

110TH CONGRESS
2D SESSION

H. R. 5643

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 HOUSE OF REPRESENTATIVES

MARCH 14, 2008

Mr. ALLEN (for himself, Mr. BURTON of Indiana, Mr. CARNAHAN, Ms. GIFFORDS, Mr. DOYLE, Mr. DAVIS of Illinois, and Ms. BORDALLO) introduced the following bill; which was referred to the Committee on Ways and Means

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 2008”.

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

3 (a) IN GENERAL.—Subpart C of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to refundable credits) is amended by redes-
 6 ignating section 36 as section 37 and by inserting after
 7 section 35 the following new section:

8 **“SEC. 36. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-**
 9 **TIME HOMEBUYER.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 11 dividual who is a first-time homebuyer of a principal resi-
 12 dence in the United States during any taxable year, there
 13 shall be allowed as a credit against the tax imposed by
 14 this subtitle for the taxable year an amount equal to 10
 15 percent of the purchase price of the residence.

16 “(b) LIMITATIONS.—

17 “(1) MAXIMUM DOLLAR AMOUNT.—

18 “(A) IN GENERAL.—The credit allowed
 19 under subsection (a) shall not exceed the excess
 20 (if any) of—

21 “(i) \$3,000 (2 times such amount in
 22 the case of a joint return), over

23 “(ii) the credit transfer amount deter-
 24 mined under subsection (c) with respect to
 25 the purchase to which subsection (a) ap-
 26 plies.

“(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2008, the \$3,000 amount under subparagraph (A) shall be increased by an amount equal to \$3,000, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting ‘2007’ for ‘1992’ in subparagraph (B) thereof. If the \$3,000 amount as adjusted under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.

“(2) TAXABLE INCOME LIMITATION.—

“(A) IN GENERAL.—If the taxable income of the taxpayer for any taxable year exceeds the maximum taxable income in the table under subsection (a), (b), (c), or (d) of section 1, whichever is applicable, to which the 25 percent rate applies, the dollar amounts in effect under paragraph (1)(A)(i) for such taxpayer for the following taxable year shall be reduced (but not below zero) by the amount of the excess.

“(B) CHANGE IN RETURN STATUS.—In the case of married individuals filing a joint return for any taxable year who did not file such a

1 joint return for the preceding taxable year, sub-
2 paragraph (A) shall be applied by reference to
3 the highest taxable income of either such indi-
4 vidual for the preceding taxable year.

5 “(c) TRANSFER OF CREDIT.—

6 “(1) IN GENERAL.—A taxpayer may transfer
7 all or a portion of the credit allowable under sub-
8 section (a) to 1 or more persons as payment of any
9 liability of the taxpayer arising out of—

10 “(A) the downpayment of any portion of
11 the purchase price of the principal residence,
12 and

13 “(B) closing costs in connection with the
14 purchase (including any points or other fees in-
15 curred in financing the purchase).

16 “(2) CREDIT TRANSFER MECHANISM.—

17 “(A) IN GENERAL.—Not less than 180
18 days after the date of the enactment of this sec-
19 tion, the Secretary shall establish and imple-
20 ment a credit transfer mechanism for purposes
21 of paragraph (1). Such mechanism shall require
22 the Secretary to—

23 “(i) certify that the taxpayer is eligi-
24 ble to receive the credit provided by this
25 section with respect to the purchase of a

1 principal residence and that the transferee
2 is eligible to receive the credit transfer,

3 “(ii) certify that the taxpayer has not
4 received the credit provided by this section
5 with respect to the purchase of any other
6 principal residence,

7 “(iii) certify the credit transfer
8 amount which will be paid to the trans-
9 feree, and

10 “(iv) require any transferee that di-
11 rectly receives the credit transfer amount
12 from the Secretary to notify the taxpayer
13 within 14 days of the receipt of such
14 amount.

15 Any check, certificate, or voucher issued by the
16 Secretary pursuant to this paragraph shall in-
17 clude the taxpayer identification number of the
18 taxpayer and the address of the principal resi-
19 dence being purchased.

20 “(B) TIMELY RECEIPT.—The Secretary
21 shall issue the credit transfer amount not less
22 than 30 days after the date of the receipt of an
23 application for a credit transfer.

24 “(3) PAYMENT OF INTEREST.—

1 “(A) IN GENERAL.—Notwithstanding any
 2 other provision of this title, the Secretary shall
 3 pay interest on any amount which is not paid
 4 to a person during the 30-day period described
 5 in paragraph (2)(B).

6 “(B) AMOUNT OF INTEREST.—Interest
 7 under subparagraph (A) shall be allowed and
 8 paid—

9 “(i) from the day after the 30-day pe-
 10 riod described in paragraph (2)(B) to the
 11 date payment is made, and

12 “(ii) at the overpayment rate estab-
 13 lished under section 6621.

