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## First-Time Homebuyer Tax Credit

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With the deadline quickly approaching, the Internal Revenue Service (IRS), on September 17, 2009, reminded potential homebuyers they must complete their first-time home purchases before December 1, 2009, to qualify for the special first-time homebuyer credit. The American Recovery and Reinvestment Act extended the tax credit, which has provided a tax benefit to more than 1.4 million taxpayers so far.

The credit of up to \$8,000 is generally available to homebuyers with qualifying income levels who have never owned a home or have not owned one in the past three years.

The IRS encouraged all eligible homebuyers to take advantage of the first-time homebuyer credit but at the same time cautioned taxpayers to avoid schemes that help ineligible people file false claims for the credit. Currently, the agency is investigating a number of cases of potential fraud and is using computer screening tools to identify questionable claims for the credit.

Because the credit is only in effect for a limited time, those considering buying a home must act soon to qualify for the credit. Under the Recovery Act, an eligible home purchase must be completed before Dec. 1, 2009. This means that the last day to close on a home is November 30, 2009.

The credit cannot be claimed until after the purchase is completed. For purchases made before December 1, 2009, taxpayers have the option of claiming the credit on their 2008 returns or waiting until next year and claiming it on their 2009 returns.

The following are some other details about the first-time homebuyer credit:

\* The credit is equal to 10 percent of the purchase price of the home, with a maximum available credit of \$8,000 for either a single taxpayer or a married couple filing jointly. The limit is \$4,000 for a married person filing a separate return. In most cases, the full credit will be available for homes costing \$80,000 or more.

\* The credit reduces the taxpayer's tax bill or increases his or her refund, dollar for dollar. Unlike most tax credits, the first-time homebuyer credit is fully refundable, which means the credit will be paid to eligible taxpayers, even if they owe no tax or the credit is more than the tax owed.

\* Only the purchase of a main home located in the United States qualifies. Vacation homes and rental properties are not eligible.

\* A home constructed by the taxpayer only qualifies for the credit if the taxpayer occupies it before Dec. 1, 2009.

\* The credit is reduced or eliminated for higher-income taxpayers. The credit is phased out based on the taxpayer's modified adjusted gross income (MAGI). MAGI is adjusted gross income plus various amounts excluded from income—for example, certain foreign income. For a married couple filing a joint return, the phase-out range is \$150,000 to \$170,000. For other taxpayers, the range is \$75,000 to \$95,000. This means the full credit is available for married couples filing a joint return whose MAGI is \$150,000 or less and for other taxpayers whose MAGI is \$75,000 or less.

\* The credit must be repaid if, within three years of purchase, the home ceases to be the taxpayer's main home. For example, a taxpayer who claims the credit based on a qualifying purchase on Sept. 1, 2009, must repay the full credit if he or she sells the home or converts it to business or rental use at any time before Sept. 1, 2012.

Taxpayers cannot take the credit even if they buy a main home before December 1 if:

\* The taxpayer's income is too large. This means joint filers with MAGI of \$170,000 and above and other taxpayers with MAGI of \$95,000 and above.

\* The taxpayer buys a home from a close relative. This includes a home purchased from the taxpayer's spouse, parent, grandparent, child or grandchild.

\* The taxpayer owned another main home at any time during the three years prior to the date of purchase. For a married couple filing a joint return, this requirement applies to both spouses. For example, if the taxpayer bought a home on Sept. 1, 2009, the taxpayer cannot take the credit for that home if he or she owned, or had an ownership interest in, another main home at any time from Sept. 2, 2006, through Sept. 1, 2009.

\* The taxpayer is a nonresident alien.

Earle Law Offices provides trial and appellate litigation, as well as non-litigation, legal services in the areas of business law, family law, real estate law, tax law, and trusts and estates.

\* Mr. Earle is licensed to practice law in all California state trial and appellate courts, the United States Supreme Court, the United States Court of Appeals for the Fourth and Ninth Circuits, federal trial courts in the Northern District of California, and the United States Tax Court. He has served as a Judge Pro Tempore for the Santa Clara Superior Court, and is also a licensed Real Estate Broker.

Mr. Earle received his law degree from the Santa Clara University School of Law, where he served as an Editor of the school's Law Review, and where he received awards for academic excellence. He received his undergraduate degree, with honors, in business administration from the University of La Verne.

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