



Tax Pro News

By Practitioners, For Practitioners

August 16, 2008

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New 2008 Housing Act-Small Firm Issues ONLY

Property Tax Deduction

The 2008 Housing Act added a new additional standard deduction for real estate tax for non-itemizers. The new deduction increases the standard deduction by the lesser of property tax paid or \$1,000 (MFJ) or \$500 (Single) effective for years beginning after 12/31/2007 and ending at the end of 2008. If the taxes are deducted elsewhere on the return (Sch. A, C, E, etc) they do not qualify for the deduction. There is no income phase-out provision.

2nd Home Sale

- The 2008 Housing Act added a new provision regarding the taxability of home sales. When turning a 2nd home or property into a primary residence after 12/31/2008, and then selling the home at a profit, a portion of the profit will be taxed based on the ratio of the time after 2008 the home was used as a 2nd residence or rented out to the total time the seller owned the house. The remainder remains eligible for the home sale exclusion. This prevents people from moving into vacation homes or rental units for two years and then obtaining the entire exclusion.
 - Gain resulting from depreciation taken on the property after May 6, 1997 won't be included in this computation. That gain will still be taxed separately as ordinary income.
 - This won't affect any sales made this year since the law becomes effective on Jan. 1, 2009. If you or your client has a 2nd home you want to sell tax-free in the next year or two -- move into it before the end of this year.
 - The new law defines unqualified use as: any period after the last date the property is used as the principal residence of the taxpayer or spouse (regardless of use during that period), and any period (not to exceed two years) that the taxpayer is temporarily absent by reason of a change in place of employment, health, or, to the extent provided in regulations, unforeseen circumstances, are not taken into account.

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MORE LIVE
STREAMING VIDEO
COURSES!
Technology 2008
on September 4!



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2008 Fall Live Schedule:

- 8/19 [Business Tax Update](#) **Des Moines**
- 8/21 [Technology](#) **Scranton**
- 8/27 [SE Acctng Show](#) **Atlanta**
- 8/28-29 [NSA Convention](#) **Kansas City**
- 9/2 [Federal Tax Update](#) **New Albany, IN**
- 9/4 **NEW!!** [Technology-](#) **Clarksville, IN**
- 9/5 [Business Tax Update-](#) **Ft. Wayne, IN**
- 9/15 **NEW!!** [Tax Strategies](#) **Portland, Maine**

Example Joel bought a vacation home in Malibu for \$500,000 on January 1, 2005. On June 30, 2009 he converts the home to a personal residence. He sells the home for \$1,000,000 on July 1, 2011. He used the home as a 2nd residence for 6 months after 12/31/2008 and he owned the home for 78 months. Of his total gain of \$500,000, \$38,461 will not qualify for exclusion based on the ration of (6/78 x 500,000) and the remaining amount will qualify for the home sale exclusion. Note that only the non-residence use after 12/31/2008 applies, not the total period of time used as a 2nd home. Additionally, if he had rented the home to others during the same period the answer would not change except that there would have been depreciation recapture.

1st Time Home Buyer Credit

- The 2008 Housing Act added a new **refundable** tax credit for 1st time homebuyers equal to the lesser of 10% of the purchase price or \$7,500 (\$3,750 MFS). The credit phases out at \$150-170,000 AGI for joint returns and \$75-95,000 for single returns. A 1st time homebuyer is defined as an individual (and if married, their spouse) who had no present ownership interest in a United States principal residence during the 3 year period ending on the date of the new purchase.
 - No credit is allowed if the D.C. homebuyer credit is allowable for the year or prior year of purchase, nor is it available if the financing is from tax-exempt mortgage revenue bonds, or to nonresident aliens, or if the personal residence use ceases prior to the end of the 1st year the credit is claimed.
 - The credit will be recaptured ratably over a 15 year period, without interest, beginning in the 2nd tax year after the year the home was purchased.

Example Ryan and Casey (MFJ) purchase their 1st home (both qualify as 1st time homebuyers, and AGI is under \$150,000) on December 1, 2008. The home's cost is \$150,000. The credit amount is the lesser of 10% of the purchase price (\$15,000) or \$7,500, so their credit is \$7,500 on their 2008 return. They receive a \$7,500 refund in March, 2009 for the 12/1/2008 purchase. Beginning with their 2010 tax return they will recapture \$500 each year for 15 years.

- If the home is sold or ceases to be used as a principal residence before complete repayment has occurred, any remaining amount is recaptured in full that year, except in the case of death, involuntary conversion or transfer to a spouse incident to divorce.
- The credit applies to homes purchased on or after 4/9/2008 and before 7/1/2009.
- A purchase in the qualifying time period of 2009 may be treated as purchased on 12/31/2008 for purposes of claiming the credit and starting the recapture period.

Example Ryan and Casey (MFJ) purchase their 1st home (both qualify as 1st time homebuyers, and AGI is under \$150,000) on March 1, 2009. The home's cost is \$150,000. The credit amount is the lesser of 10% of the purchase price (\$15,000) or \$7,500. They elect to treat the home purchase as taking place on 12/31/2008. They receive a \$7,500 refund in March, 2009 for the elected 12/31/2008 purchase. Beginning with their 2010 tax return they will recapture \$500 each year for 15 years.

