MONTANA HOUSING

Recapture Tax
Frequently Asked Questions

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What is the Federal Recapture Tax?

It is a federal tax that a borrower may be required to pay from the net profit they receive from the sale of their home. If they must pay Recapture Tax, it would be due when they file their federal income tax for the year in which they sell their home. The maximum recapture tax is 6.25% of the original principal balance of the loan or 50% of the gain on the sale of the home, whichever is less.

What if the loan is refinanced?

No recapture tax is due at the time of refinancing. If, after refinancing, you sell or transfer the property within the initial nine-year period you may owe a recapture tax.

How can the borrower determine if they will have to pay Recapture?

There is no way to predict the exact tax liability, if any; since it is based upon the borrower's situation at the time they sell their home. It will depend on their income, family size and the amount of their net profit at the time they sell their home. In any event, if they stay in their home for nine years, they will never owe any Recapture.

In the case of divorce, who is responsible for the recapture tax?

A divorce settlement is not a sale or transfer for the purposes of recapture. Whoever receives the home in the divorce settlement pays any recapture tax due as a result of a subsequent sale or transfer if within the nine-year period.

In the event that the borrower owes a recapture tax, to whom do I pay it and when?

If any tax is due, it is paid to the IRS when they complete their Federal income tax return for the tax year in which they sold or otherwise disposed of the home. For example, if they sold or otherwise disposed of their home in 2019, the tax would be paid when they file their 2019 Federal income tax return.

Is recapture due if the borrower dies within the nine-year period?

No. A death transfer is not a sale or transfer for the purposes of recapture.

Should the borrower seek additional advice?

For answers to specific questions about calculating potential tax liability, please seek assistance from a professional tax advisor or the IRS.

What determines how much the actual recapture tax will be, if any?

First, the date of sale or transfer. Second, the borrower's income in relation to the "adjusted qualifying income" in the year of sale or transfer. Third, the gain from sale or transfer.

What happens if the loan is assumed?

If the sale or transfer occurs within the first nine years of ownership, the original borrower pays the recapture tax, if applicable, and a new nine-year period begins for the purpose of applying a new recapture tax to the assuming purchaser.

What if the home is destroyed as the result of a fire, flood, or other natural disaster?

If the home is destroyed and borrower rebuilds on the same site within two years after the year in which the insurance proceeds are received, no recapture is due at that time.

Will the borrower have to pay a Federal recapture tax?

Most applicants will not have to pay. They will not have to pay a recapture tax if any of the following events occur:

- They own their home for more than 9 years.
- They sell or otherwise dispose of their home within 9 years of acquiring it, but do not make a profit on such sale or disposition.
- They sell or otherwise dispose of their home within 9 years of acquiring it, but their household income at the time of such sale or disposition does not exceed a certain pre-established amount.