

Credit for Purchase or Construction of New Principal Residence

Department of the Treasury Internal Revenue Service

Attach to Form 1040.

Name(s) as shown on Form 1040

Your social security number

Note: Except in the case of self-construction, you must attach to your return a certification by the seller that the purchase price is the lowest price at which the residence was ever offered for sale. (See Instruction E.)

- 1 Date new principal residence was acquired
2 If new principal residence is self-constructed, date construction began
3 Date you occupied new principal residence

Computation of Credit

Table with 4 columns for credit calculation steps: 4 Cost of new principal residence, 5 Less: Any gain from the sale of an old principal residence, 6 Adjusted basis of new principal residence, 7 Multiply the amount on line 6 by .05, 8 Enter \$2,000, 9a Enter amount from Form 1040, line 16, 9b Total of all other credits, 9c Subtract line 9b from line 9a, 10 ALLOWABLE CREDIT.

Instructions

(Section references are to the Internal Revenue Code unless otherwise specified)

A. General rule.—You are allowed a credit against your income tax in an amount of 5 percent of the adjusted basis of a new principal residence purchased or constructed by you...

To qualify for the credit you must meet the following conditions:

- (1) The residence must be your new principal residence,
(2) The construction must have begun before March 26, 1975,
(3) The residence must be acquired and occupied as your principal residence after March 12, 1975 and before January 1, 1977,
(4) Except in the case of self-construction, a binding contract for the purchase of the residence must be entered into before January 1, 1976, if settlement and occupancy occur before January 1, 1977, and
(5) Except in the case of self-construction, you must attach to your return a certification by the seller that the purchase price is the lowest price at which the residence was ever offered for sale.

B. New principal residence.—The property purchased must be your new principal residence, the original use of which

commences with you. The term "principal residence" refers to the place where you lived most of the year and has the same meaning as under section 1034. The term "residence" includes a single family structure, a residential unit in a condominium or cooperative housing project, your portion of a duplex or a row house, and a mobile home. The residence must be new. A renovated building does not qualify as new for this purpose...

C. Date construction commenced.—The credit applies only to a new principal residence the construction of which began before March 26, 1975. For this purpose, construction is considered to commence when actual physical work of a significant amount has occurred at the building site. A significant amount of construction requires more than drilling to determine soil conditions, preparation of an architect's sketches, securing of a building permit, or grading of the land. However, digging of the footings, excavation of the building foundation, or similar work constitutes a significant amount of construction.

Construction of a mobile home or a factory-built house is considered to commence when construction of important parts of the mobile home or factory-built house commenced. Construction or as-

sembly of a minor portion of the components of the mobile home or factory-built house does not constitute commencement of construction.

D. Acquisition and occupancy test.—The credit applies only to property you acquired and occupied as your principal residence after March 12, 1975, and before January 1, 1977. However, where your residence was acquired by purchase, rather than self-construction, it must also have been acquired by you under a binding contract entered into before January 1, 1976. For these purposes, you have "acquired" a residence when legal title to it is conveyed to you at settlement, or you have possession of it pursuant to a binding contract under which you make periodic payments until you become entitled under the contract to demand conveyance of title. The credit may not be claimed until both the acquisition and occupancy tests have been satisfied. For example, if your fiscal year ends on November 30, and you meet the acquisition test set forth above after March 12, 1975, and you occupied the property as your new principal residence before December 1, 1975, the credit is allowed on your 1974-75 Fiscal Year tax return. Also, you may be entitled to the credit with respect to a residence where you entered into a purchase contract prior to March 13, 1975, so long as settlement and occupancy occurred after March 12, 1975.

E. How to claim credit.—Attach this form to your tax return on which the credit is claimed. Attach Form 2119 or a statement if you have any gain from the sale of an old principal residence which is not recognized. Except in the case of self-construction, you must also attach a certification by the seller that the purchase price is the lowest price at which the residence was ever offered for sale.

The following form for the certification statement will be accepted:

I certify that the construction of the residence at (specify address) was begun before March 26, 1975, and that this residence has never been offered for sale in a listing, a written private offer, or an offer by means of advertisement at a lower purchase price than (state price), the price at which I sold the residence to (state name, present address, and social security number of purchaser) by contract dated (give date).

(Date, seller's signature and taxpayer identification number.)

An offer to sell is limited to a listing, a written private offer or an offer by means of advertisement to sell a specified residence at a specified purchase price.

In determining whether your new residence was sold at the lowest purchase price ever offered, appropriate adjustment shall be made for differences in financing terms and closing costs which increase both the seller's actual net proceeds and your actual cost. Where the sale to you includes property which was not the subject of the prior offer or excludes property which was included in the prior offer, the amount of the prior offer shall be adjusted to reflect the fair market value of such property, provided that you had the option to require inclusion or exclusion of such property included in the sale. The fair market value of any excluded property is to be determined at the time of the prior offer, while all additions are to be valued at their fair market value on the date of execution of the contract of sale.

