

County of Santa Clara  
Office of Affordable Housing  
2310 No. First Street, #100  
San Jose, CA 95131  
(408) 441-4323

**MORTGAGE CREDIT CERTIFICATE PROGRAM**

**NOTICE OF MAXIMUM RECAPTURE TAX and  
METHOD TO COMPUTE RECAPTURE TAX ON SALE OF HOME**  
(Effective only for those loans which closed and recorded after December 30, 1990)

1. Name of Applicant(s) \_\_\_\_\_
2. Date of Home Loan Closing: \_\_\_\_\_
3. Address of Home: \_\_\_\_\_
4. Principal amount of First Loan on Date of Closing: \$ \_\_\_\_\_
5. Median family income in Santa Clara County as of date of Loan Closing = **\$105,500**  
(The Median Income of **\$105,500** is effective for homes purchased between years 2006-2008)

Because you have received a Mortgage Credit Certificate pursuant to Section 143 (m) of the Internal Revenue Code of 1986, you may, at the time you sell the residence for which you received a Mortgage Credit Certificate, be subject to a special "recapture tax" for federal income tax purposes. You should consult your tax advisor at the time you sell the residence to determine the amount, if any, of such "recapture tax." The following information will assist you in determining the amount, if any, of "recapture tax":

**A. GENERAL.** When you sell your home, you may have to pay a recapture tax as calculated below. The recapture tax may also apply if you dispose of your home in some other way. Any reference in this notice to the "sale" of your home also includes other ways of disposing of your home. For instance, you may owe the recapture tax if you give your home to a relative.

**1. EXCEPTIONS.** In the following situations, NO recapture tax is due, and you do not need to do the calculations:

- a) You dispose of your home later than nine years after you close your mortgage loan;
- b) Your home is disposed of as a result of your death;
- c) You transfer your home either to your spouse or to your former spouse incident to divorce and you have no gain or loss included in your income under section 1041 of the Internal Revenue Code (in which case the spouse or former spouse is treated as if he or she had been the owner from the date of closing of the home mortgage); or
- d) You dispose of your home as a loss.

**B. MAXIMUM RECAPTURE TAX.** The maximum recapture tax that you may be required to pay as an addition to your federal income tax is \$ \_\_\_\_\_. This amount is 6.25% multiplied by the primary loan amount and is your "federally subsidized amount" with respect to the loan.

**C. ACTUAL RECAPTURE TAX.** The actual recapture tax, if any, can only be determined when you sell your home, and is the lesser of (1) 50% of your gain on the sale of your home, regardless of whether you have to include that gain in your income for federal income tax purposes, or (2) your RECAPTURE AMOUNT determined by multiplying the following three numbers:

(a) THE ACTUAL DOLLAR AMOUNT RESULTING FROM THE PRODUCT OF 6.25% MULTIPLIED BY THE HIGHEST PRINCIPAL AMOUNT OF THE MORTGAGE LOAN:

$$6.25\% \times \$ \underline{\hspace{2cm}} = \$ \underline{\hspace{2cm}}$$

(b) The HOLDING PERIOD PERCENTAGE, as listed in Column 1 in the Table, and \_\_\_\_\_ %

(c) The INCOME PERCENTAGE, as described in paragraph D. \_\_\_\_\_ %

$$\begin{array}{ccccccc} \$ \underline{\hspace{2cm}} & \underline{\hspace{2cm}} & \% & \underline{\hspace{2cm}} & \% & \$ \underline{\hspace{2cm}} & \\ (a) & \times & (b) & \times & (c) & = & \text{Recapture Tax} \end{array}$$

*Note: \*(b) and (c) above to be determined at the time of sale.*

Table for loans closing in connection with an MCC in 2007 and 2008

If the Mortgagor Sells the Home after number of Years	(Column 1) Holding Period Percentage	(Column 2) % Adjustment to Qualifying Income	(Column 3) Adjusted Qualifying Income	
			Number of people living in the Mortgagor's Home at time of Resale of the by the Mortgagor	
			1 or 2 Median x 100%	3 or More Median x 115%
0 or more but less than 1	20%	100%	\$ 105,500	\$ 121,325
1 or more but less than 2	40%	105.00%	\$110,775	\$127,391
2 or more but less than 3	60%	110.25%	\$116,314	\$133,761
3 or more but less than 4	80%	115.7625%	\$122,129	\$140,449
4 or more but less than 5	100%	121.55%	\$128,236	\$147,471
5 or more but less than 6	80%	127.628%	\$134,648	\$154,845
6 or more but less than 7	60%	134.01%	\$141,380	\$162,587
7 or more but less than 8	40%	140.71%	\$148,449	\$170,716
8 or more but less than 9	20%	147.746%	\$155,872	\$179,252

**D. INCOME PERCENTAGE. You calculate the income percentage as follows:**

(a) SUBTRACT the applicable ADJUSTED QUALIFYING INCOME in the taxable year in which you sell your home, as listed in Column 3 in the Table, FROM your MODIFIED ADJUSTED GROSS INCOME in the taxable year in which you sell your home.

Your **MODIFIED ADJUSTED GROSS INCOME (MAGI)** means your adjusted gross income shown on your federal tax return for the taxable year in which you sell your home, with the following two adjustments: (a) your adjusted gross income must be INCREASED by the amount of any interest that you receive or accrue in the taxable year from tax-exempt bonds that is excluded from your gross income (under section 103 of the Internal Revenue Code); and (b) your adjusted gross income must be DECREASED by any gain included in your gross income by reason of the sale of your home.

(b) If the amount calculated in (a) above is zero or less, you owe no recapture tax and do not need to make any more calculations. If it is \$5,000 or more, your income percentage is 100%. If it is greater than zero but less than \$5,000, it must be divided by \$5,000. This fraction, expressed as a percentage, represents your income percentage. For example, if the fraction is \$1,000 / \$5,000, your income percentage is 20%.

**E. LIMITATIONS AND SPECIAL RULES ON RECAPTURE TAX.**

1. If you give away your home (other than to your spouse or ex-spouse incident to divorce), you must determine your actual recapture tax as if you had sold your home for its fair market value.
2. If your home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if, within two years, you purchase additional property for use as your principal residence on the site of the home for which you obtained a Mortgage Credit Certificate.
3. In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage loan, the actual recapture tax is determined separately for them based on their interests in the home.
4. If you repay your loan in full during the nine-year recapture period and you sell your home during this period, your holding period percentage may be reduced under the special rule in section 143(m)(4)(C) (ii) of the Internal Revenue Code.
5. Other special rules may apply in particular circumstances. You may wish to consult with a tax advisor or the local office of the Internal Revenue Service when you sell or otherwise dispose of your home to determine the amount, if any, of your actual recapture tax. See section 143(m) of the Internal Revenue Code generally.

The undersigned Mortgagor(s) has (have) received and read a duplicate copy of the foregoing Notice to Mortgagor of Maximum Recapture Tax and Method to Compute Recapture Tax on Sale of Home.

**Date:** \_\_\_\_\_ **By** \_\_\_\_\_  
**(Homebuyer/Mortgagor)**

**Date:** \_\_\_\_\_ **By** \_\_\_\_\_  
**(Homebuyer/Mortgagor)**