

111TH CONGRESS
1ST SESSION

S. 312

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2009

Mr. CARDIN (for himself and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First-Time Home-
5 buyers’ Tax Credit Act of 2009”.

6 **SEC. 2. REFUNDABLE CREDIT FOR FIRST-TIME HOME-**
7 **BUYERS.**

8 (a) IN GENERAL.—Subpart C of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by insert-
 2 ing after section 36 the following new section:

3 **“SEC. 36A. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-
 4 TIME HOMEBUYER.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—In the case of an individual
 7 who is a first-time homebuyer of a principal resi-
 8 dence in the United States during any taxable year,
 9 there shall be allowed as a credit against the tax im-
 10 posed by this subtitle for the taxable year an amount
 11 equal to so much of the purchase price of the resi-
 12 dence as does not exceed \$20,000.

13 “(2) TAXABLE INCOME LIMITATION.—No credit
 14 shall be allowed under subsection (a) if the tax-
 15 payer’s adjusted gross income for the taxable year
 16 immediately preceding the taxable year in which the
 17 purchase of the principal residence occurs exceeds
 18 \$75,000 (\$150,000 in the case of a joint return).

19 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
 20 poses of this section—

21 “(1) FIRST-TIME HOMEBUYER.—

22 “(A) IN GENERAL.—The term ‘first-time
 23 homebuyer’ has the same meaning as when
 24 used in section 72(t)(8)(D)(i).

1 “(B) ONE-TIME ONLY.—If an individual is
2 treated as a first-time homebuyer with respect
3 to any principal residence, such individual may
4 not be treated as a first-time homebuyer with
5 respect to any other principal residence.

6 “(C) MARRIED INDIVIDUALS FILING
7 JOINTLY.—In the case of married individuals
8 who file a joint return, the credit under this
9 section is allowable only if both individuals are
10 first-time homebuyers.

11 “(D) OTHER TAXPAYERS.—If 2 or more
12 individuals who are not married purchase a
13 principal residence—

14 “(i) the credit under this section is al-
15 lowable only if each of the individuals is a
16 first-time homebuyer, and

17 “(ii) the amount of the credit allowed
18 under subsection (a) shall be allocated
19 among such individuals in such manner as
20 the Secretary may prescribe.

21 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
22 cipal residence’ has the same meaning as when used
23 in section 121. Except as provided in regulations, an
24 interest in a partnership, S corporation, or trust

1 which owns an interest in a residence shall not be
2 treated as an interest in a residence.

3 “(3) PURCHASE.—

4 “(A) IN GENERAL.—The term ‘purchase’
5 means any acquisition, but only if—

6 “(i) the property is not acquired from
7 a person whose relationship to the person
8 acquiring it would result in the disallow-
9 ance of losses under section 267 or 707(b)
10 (but, in applying section 267 (b) and (c)
11 for purposes of this section, paragraph (4)
12 of section 267(c) shall be treated as pro-
13 viding that the family of an individual shall
14 include only the individual’s spouse, ances-
15 tors, and lineal descendants), and

16 “(ii) the basis of the property in the
17 hands of the person acquiring it is not de-
18 termined—

19 “(I) in whole or in part by ref-
20 erence to the adjusted basis of such
21 property in the hands of the person
22 from whom acquired, or

23 “(II) under section 1014(a) (re-
24 lating to property acquired from a de-
25 cedent).

1 “(B) CONSTRUCTION.—A residence which
2 is constructed by the taxpayer shall be treated
3 as purchased by the taxpayer.

4 “(4) PURCHASE PRICE.—The term ‘purchase
5 price’ means the adjusted basis of the principal resi-
6 dence on the date of acquisition (within the meaning
7 of section 72(t)(8)(D)(iii)).

8 “(c) DENIAL OF DOUBLE BENEFIT.—No credit shall
9 be allowed under subsection (a) for any expense for which
10 a deduction or credit is allowed under any other provision
11 of this chapter.

12 “(d) BASIS ADJUSTMENT.—For purposes of this sub-
13 title, if a credit is allowed under this section with respect
14 to the purchase of any residence, the basis of such resi-
15 dence shall be reduced by the amount of the credit so al-
16 lowed.

17 “(e) PROPERTY TO WHICH SECTION APPLIES.—The
18 provisions of this section shall apply to a principal resi-
19 dence if the taxpayer purchases the residence during the
20 period beginning on the date of enactment, and ending
21 on the date which is 1 year after such date.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Subsection (a) of section 1016 of the Inter-
24 nal Revenue Code of 1986 (relating to general rule
25 for adjustments to basis) is amended by striking

1 “and” at the end of paragraph (36), by striking the
2 period at the end of paragraph (37) and inserting “,
3 and”, and by adding at the end the following new
4 paragraph:

5 “(38) in the case of a residence with respect to
6 which a credit was allowed under section 36A, to the
7 extent provided in section 36A(d).”.

8 (2) Section 1324(b)(2) of title 31, United
9 States Code, is amended by inserting “or 36A” after
10 “36”.

11 (c) CLERICAL AMENDMENT.—The table of sections
12 for subpart C of part IV of subchapter A of chapter 1
13 of the Internal Revenue Code of 1986 is amended by in-
14 serting after the item relating to section 36 the following
15 new item:

“Sec. 36A. Purchase of principal residence by first-time homebuyer.”.

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