9/16-17 [Business Tax In Depth-Indianapolis, IN](#)

9/18-19 [Business Tax In Depth-Portland, OR](#)

9/22-23 [Business Tax In Depth-Oklahoma City](#)

9/24 [Business Tax Update-Garden City, KS](#)

9/25-26 [Business Tax In Depth-Ft. Collins, CO](#)

9/29-30 [Compilations, Reviews & Disclosures-Bloomington, IL](#)

9/30-10/1 [Business Tax In Depth-Fairfax, VA](#)

10/2-10/3 [Business Tax In Depth-Williamsburg, VA](#)

10/7-8 [Business Tax In Depth-Cleveland, OH](#)

10/16-17 [Business Tax In Depth-Fargo, ND](#)

10/20-21 [Business Tax In-Depth-Chicago, IL](#)

Go to www.Taxspeaker.com for more information on these and our other seminars, as well as our full fall and winter schedule.

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**MORE LIVE
STREAMING
VIDEO
COURSES
COMING!**

Because of demand we are re-streaming (live) our 8-hour Technology Seminar

*on Thursday
September 4 from
9:00 AM EDT-5:00 PM EDT.*

Our summer streaming videos have been a

Example Bryan and Tim, single brothers, buy a \$200,000 home together. The credit is limited to the home price not by taxpayer, so the credit of \$7,500 will be allocated between them based on ownership.

Example Ryan and his fiancé Casey bought a home in July, 2008. Ryan had never owned a home before, but Casey had owned a home during 2006. Ryan qualifies for the credit as long as he files a single return for 2008. If he and Casey marry before 1/1/2009 both are disqualified from the credit.

Example Ryan, an eligible taxpayer, buys a home in July, 2008 and takes the new home credit. In January 2009 his brother Sean moves in and buys a portion of the home from Ryan. Sean had never owned a home before. Sean does not qualify for the credit because a purchase from a related party does not qualify for the credit. A related party includes grandparents, parents, siblings, aunts and uncles.

Example Charlie lived outside of the US for part of 2008 and earned \$75,000 which was all excluded from tax under the foreign earned income exclusion rules. After he moved back to the US he earned an additional \$75,000 in 2008. The foreign income exclusion does not apply to the phaseout rule for the new home purchase, so Charlie's income for purposes of the 1st home credit is \$150,000 and will probably phase out the credit.

Example Samantha bought her 1st home in 2008 for \$200,000 and took the full credit of \$7,500. She sells the home in 2012 for \$202,000 after closing expenses, for a net gain of \$2,000. Normally she would have to repay the remaining portion of the credit, but a special rule limits the repayment amount to the lesser of the gain or un-recaptured credit, so she will only repay \$2,500.

UPCOMING STREAMING CLASSES & NEW!! CLASSES

- **NEW!!** [The Real Technology Seminar](#) *NATIONWIDE* by live streaming video on September 4. Also live from our [seminar offices](#) in Clarksville, Indiana.
- [Business Tax In Depth](#) *NATIONWIDE* by live streaming video on September 16-17 or by live attendance in [Indianapolis, Indiana](#)
- [1040 Tax In Depth](#) *NATIONWIDE* by live streaming video on November 11-12 or by live attendance in [Fargo, North Dakota](#)
- [1040 Tax In Depth](#) *NATIONWIDE* by live streaming video on December 18-19 or by live attendance in [Orlando, Florida](#)
- **NEW!!** [1040 Tax In-Depth](#) **LAST MINUTE CPE STREAMING** *NATIONWIDE* on December 29-30 (16 Hours). Also live from our seminar offices in [Clarksville,](#)

resounding success!
With a few glitches here and there they have gone off smoothly and we are expanding the selection over the next few weeks.

A live streaming video is a TV-like live presentation beamed to your computer via your high speed internet connection and your computer's speakers.

With gas costs continuing to skyrocket we are rapidly expanding our offerings of live streaming videos for this fall, and will now provide the nation's first 2-day live seminars presented live over the internet for Business Tax In-Depth and 1040 In-Depth this fall.

2008 DVD's Now Shipping:

[Technology](#)

[Farm & Ranch](#)

[Estates & Trusts](#)

[Compilations](#)

[Pensions & IRAs](#)

Reducing Health Care Costs

[Clergy Tax](#)

[EA Ethics](#)

[Indiana.](#)

- **NEW!!** [Compilations](#) **LAST MINUTE A&A CPE STREAMING NATIONWIDE** on December 31 (8 Hours). Also live from our seminar offices in [Clarksville, Indiana](#) .



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New Home Mortgage Case

In [TC Summ. Op. 2008-24](#) the son of the taxpayer took out a mortgage to buy a home for his parents who had filed bankruptcy and were unable to obtain their own mortgage. The son held title to the house, but the parents were the only occupants, made all payments and paid all taxes and upkeep. The Tax Court determined that the parents were the home's equitable owners bearing all benefits and burdens of ownership and allowed their deduction of the mortgage interest even though they were not liable on the mortgage.

Oil & Gas Tax

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OTHER UPCOMING EVENTS

Our [Farm Manual](#) is now completed and the [DVD](#) begins shipping Monday August 18.

We will be recording the 1040NR course in 2 weeks for shipping by 9/30.

Fall course taping and tentative shipping dates:

[Fringe Benefits Taped](#) 9/25, Shipping 10/5

[Business Tax In Depth](#) Taped 9/16-17, Shipping October 5

[1040 In Depth Taped](#) 11/11-13, Shipping November 28

[Federal Tax Update](#) Taped 11/26 Shipping December 5

NEW SPECIALTY MANUALS

We now have 2 new specialty manuals available, written by our speakers with substantial expertise in those areas:

[The Oil & Gas Taxes](#) for 1040's manual

AND

[The 1040 NR Manual](#)

We have also just finished our 2008 [Reducing Health Care Costs](#) manual and our [Pension Plans & IRAs](#) Manual which has been substantially expanded far beyond our other manuals.

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