**F. Adjusted basis.**—The cost of your new principal residence includes all amounts which are attributable to the acquisition or construction of your new principal residence, but only to the extent that such amounts constitute capital expenditures and are not allowable as deductions in computing taxable income. To obtain your adjusted basis reduce the cost of your residence by any gain from the sale of an old principal residence which is not recognized due to the application of section 1033 or section 1034. For example, if you sold an old principal residence for \$40,000 which had an adjusted basis of \$25,000 and you reinvested the proceeds by purchasing a new principal residence for \$50,000 (including settlement costs which were capital in nature) and this purchase satisfies the statutory criteria under section 1034 for nonrecognition of gain, then the credit would apply with respect to \$35,000 of the cost of the new principal residence. The credit does not in any way affect your basis in your new principal residence.

Where self-construction of your new principal residence was begun before March 13, 1975, only that portion of the basis of the property allocable to construction after March 12, 1975, and before January 1, 1977, shall be taken into consideration in determining the amount of the credit allowable. For example, if prior to March 13, 1975, a taxpayer who qualifies for the credit has constructed a portion of a residence at a cost of \$20,000 and the total cost of the residence is \$50,000, \$30,000 will be subject to the credit.

Where a new principal residence is purchased by more than one person other than you and your spouse, the amount of the credit allowed will be allocated among the purchasers in proportion to their respective ownership interests in such residence, with the limitation that the sum of the credits allowed to all such persons shall not exceed \$2,000. For this purpose, joint tenants with right of survivorship are treated as equal owners.

**G. Purchase.**—To qualify, the acquired property cannot be acquired by gift (in whole or in part), by bequest, devise, or inheritance or by purchase from a person whose relationship would result in disallowance of a loss under section 267 or 707(b) (relating to transactions between related taxpayers). For this purpose, the family of a taxpayer, includes only his spouse, ancestors, and lineal descendants.

**H. Recapture of credit.**—The amount allowed as a credit on a purchase is recaptured in the event you sell or otherwise dispose of your residence within 36 months after the date on which you acquired the residence (or, in the case of self-construction, on the day on which you first occupied the residence) as your principal residence. There are exceptions for reinvestment in a new principal residence and for certain involuntary dispositions.

If the cost of purchasing a new residence is at least equal to the adjusted sales price of the old residence, no portion of the credit allowed is recaptured. However, if the cost of purchasing a new residence is less than the adjusted sales price of the old residence, the tax for the year following the year of sale is increased by an amount which is the following fractional portion of the credit allowed:

Adjusted sales price of the old residence reduced (but not below zero) by cost of purchasing the new residence

Adjusted sales price of the old residence.

For example, George and Sue Williams (fiscal year taxpayers with a fiscal year

ending on November 30) purchase a newly constructed residence, which is available for occupancy on March 25, 1975. The closing date is September 8, 1975, and the Williams family moves in on October 1, 1975. The purchase price of the residence is \$50,000. On their 1974-75 Fiscal Year joint income tax return, the Williamses may take a credit of \$2,000 (5% of the purchase price (\$2,000) but not more than the maximum credit limitation).

In 1976, George Williams' employer transfers him to another city. On October 20, 1976, the Williams family sells their residence at an adjusted sales price of \$65,000. On November 10, 1976, they purchase another new residence for \$60,000.

The effective fraction in determining the amount of credit recapture is  $\frac{5,000}{65,000}$  or  $\frac{1}{13}$ . Therefore,  $\frac{1}{13}$  of \$2,000 or \$153.85 must be added to their tax liability for the 1976-77 Fiscal Year on account of the three-year recapture rule.

The recapture does not apply to the following types of dispositions:

(A) A disposition of a residence made on account of the death of any individual having a legal or equitable interest in a residence,

(B) Disposition on account of complete or substantial destruction of a residence by fire, storm, or other casualty (described in section 165(c)(3)),

(C) Compulsory and involuntary conversion of the residence (within meaning of section 1033(a)), or

(D) A disposition pursuant to a settlement in a divorce or legal separation proceeding where the other spouse retains the residence as a principal residence.

**I. Penalties.**—Civil penalties and criminal fines and imprisonment could result from false certification by a seller. If it is found that the price for which the residence was sold is not in fact the lowest price for which the residence was ever offered for sale, then the statute provides that a seller who certified that it was, is liable to the purchaser for damages in an amount equal to three times the excess over the lowest purchase price plus reasonable attorney's fees. No income tax deduction is allowed to the seller for two-thirds of any damages paid or incurred pursuant to a judgment entered against the seller in a suit brought by a purchaser on this issue. An individual who falsely certifies is liable for criminal penalties such as those under section 1001 of Title 18 of the United States Code.

For more information get **Publication 591, Tax Credit for the New Home Buyer**, available at your Internal Revenue Service office.