



## **TAX AND LEGAL UPDATE**

**FEBRUARY 23, 2010**

### **FEDERAL ISSUES**

#### **A. MAKING WORK PAY TAX CREDIT**

\$400 individual/\$800 married couple filing jointly.

Most people who were entitled to credit, did not reduce their withholding for 2009 and accordingly will be entitled to up to \$800 credit for a couple filing jointly in 2010 for 2009 tax year - requires a schedule M on the 1040 return.

- Qualifications: 6.2% of earned income, but it phases out between \$75,000 and \$95,000 for individual and between \$150,000 and \$190,000 for couple.

#### **B. UNEMPLOYMENT BENEFITS**

In 2009, first \$2,400 in benefits exempt from federal tax.

- Good through end of 2009, extended from March 2009.
- Benefits extended for 20 weeks + 13 more in certain high unemployment areas. Not available for 2010 tax year.

#### **C. EXPIRING TAX BENEFITS FOR 2010**

- Deduction for educator expenses in figuring AGI;
- Deduction for tuition and fees in figuring AGI;
- Increased standard deduction for real estate taxes or net disaster loss;
- Itemized deduction or increased standard deduction for state and local sale or excise tax on purchase of new motor vehicle;
- Deduction for state and local sales tax.

#### **D. FIRST TIME HOME BUYER' CREDIT**

\$8,000 for homes purchased between 1-1-09 and 12-1-09 (now extended); refundable credit of 10% of purchase price up to \$8,000 has been extended to include contracts signed by April 30, 2010 provided that the close of escrow is completed by June 30, 2010.

Military and other federal employees serving outside the US have an extra year to buy and still obtain the credit with contracts due by 4-30-2011 and closing by 6-30-2011.

May claim on 2009 Or 2010 tax return - provided that transaction and taxpayer otherwise qualifies and home purchase has closed before April 15<sup>th</sup>.



**E. EXTENDED HOMEBUYER CREDIT**

Up to \$6,500 available to long-time residents who buy a new principal residence. 10% of purchase price up to maximum. A long-time resident is defined as an individual (and spouse, if married) has owned and used the same home as principal residence for a period of 5 consecutive years during the last 8-year period ending on the date of purchase of the new principal residence. Same dates apply as first time homebuyer credit.

The law also modified the qualified gross income up to \$125,000 individually and \$225, for joint files. This only applies to home purchased after 11-6-09.

Home may not cost more than \$800,000; purchaser must be at least 18 on date of purchase and dependents are not eligible to claim credit.

No repayment unless you sell or it fails to be your principle residence within 36 months of purchase.

**F. EDUCATION CREDIT**

2009-2010; \$2,500 of the cost of tuition paid during the tax year will be eligible for tax credit provided tuition payments were at least \$4,000. Phases out at income level of \$80,000 for individual and \$160,000 for couple.

529 Plans for 2009/2010 may also be used for home computers/computer technology for students, in addition to tuition, books, room and board, school supplies for those students away at school.

**G. SALES TAX ON VEHICLES**

Consumer will still pay sales tax on vehicle purchase, but it will be deductible for the 2009 tax year.

Vehicles include: cars, light trucks, recreation vehicles and motor cycles.

Phases out at income level of \$125,000 individual and \$250,000 couple.

**H. MORTGAGE DEBT CANCELLATION TAX EXCLUSION**

Has been extended through end of 2012 on principle residence up 2 million dollars.

**I. STATE AND LOCAL SALES TAX DEDUCTION**

Has been extended through end of 2009; most benefit in states without state income tax, since you can only deduct one or the other - Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming - also Tennessee and New Hampshire where state income tax very low.



**J. CAPITAL GAINS EXCLUSION**

Has been modified - where a 2<sup>nd</sup> home is converted to primary residence after primary residence is sold, and then in 2 years sold for full exclusion - those times before conversion will be excluded and considered non-qualifying use, subject to gain.

If primary is not sold for 5 years - still subject to exclusion or if owner is absent from home for 2 years for employment, health or unforeseen reasons, those years will not be considered non-qualifying use.

**K. STANDARD MILEAGE FOR 2009**

.50 business travel / .16.5 moving expenses; down from 55 and .24 respectively from 2009.

**L. DEDUCTION FOR ORIGATION FEES**

On home purchase - since RESPA requires grouping of expensed on new HUD-1, must be sure EE only claims that which is origination % itself.

