for a $6,500 tax credit arising from the purchase of a home. The main requirement is that they must have owned and lived in their principal residence for five out of the last eight years. Key groups in this category might include:

- **Retirees and pre-retirees.** People over 50 may be thinking about downsizing into smaller quarters or moving to a new location as part of a lifestyle change.
- **Families with children.** Growing families need more space, and with housing prices in a slump, this could be a good time to move up, especially with a $6,500 tax credit available to help with the down payment or home improvements.

First-time homebuyers
The latest version of the first-time homebuyer credit still applies to people who have not owned a home within the three-year period ending on the date of purchase. These might include:

- **Young people who have never owned a home.** This is a good opportunity to buy a home for the first time. Keep in mind, however, that the new rules prohibit the credit from being claimed by anyone who is under 18 or claimed as a dependent on another person's tax return.
- **Previous homeowners taking a break from homeownership.** Some people wisely sold their homes near the peak of the bubble and have been renting while the housing market cooled off. The $8,000 tax credit—not to mention attractive home prices and low mortgage rates—could be the stimulus needed to resume homeownership.

Provisions of the new law
Here is a rundown of the expansion and modification of the first-time homebuyer credit:

- The effective date is the date of enactment, Nov. 6, 2009, and applies to purchases after that date.
- The maximum credit is 10% of the purchase price. For first-time homebuyers, the maximum credit is still $8,000 ($4,000 for a married person filing a separate return). For long-time homeowners, the maximum credit is $6,500 ($3,250 for married filing separately).
- The home purchased must be the taxpayer's principal residence. This is defined as the home where the person spends most of his or her time.
- The credit is available to (1) first-time homebuyers, defined as not having owned a principal residence in the three-year period ending on the date of purchase; and (2) longtime homeowners who have owned their principal residence for any five-year consecutive period during the eight-year period ending on the date of purchase.
- The purchase contract must be signed on or before April 30, 2010, and the deal must close on or before June 30, 2010. Members of the armed forces and other individuals on qualified official extended duty outside the U.S. have an additional year, until April 30, 2011, to make the purchase.
- If the home ceases to be the taxpayer's principal residence within 36 months of the date of purchase, the tax credit will be recaptured. The recapture is waived for members of the U.S. uniformed services, Foreign Service, and intelligence community who are called to duty before 36 months after the date of purchase.
- For qualifying purchases made in 2010, the taxpayer may elect to treat the purchase as made on Dec. 31, 2009, in order to claim the tax credit on his or her 2009 tax return.
- The credit phases out for individual taxpayers with modified adjusted gross income (MAGI) between $125,000 and $145,000, and for married couples filing jointly who have MAGI between $225,000 and $245,000.
- No credit may be claimed if the purchase price exceeds $800,000. This provision took effect immediately after the date of enactment and applies to purchases made after Nov. 6, 2009. It is a "cliff" amount, meaning that no credit will be allowed if the purchase price is even one dollar over $800,000. There are no adjustments for regional factors.
- No credit is allowed if the taxpayer is under age 18 on the date of purchase (in the case of married couples, only one spouse needs to meet the age requirement).
- Property purchased from a family member does not qualify for the credit.
- No credit is allowed to a dependent of another taxpayer.

- The credit is claimed using Form 5404; a new version of this form will be released by the IRS. The new form is used to claim the credit for purchases made after Nov. 6, 2009, even if the credit is being claimed for 2009. The previous version of Form 5404 may be used for purchases made on or before Nov. 6. Taxpayers claiming the credit for 2009 will not be able to file electronically. A properly executed copy of the settlement statement must be attached to the tax return.