

## ABOUT RECAPTURE TAX

When you receive a first-time homebuyer loan, you are receiving the benefit of a lower mortgage interest rate and/or down payment / closing cost assistance that is not customarily available on other mortgage loans.. The tax-exempt mortgage revenue bond program used to fund your mortgage loan is governed by federal law. The law mandates a “recapture” of some of the benefit of the program if buyers meet all three of the following criteria -- the property ceases to be the principal residence in the first full nine years of ownership; there is a profit on the sale of the home **AND** the household income increases significantly (generally over the program limits in the first year and an additional 5% over the previous year every year thereafter).

If “Recapture Tax” is owed, it’s computed and paid to the IRS for the tax year in which the home is sold. For the average buyer in these programs, it’s very unlikely that they’ll be required to pay because their income is lower than that allowed. But if Recapture tax must be repaid it will **never exceed the lesser** of 6.25% of the original loan amount or one-half of the gain on the sale of the home.

The most that you will ever be required to pay when you sell your home in the first nine years is 6.25% of the highest principal amount of the mortgage loan during the life of the loan. (i.e. If the highest loan amount during the course of the loan was \$50,000 and you sold in the 49-60 months of ownership, then multiply \$50,000 x .0625 and the highest you would pay would be \$3,125.) This amount is considered to be the federally subsidized amount. **When** you sell your home is as important as the amount you receive for the sale of your home and your income at the time you sell.

The actual recapture tax, if any, can only be determined when you sell your home.

### **Remember**

- if you sell your home after nine years, there is no Recapture Tax due;
- if you don’t receive a gain (net profit) on the sale of your home, there is no Recapture Tax due, **or**
- if your adjusted gross income does not increase significantly over the nine years, (usually that means more than 5% per year), there is no Recapture Tax due.

To owe any Recapture Tax, you must sell your home within nine years, make a net profit on the sale of your home **AND** have a significant increase in income. All three criteria must be met in order for Recapture Tax to be due.

### **You May Not Have to Pay Recapture Tax if**

- your home is destroyed by fire, storm, flood or other casualty, there is generally no recapture tax if within two years you build or rehab for use as your principal residence on the site of the home financed with your original subsidized mortgage loan.

### **You Are Not Subject to The Recapture Tax if**

- you sell or give away or dispose of your home later than 9 full years after you close your mortgage loan.
- your home is disposed of as a result of your death.
- you transfer your home to your spouse or your former spouse as an agreement of your divorce and you have no gain or loss included in your income as a result of the transfer.

## INFORMATION YOU’LL NEED IN THE FUTURE

**After you close your loan, you will receive a detailed letter from the Program Administrator or one that will be provided by your lender at closing. This letter should be kept with your other mortgage documents. It contains extremely important information that you will need to determine if you must pay recapture tax.**

The letter contains information that you’ll need in order to complete Form 8828 such as

- The loan amount (the highest principal amount of the loan)
- Closing Date,
- Name of the Issuer of the Bonds,
- Name of the original lender that made the loan, and
- Chart that details data necessary to complete Form 8828.

### **What about refinancing my home?**

If you refinance your home and stay in it for a full nine years, you won’t pay Recapture Tax. Recapture kicks in when the property ceases to be your principal residence before the full nine years, then you may owe Recapture Tax. If you refinance in the first full four years and the property ceases to be your principal residence before the full nine years, there is a special calculation worksheet that must be used if you must pay Recapture Tax. See “For More Information” on the next page and instructions for Form 8828 for more detail.

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**What does “net profit” on the sale of your home mean?**

Consult your tax advisor but generally you will be considering the amount you received for the sale of your home and deducting the expenses of selling your home (i.e. commission paid to a real estate agent, advertising, legal fees, etc.). This is the “Amount Realized” from the sale of the home. From the “Amount Realized” you will subtract your “Adjusted Basis” of your interest in the home. The “Adjusted Basis” will be increased by any sales commission you paid when you bought the home and decreased by depreciation. Your tax advisor will be helpful in determining the exact amount. If the total of the “Amount Realized” minus the “Adjusted Basis” is “0” or lower, you did not realize a gain (make a profit) when you sold the home and you **DO NOT** owe recapture tax. You will still need to complete a form 8828 and send it to the IRS with your federal income tax return in the year you sell or dispose of the home..

**What about my income?**

If you did make a profit, then you may have to pay recapture. Now you must consider your income. There will be a chart on the letter you receive after closing that shows the maximum income allowable for each 12 month period following closing. The limits are the **program limits for the first 12 months** and then 5% more than the preceding year for each year thereafter. Example: If your income at the time you bought the home was \$40,000 and the income limit is \$50,000, the limit for the first 12 months after closing is \$50,000. Then each 12 months it's 5% more than the previous year. If your modified adjusted gross income on your federal income tax return does not exceed the income limit for the 12-month period in which you sell your home, you **DO NOT** owe recapture tax. If your modified adjusted gross income does exceed the income limit, you **DO** owe recapture tax.

**How much do I owe?**

The amount you owe will be the LESSER of 50% of the gain realized from the sale of your home OR the amount resulting from a calculation that uses–

- The income percentage (Consider the amount by which your income exceeds the limit in the year that you sell. If the amount is \$5,000 or more , then your income percentage is 100%. If less than \$5,000 then divide the amount by which your income exceeds the limit by \$5,000 and round to the nearest whole percentage.)
- The maximum recapture tax or federally subsidized amount (this is .0625 x the highest principal amount of your loan).
- The holding period percentage as shown on the chart below:

Disposition Within # Months of Closing	Holding Period Percentage	Income 1-2 person HH	Income 3 + person HH
1 - 12	20%	\$Amt shown for 1-12 months will be	the program limits.
13 - 24	40%	Balance will be	completed on
25 - 36	60%	personalized	form you receive
37 - 48	80%	at closing.	The limits for each
49 - 60	100%	successive 12 mos.	is approx. 5%
61 - 72	80%	higher than the	preceding 12 mos.
73 - 84	60%		
85 - 96	40%		
97 - 108	20%		
109 or More	No Recapture Tax		

**FOR MORE INFORMATION**

Contact the IRS and request Form 8828 and the instructions for Form 8828 (both available on the **IRS Website:** <http://www.irs.gov> In the Forms and Publications search box, type “8828” and click). Review the form and instructions now. Consult your tax advisor. In the year that you sell your home, you are required to complete Form 8828 and submit it with your federal income tax return (even after the full 9 years). The income that will be considered in that year will be your modified adjusted gross income from your federal income tax return.