**M. IRS EMPLOYMENT TAX AUDITS**

To begin (newly focused approach of IRS) in February 2010.

**KEY POINTS OF RESPA REFORM EFFECTIVE 1-1-10**

1. Standardize GFE - based upon theory that is will be easier for consumer to shop settlement service provides and compare lender programs.
2. Page 1 of GFE to provide clear summary of loan terms and total settlement charges; details of terms to include: loan term, fixed or variable interest rate, prepayment penalty, balloon payment, total costs.
3. More accurate settlement cost estimates to be provided to consumers.
4. Improve disclosure of yield spread premiums so consumers understand who is receiving benefit.
5. Able consumer to better compare GFE and HUD-1 Settlement Statement.
6. Ensure that consumers are aware of final loan terms and settlement costs.
7. Clarify HUD-1 instructions and regulations.

Rules apply to all residential loans - 1-4 family, including purchase loans, assumptions, refi's, property improvement loans and home equity loans.



Helpful borrower publication from HUD - **SHOPPING FOR YOUR HOME LOAN** - about 50 pages presented in a way to help an interested homebuyer understand some of the new changes. Much easier to read than the FAQ's otherwise put out by HUD. May be downloaded from **FHA ANTI-FLIPPING**.

Article: Coalition Corner Training Module for ERC by Tine Dickey and Larry Sontag on understanding the exception to single family mortgage insurance guidelines.

Since FHA loans seem to be the prime available residential financings, how can their requirements are being more strictly enforced.

- Only owner of record may sell property where FHA loan is to be used;
- Any resale of property may not occur 90 days or few from last sale;
- Any resale of property between 91-180 days may require additional documentation.

Luckily, there is a specific “relocation” exclusion: “sales of properties purchased by employers or relocation agencies in connection with relocations of employees”

It has been view of ERC that relocation exclusion in FHA Letter 2006-14 applied to the relocation process - not just the anti-flipping portion of the letter. Now with the January 2010 waiver of the “flipping restrictions” and specific reference made to the other portions of the act remaining as provided – lenders are keyed in on the owner of record language. Relocation 1-deed process is on the hot seat again and there is much push back; Waiver of 24 CFR 203.37 a (b)(2).

### **FHA TO TIGHTEN LENDING GUIDELINES**

- Mortgage insurance premiums up from 1.75% of loan to 2.25% of loan.
- Poor credit borrows (credit scores below 580) will be required to increase down payment from 3.5% to 10%.
- Seller provided closing cost payments to be reduced from 6% to 3%.

*All are being done with eye diminishing the risk of lending.*

### **HAMP PROGRAM** (*Home Affordable Modification Program*)

Is meant to help homeowners stay in their home; there is now guidance on two major issues - 1. By June 1<sup>st</sup>, a standard package of documents must be provided to borrower or review prior to evaluation of borrower for a trial modification. Lenders do not have to participate, but if they agree to participate they have to follow the guidelines.

### **DEED FOR LEASE PROGRAM**

Deed home to lender, and be entitled to lease back home for up to 12 months - Fannie Mae Program.



## **ILLINOIS "HIGHLIGHTS"**

### **IL CHANGES:**

#### **GOOD FUNDS LEGISLATION**

Became effective January 1, 2010- impacts directly upon title companies and escrowees: where single party is required to bring in \$50,000 or more funds essentially must be wired in.

Also, if funds are coming from more than one source, for same party (i.e. an ee whose equity is wired in and he may need the balance to be brought in - if aggregate exceeds \$50,000 - all must be wired in.

#### **CELL PHONE RESTRICTIONS & TEXTING RESTRICTIONS**

Cell Phone and Texting Restrictions - IL law now prohibits use of cell phone texting while operating a motor vehicle anywhere in IL; also prohibits use of cell phone in any school zone or road construction area. Both are moving violations.

**CONDO LAW** - Prohibits condominium association from discriminating against a buyer because they are obtaining an FHA loan - not sufficient ground to exercise right of first refusal.

**IL REALTOR LICENSING LAWS CHANGING** - Beginning May 1, 2011 there will no longer be a sales associate category, but broker and managing broker. Comes with increased educational requirements and new testing.

You will have 1 year to convert your license if you are a salesperson as of 4/30/2011 - and no new salesperson licenses will be issued after 4/30/11, but existing license holders will have until 4/30/2012 to be in compliance.

Watch for an upcoming article in the CRC Chronicle.

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