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First-Time Home Buyer Credit

Last year, Congress passed the Housing and Economic Recovery Act of 2008 which provides an income tax credit equal to 10% of the purchase price of a residence, up to a maximum credit of $7,500 ($3,750 for married taxpayers filing separately), for individuals who are "first-time home buyers of a principal residence" and such principal residence was purchased during the period April 9, 2008 through December 31, 2008 (the "2008 Credit"). The 2008 Credit is essentially an interest-free loan from the federal government. The 2008 Credit must be repaid in equal installments over fifteen years (beginning in 2010) through an increase in the taxpayer's federal income tax over that time. If the taxpayer sells his or her principal residence during this fifteen year period, the outstanding portion of the 2008 Credit is due as additional tax on the tax return for the year of disposition (note that some exceptions apply to dispositions caused by death, divorce or involuntary conversion).

The American Recovery and Reinvestment Act of 2009 modified the 2008 Credit in several meaningful ways. First, this modified first-time homebuyer credit (the "2009 Credit) applies to "first-time home buyers of a principal residence" who purchase their principal residence between January 1 and November 30 of 2009. Second, the maximum amount of the 2009 Credit is increased to $8,000 ($4,000 for married taxpayers filing separately). Third, and most importantly, there is no general obligation for the taxpayer to repay the 2009 Credit. Even though the 2009 Credit eliminates the fifteen year repayment obligation, there are safeguards in place to prevent taxpayers from abusing the benefits of the 2009 Credit. If the taxpayer sells the residence or ceases to use the residence as a principal residence within the three year period beginning on the date of purchase of the residence, the entire credit will be recaptured in the year of sale or cessation of use as a principal residence. This means that if a taxpayer buys a residence in June 2009 and sells it in July 2010, the entire credit will be repaid with the taxpayer's 2010 tax return.

The first-time homebuyer credit is available to individuals who are "first-time homebuyers of a principal residence." A "first-time homebuyer" means "any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 3-year period ending on the date of the purchase of the principal residence." Thus, a "first-time homebuyer" is broader than an individual who is purchasing their first principal residence, and includes individuals who previously owned a principal residence, provided an interest in such previous principal residence was not owned by the taxpayer within the three years immediately preceding the date of purchase of the new principal residence.

Both the 2008 Credit and the 2009 Credit are not available to non-resident alien taxpayers and taxpayers that acquire and dispose of the residence during the same taxable year. In addition, both the 2008 Credit and the 2009 Credit are subject to a phase-out which is applied for taxpayers having a modified adjusted gross income in excess of $75,000 ($150,000 in the case of a joint return). Furthermore, unmarried co-purchasers of a residence may allocate the 2008 Credit and 2009 Credit between themselves using any reasonable method, including allocating the entire credit to one co-owner.

The members of the Dean Mead Tax Team are available to discuss the application of the first-time home buyer credit to your unique situation.

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