

Important Update: The State of California 2010 Tax Credit for New Home / First-Time Buyer begins May 1, 2010

Applying for the 2010 New Home/First-Time Buyer tax credits: Applications must be faxed to the State of California Franchise Tax Board (FTB) **after** escrow closes. The new application will be available by May 1, 2010. The application will be denied if the 2009 form is used or if the Franchise Tax Board receives the 2010 application before May 1, 2010.

General Information: These tax credits are available for taxpayers who purchase a qualified principal residence on or after May 1, 2010, and before January 1, 2011. Additionally, these tax credits are available for taxpayers who purchase a qualified principal residence on or after December 31, 2010, and before August 1, 2011, pursuant to an enforceable contract executed on or before December 31, 2010. The purchase date is defined as the date escrow closes. Taxpayers may apply for the tax credits if they have entered into a contract before May 1, 2010, as long as escrow closes on or after May 1, 2010.

These tax credits are limited to the lesser of 5 percent of the purchase price or \$10,000 for a qualified principal residence. Taxpayers must apply the total tax credit in equal amounts over 3 successive tax years (maximum of \$3,333 per year) beginning with the tax year in which the home is purchased. The tax credits cannot reduce regular tax below tentative minimum tax (TMT). The tax credits are nonrefundable and unused credits cannot be carried over.

The total amount of allocated tax credit for all taxpayers may not exceed \$100 million for the New Home Credit and \$100 million for the First-Time Buyer Credit. However, since many taxpayers will not be able to utilize the entire tax credit, the legislation specifies that the \$100 million cap for the New Home Credit will be reduced by 70 percent of the tax credit allocated to each buyer and the \$100 million cap for the First-Time Buyer Credit will be reduced by 57 percent of the tax credit allocated to each buyer. For example, if a taxpayer is allocated \$10,000 for the New Home Credit, the \$100 million cap for the New Home Credit will only be reduced by \$7,000. If a taxpayer is allocated \$10,000 for the First-Time Buyer Credit, the \$100 million cap for the First-Time Buyer Credit will only be reduced by \$5,700. The 70 and 57 percent reductions do not impact the amount that can be claimed by the taxpayer.

Tax credits will be allocated by FTB on a first-come, first-served basis.

Only one tax credit is allowed per taxpayer. If a taxpayer qualifies for both tax credits, the law specifies that FTB will allocate the amount under the New Home Credit.

Taxpayers will **not** be eligible for either tax credit if any of the following apply:

- ▶ The taxpayer was allowed a 2009 New Home Credit.
- ▶ The taxpayer is under 18 years old. (A taxpayer who is married as of the date of purchase will be considered to be 18 if the spouse/registered domestic partner (RDP) of the taxpayer is 18 or older on the date of purchase.)
- ▶ The taxpayer or the taxpayer's spouse/RDP is related to the seller.
- ▶ The taxpayer qualifies as a dependent of any other taxpayer for the tax year of the purchase.

First-Time Buyer Credit: A qualified principal residence, for purposes of the First-Time Buyer Credit, must:

- Be a single family residence, either detached or attached. This can be a single family residence, a condominium, a unit in a cooperative project, a house boat, a manufactured home, or a mobile home. A home constructed by the taxpayer is not eligible since the home has not been "purchased."
- Be eligible for the California property tax homeowner's exemption.
- Be occupied by the taxpayer as their principal residence for a minimum of 2 years immediately following the purchase.

A first-time buyer is any individual (and the individual's spouse/RDP, if married on the date of purchase) who did not have an ownership interest in a principal residence, either in or out of California, during the preceding 3 year period ending on the date of the purchase of the qualified principal residence. If the buyer is married on the date of purchase and either the buyer or the buyer's spouse/RDP had an ownership interest in a principal residence during the preceding 3 year period, the buyer does not qualify for the First-Time Buyer Credit even if the spouse/RDP is not going to be on title.

Tax credit allocation:

- A Certificate of Allocation will not be issued if:
 - The application and a copy of the properly executed settlement statement is not received by FTB within 2 weeks (14 calendar days) after the close of escrow.
 - The application is received by FTB after the total tax credits available have been allocated.
- FTB's determination may not be protested or appealed.

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The 2010 New Home Credit and First-Time Buyer Credit begins May 1, 2010

New Home Credit: A qualified principal residence, for purposes of the New Home Credit, must:

- Be a single family residence, either detached or attached. This can be a single family residence, a condominium, a unit in a cooperative project, a house boat, a manufactured home, or a mobile home. A home constructed by the taxpayer is not eligible since the home has not been "purchased."
- Have never been occupied. Sellers must certify that the home has never been occupied in order for a taxpayer to receive an allocation of the credit.
- Be eligible for the California property tax homeowner's exemption.
- Be occupied by the taxpayer as their principal residence for a minimum of 2 years immediately following the purchase.

Tax credit allocation:

- A Certificate of Allocation will not be issued if:
 - The seller does not certify the home has never been occupied.
 - The application and a copy of the properly executed settlement statement is not received by FTB within 2 weeks (14 calendar days) after the close of escrow.
 - The application or reservation request is received by FTB after the total tax credits available have been allocated.
- FTB's determination may not be protested or appealed.

Applications: Applications are accepted **by fax only** beginning May 1, 2010. Do **not** use the 2009 application. More information will be posted at the FTB website listed below by May 1, 2010.

Reservations: Taxpayers who qualify for the **New Home Credit** may, but are not required to, reserve a tax credit prior to the close of escrow. Reservations will become important as we near the \$100 million cap for homes that may not close escrow before the cap is reached, as a reservation will "hold the taxpayer's place in line" until 2 weeks after escrow closes. To reserve a tax credit, the taxpayer and seller need to complete, sign, and fax to FTB a reservation request to certify that they have entered into an enforceable contract on or after May 1, 2010, and on or before December 31, 2010. A copy of the signed contract must be included with the reservation request. Taxpayers who reserve a tax credit still need to fax an application and a copy of the settlement statement within 2 weeks after the close of escrow. Taxpayers may not reserve a tax credit if the contract was entered into before May 1, 2010. The reservation form and details about the process will be posted on the FTB website listed below by May 1, 2010.

If you are only applying for the **First-Time Buyer Credit**, you will **not** be able to reserve the tax credit before escrow closes.

Claiming the tax credit:

- The taxpayer must receive a Certificate of Allocation from FTB to claim the tax credit on their California personal income tax return. The Certificate of Allocation will state the maximum amount the taxpayer can claim listed by tax year.
- The taxpayer should refer to the 2010 New Home / First-Time Buyer Credit Publication for instructions on claiming the tax credit (the publication will be available by December, 2010).
- Special rules apply to married/RDP taxpayers filing separately, in which case each spouse/RDP is entitled to one-half of the tax credit, even if their ownership percentages are not equal. For two or more taxpayers who are not married/RDP, the tax credit amount will have already been allocated to each taxpayer occupying the residence on their respective tax credit allocation letter.
- If the available tax credit exceeds the current year net tax, the unused tax credit may **not** be carried over to the following tax year.
- The tax credit may not reduce regular tax below TMT.
- The tax credit is **not** refundable.
- Any disallowance of the tax credit may not be protested or appealed.

Check the FTB website often -- updates will be added when they become available:

http://www.ftb.ca.gov/individuals/new_home_credit.shtml

For more information regarding the 2009 New Home Credit, go to ftb.ca.gov/forms/2009/09_3528.pdf or search through the "Forms & Publications" tab at ftb.ca.gov



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