

THE HOUSING ASSISTANCE ACT OF 2008 H.R. 3221

The Housing Assistance Act of 2008 includes two provisions real estate professionals should understand.

Tax Credit for First Time Home Buyers

The first provision is a tax credit for “first-time home buyers”. A "first-time home buyer" is defined as a buyer who had no ownership interest in a principal residence during the three-year period before the new home is purchased. The tax credit is 10% of the purchase price of a home, up to \$7,500. The tax credit is phased out for married individuals filing a joint income tax return with modified adjusted gross income from \$150,000 to \$170,000, and for single taxpayers with modified gross income from \$75,000 to \$95,000. The tax credit is effective for homes purchased from April 9, 2008 through June 30, 2009. Be aware, the credit is actually an interest-free loan that is repaid over a 15-year period. Any unpaid balance must be repaid if the home is sold before the repayment period is over.

Cutback on Home Sales Gain Exclusion

The second provision is a cutback in the home sale gain exclusion under certain situations. The reduction in the home sale exclusion relates to homes sold beginning January 1, 2009. The home sales gain exclusion, \$250,000 for single individuals, \$500,000 for married, filing joint returns, is reduced for periods of non-qualifying use after 2008. If you convert a principal residence to a vacation home or a rental, the gain eligible for exclusion is reduced for the period of non-qualified use. Temporary absences, such as for a vacation or for medical treatment, still count as qualified use. This is especially important for real estate investors who convert a principal residence either to or from rental or vacation property.

For example, Jim Taxpayer, a single person, bought a residence on January 1, 2007. It was his principal residence until December 31, 2008. Starting on January 1, 2009, he converted it to rental property. Jim sells the house on December 31, 2010 and has a \$250,000 gain. Before the change in the tax law, the entire gain would be eligible for the \$250,000 exclusion, resulting in no tax on the sale. After the change as outlined in the Housing Act of 2008, only one-half of the gain is eligible for the home sale gain exclusion, the other \$125,000 is taxable as a long-term capital gain.

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