14 “(C) EXCEPTION.—This paragraph shall
 15 not apply to failures to make payments as a re-
 16 sult of any natural disaster or other cir-
 17 cumstance beyond the control of the Secretary.

18 “(4) EFFECT ON LEGAL RIGHTS AND OBLIGA-
 19 TIONS.—Nothing in this subsection shall be con-
 20 strued to—

21 “(A) require a lender to complete a loan
 22 transaction before the credit transfer amount
 23 has been transferred to the lender, or

24 “(B) prevent a lender from altering the
 25 terms of a loan (including the rate, points, fees,

1 and other costs) due to changes in market con-
2 ditions or other factors during the period of
3 time between the application by the taxpayer
4 for a credit transfer and the receipt by the
5 lender of the credit transfer amount.

6 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 “(1) FIRST-TIME HOMEBUYER.—

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

12 “(B) ONE-TIME ONLY.—If an individual is
13 treated as a first-time homebuyer with respect
14 to any principal residence, such individual may
15 not be treated as a first-time homebuyer with
16 respect to any other principal residence.

17 “(C) MARRIED INDIVIDUALS FILING
18 JOINTLY.—In the case of married individuals
19 who file a joint return, the credit under this
20 section is allowable only if both individuals are
21 first-time homebuyers.

22 “(D) OTHER TAXPAYERS.—If 2 or more
23 individuals who are not married purchase a
24 principal residence—

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

4 “(ii) the amount of the credit allowed
5 under subsection (a) shall be allocated
6 among such individuals in such manner as
7 the Secretary may prescribe, except that
8 the total amount of the credits allowed to
9 all such individuals shall not exceed the
10 amount in effect under subsection
11 (b)(1)(A) for individuals filing joint re-
12 turns.

13 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
14 cipal residence’ has the same meaning as when used
15 in section 121. Except as provided in regulations, an
16 interest in a partnership, S corporation, or trust
17 which owns an interest in a residence shall not be
18 treated as an interest in a residence for purposes of
19 this paragraph.

20 “(3) PURCHASE.—

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

23 “(i) the property is not acquired from
24 a person whose relationship to the person
25 acquiring it would result in the disallow-

1 ance of losses under section 267 or 707(b)
 2 (but, in applying section 267 (b) and (c)
 3 for purposes of this section, paragraph (4)
 4 of section 267(c) shall be treated as pro-
 5 viding that the family of an individual shall
 6 include only the individual’s spouse, ances-
 7 tors, and lineal descendants), and

8 “(ii) the basis of the property in the
 9 hands of the person acquiring it is not de-
 10 termined—

11 “(I) in whole or in part by ref-
 12 erence to the adjusted basis of such
 13 property in the hands of the person
 14 from whom acquired, or

15 “(II) under section 1014(a) (re-
 16 lating to property acquired from a de-
 17 cedent).

18 “(B) CONSTRUCTION.—A residence which
 19 is constructed by the taxpayer shall be treated
 20 as purchased by the taxpayer.

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

1 “(e) DENIAL OF DOUBLE BENEFIT.—No credit shall
 2 be allowed under subsection (a) for any expense for which
 3 a deduction or credit is allowed under any other provision
 4 of this chapter.

5 “(f) BASIS ADJUSTMENT.—For purposes of this sub-
 6 title, if a credit is allowed under this section with respect
 7 to the purchase of any residence, the basis of such resi-
 8 dence shall be reduced by the amount of the credit so al-
 9 lowed.

10 “(g) PROPERTY TO WHICH SECTION APPLIES.—

11 “(1) IN GENERAL.—The provisions of this sec-
 12 tion apply to a principal residence if—

13 “(A) the taxpayer purchases the residence
 14 on or after January 1, 2008, and before Janu-
 15 ary 1, 2013, or

16 “(B) the taxpayer enters into, on or after
 17 January 1, 2008, and before January 1, 2013,
 18 a binding contract to purchase the residence,
 19 and purchases and occupies the residence before
 20 July 1, 2014.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subsection (a) of section 1016 of the Inter-
 23 nal Revenue Code of 1986 (relating to general rule
 24 for adjustments to basis) is amended by striking
 25 “and” at the end of paragraph (36), by striking the

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

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

7 (2) Section 1324(b)(2) of title 31, United
8 States Code, is amended by inserting “or 36” after
9 “section 35”.

10 (c) CLERICAL AMENDMENT.—The table of sections
11 for subpart C of part IV of subchapter A of chapter 1
12 of the Internal Revenue Code of 1986 is amended by strik-
13 ing the item relating to section 36 and inserting the fol-
14 lowing new items:

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

“Sec. 37. Overpayments of tax.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

○