

LEGISLATIVE REPORT

Congress passed the homebuyers tax credit extension. President Obama should sign it this weekend. Here are the technical aspects of the bill.

Conforming Loan Limits - The extension of the current FHA & conforming loan limits (125% of median home price up to \$729,750) through December 31st, 2010 has been added to the Continuing Resolution and passed the House & Senate. The President should sign the CR into law over the weekend with the loan limit increase. This will have an enormous impact on the availability of loans in higher-priced areas -- thanks to all of you for your dedicated work on this issue over the past month.

Tax credit - I know that you've been inundated with Realtors looking for more information about the extension & expansion of the homebuyer tax credit. Thank you again for your dedicated grassroots efforts on this over the past month. At this point we are very close to the finish line but we are not there yet. The Senate has come to a broad agreement that outlines what the extended and expanded credit ought to look like. This agreement (the so-called Reid-Baucus-Dodd-Lieberman-Isakson Amendment) has now been added to the Unemployment Insurance (UI) extension that will be considered next week.

Homebuyer credit - Under current law, the First-Time Homebuyer Tax Credit is a refundable tax credit available to an individual buying a principal residence for the first time. The credit phases out for individuals with income between \$75,000 and \$95,000 and for joint filers with income between \$150,000 and \$170,000. For purchases made on or after January 1, 2009 and before December 1, 2009 the tax credit is equal to the lesser of \$8,000 or 10 percent of the purchase price of the residence. Individuals must repay the credit only if the principal residence is disposed of within 36 months of purchase. For purchases made on or after April 9, 2008 and before January 1, 2009, the tax credit is equal to the lesser of \$7,500 or 10 percent of the purchase price of the residence. Individuals purchasing homes in 2008 are also required to repay the credit over 15 years. This proposal would extend the availability of a homebuyer credit to homes under a binding contract before April 30, 2010, allowing 60 days to close.

The other modifications are as follows:

- 1) The credit is phased out for individuals with income above \$125,000 and for joint filers with income about \$225,000.**
- 2) An \$8,000 credit is available to all first-time homebuyers.**
- 3) A \$6,500 credit is available to homebuyers who have been in their current residence for the last five years or more.**
- 4) The credit is available only for the purchase of principal residences with a purchase price of \$800,000 or less.**
- 5) The proposal incorporates Senator McCaskill's proposal in the Service Members Home Ownership Tax Act of 2009 to eliminate the recapture requirement for military personnel, including members of the Foreign Service and intelligence community, forced to sell as a result of an official extended duty of service and to allow military personnel serving outside the United States for at least 90 days in 2009 or 2010 one additional year to qualify for the credit.**
- 6) The proposal includes anti-fraud language.**
- 7) The proposal also includes math error authority for the IRS.**

I included some questions and answers for you to become familiar with the new regulations for the benefit of your clients.

1. Existing homeowner credit: Must the new house cost more than the old house?

A. No. Thus, for example, individuals who move from a high cost area to a lower cost area who meet all eligibility requirements will qualify for the \$6500 credit.

2. I am an existing homeowner. On October 25, 2009, I signed a contract to purchase a new home. I have lived in my current home for more than 5 consecutive years and am within the new income limits. I will go to settlement on November 20. If President Obama has signed the bill by the time I go to settlement, will I qualify for the new \$6500 tax credit?

A. Yes. The existing homeowner credit goes into effect for

purchases after the date of enactment (when the bill is signed).

There is no reference to the date of contract for the new credit. The provision looks solely to the date of purchase, which is generally the date of settlement.

3. I am a first-time homebuyer but was not within the prior income limits at the time I entered into my contract to purchase on October 30, 2009. I will be covered, however, by the new income limits. If the new rules have been signed into law by the time I go to settlement, will I be eligible for a credit?

A. Yes. The new income limitations go into effect as soon as the President has signed the bill. The income limit and other eligibility rules will look to your status as of the date of purchase, which is the settlement date. So if the new rules have been signed when you go to settlement, you should be eligible for the credit (or a portion of the credit if you're within the phase-out range).

4. I am an eligible existing homeowner. I have a fair amount of equity in my home. I have found a home with a non-negotiable price of \$825,000. Will I be able to use any of the \$6500 tax credit?

A. No. The \$800,000 cap on the cost of the purchased home is firm at \$800,000. Any amount above \$800,000 makes the home ineligible for any portion of the credit. The \$800,000 is an absolute ceiling.

5. I owned my home for 10 years, but sold it two years ago and have been renting since. If I purchase a home, will I be eligible for the \$6500 tax credit if I meet all the other eligibility tests?

A. Yes. Because you lived in the home for more than 5 consecutive years of the previous 8, you will qualify for the \$6500 credit. For example, Say John and his wife bought a home in 2000 and lived there until 2008 when he got a divorce. Whether John has been renting or bought in the interim, he **WOULD INDEED be eligible for the credit because he owned a home and occupied it as his principal residence for 5 consecutive years out of the last 8 years. The keyword here is "consecutive." As long as he lived in that house for 5 years straight, what he did since 3 years doesn't impact eligibility.**

6. I am an eligible first-time homebuyer. I entered into a contract to purchase on November 1, 2009. Do I have to go to closing before December 1? How does the extension date affect me?

A. You do not have to close before December 1. Once the legislation has been signed, it will be as if the Nov 30 date had never existed. Therefore, so long as the contract settles before April 30 (or July 1, worst case), the purchaser will be eligible for the credit.

**Lastly, NAR has prepared a side-by-side that you can circulate to folks who have further questions. It can be found at:
<http://tinyurl.com/yh652qr>**

Good news that REALTORS® can use for marketing to their clients. Read from the following article in the Wednesday edition of the News and Observer.

THE ASSOCIATED PRESS RALEIGH, N.C. -- Site Selection magazine has ranked North Carolina No. 1 in the country for its business climate. The magazine cites new high-tech development and North Carolina's technology-focused academic centers as strengths for business growth. Texas ranked No. 2, Virginia, Ohio and Tennessee. For more click here: [Magazine ranks NC business climate No. 1](#)