



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

May 11, 2009

**MORTGAGEE LETTER 2009-15**

**TO:** ALL APPROVED MORTGAGEES

**SUBJECT:** Using First-Time Homebuyer Tax Credits for the Downpayment

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides for as much as an \$8000 tax credit to qualified first-time homebuyers. FHA supports this important Administration initiative to promote homeownership. This mortgagee letter provides:

- Basic information on the first-time homebuyer credit obtained from the Internal Revenue Service (IRS) website. Complete information on how the first time homebuyer tax credit works, including the eligibility requirements for the tax credit, the amount of the tax credit that a first-time homebuyer may be eligible to receive, and how a homebuyer may claim the tax credit is available on the IRS website at <http://www.irs.gov/newsroom/article/0,,id=204671,00.html?portlet7>.
- Guidance on how Federal, state, and local government agencies, nonprofits instrumentalities of government and FHA-approved nonprofits may assist homebuyers that are eligible for the tax credit.

**I. About the First-Time Homebuyer Tax Credit (from the IRS website)**

(Please check the IRS website to ensure you have up-to-date information)

Amount of the tax credit:

- Generally, the credit is the smaller of:
  - § \$8000 or
  - § 10% of the purchase price of the home
- A phase-out of the credit begins when the taxpayer's modified adjusted income exceeds \$75,000 or \$150,000 if married filing jointly, and is eliminated completely at \$95,000 or \$170,000 if married filing jointly.
- As a "refundable" tax credit, taxes owed by or refunds due to the taxpayer are factored into the calculation.

Claiming the tax credit:

- Filing form IRS 5405 [available at <http://www.irs.gov/pub/irs-pdf/f5405.pdf>], "First-Time Homebuyer Credit" along with filing:
  - § The 2008 tax return (if not yet filed)
  - § An amended 2008 tax return (if already filed)
  - § The 2009 tax return

### Eligibility for the tax credit

- First-time homebuyers, defined by IRS as those not having had any ownership, including that with a spouse if married, during the three-year period ending on the date of purchase.
- Owner-occupants who purchase a principal residence and close on the mortgage before December 1, 2009.
- First-time homebuyers must purchase the property from a source unrelated to them, i.e., they cannot purchase the house from a spouse, parent, grandparent, child, or acquire the property by gift or inheritance and obtain the tax credit.

## **II. FHA Guidance**

### The Tax Credit: Secondary Financing:

Entities that can offer tax credit advances with second liens.

- Federal, state, and local governmental agencies and nonprofit instrumentalities of government.
- FHA-approved nonprofits.

Additional information about these entities:

- Government agencies and instrumentalities of government are described in handbook HUD-4155.1 REV-5, paragraphs 1-13 A and B.
- FHA-approved nonprofits can be found, per each Homeownership Center jurisdiction, at: [http://www.hud.gov/offices/hsg/sfh/np/np\\_hoc.cfm](http://www.hud.gov/offices/hsg/sfh/np/np_hoc.cfm)

How the secondary financing works:

- The tax credit advance, when combined with the FHA-insured first mortgage may not result in cash back to the borrower. The second lien may not exceed the total needed for the downpayment, closing costs and prepaid expenses.
- The tax credit advance must provide that if the borrower does not repay the amount borrowed by the designated deadline, that principal and interest payments begin automatically.
- If payments on the tax credit advance are required, they must be included in qualifying the borrower and, when combined with the first mortgage, cannot exceed the borrower's reasonable ability to pay.
- If payments on the tax credit are deferred, the deferment must be for a minimum of 36 months in order for the payment to not be included in the qualifying ratios.
- The tax credit advance second mortgage must *not* provide for a balloon payment before ten years.

### The Tax Credit: Short-Term Loan:

Entities that can offer the tax credit advance with short-term loans:

- Federal, state, and local governmental agencies and nonprofit instrumentalities of government, FHA-approved nonprofits, and FHA-approved mortgagees may provide short-term or "bridge loans" secured only by the anticipated tax credit due the homebuyer as collateral.

How the short-term tax credit advance loan works:

- The amount that may be borrowed in this manner may not exceed the anticipated tax credit due the homebuyer based on the computations of form IRS 5405.
- Fees and charges for the tax credit advance loan are not to exceed a nominal amount necessary for preparing and administering the loan.

If you have any questions regarding this mortgagee letter, please call FHA's Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

Brian D. Montgomery  
Assistant Secretary for Housing-  
Federal Housing Commissioner