

# Homebuyer Assistance and Improvement Act of 2010

July 1, 2010

*Special Report*

## HIGHLIGHTS

- Homebuyer Credit Extension
- Bad Check Penalty For E-Payments
- Prevention Of Homebuyer Credit Fraud
- Extended Aviation Taxes
- More Senate Provisions

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## Congress Passes Homebuyer Tax Credit Relief With Revenue Offsets

The “Homebuyer Assistance and Improvement Act of 2010” (H.R. 5623) is headed to President Obama’s desk for his expected signature. Frustrated over the progress of general tax extenders legislation, the House singled out homebuyer credit extension relief and approved it 409-5 in this stand-alone bill on June 29, 2010. The Senate followed suit on June 30, approving H.R. 5623 by unanimous consent. The new law extends the closing date deadline, from June 30, 2010 to September 30, 2010, for homebuyers who signed sales contracts prior to May 1, 2010. To offset the estimated \$140 million price tag of this relief, the new law includes three revenue provisions: a delay in the transfer of Travel Promotion Board fees, clarification of the bad check penalty for e-payments, and return-disclosure authorization to prevent homebuyer credit fraud among prison inmates.

**IMPACT.** *The House Ways and Means Committee forecasts that H.R. 5623’s extension will enable an estimated 180,000 additional homebuyers to utilize the homebuyer credit. Congress believes that prospective homeowners who are already locked into contracts should not be penalized by delays within the financial sector that have caused many to miss the original June 30 closing deadline.*

### HOMEBUYER TAX CREDIT

The new law extends the deadline for closing home purchases in order to qualify for the homebuyer credit. Under the new law, qualified taxpayers with binding sales contracts executed before May 1, 2010, now have until September 30, 2010, an additional three months, to close title on their residence and

qualify for the homebuyer credit. The initial closing deadline had been June 30, 2010.

**IMPACT.** *Many prospective homeowners under contract by April 30, 2010 anticipated that there would be more than enough time to close title on a purchase before July 1st. Instead, they found that banks needed more time to complete transactions such as short sales in today’s financial markets.*

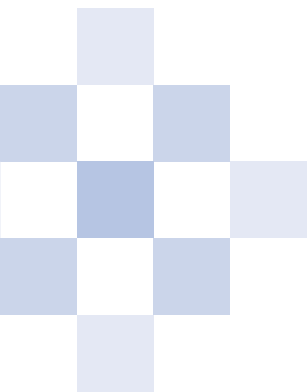
**IMPACT.** *The new law does not extend the “prior to May 1, 2010” contract date requirement. While there have been several bills introduced to extend the homebuyer credit to purchases through December 31, 2010, the cost of such an extension has so far proven an insurmountable roadblock.*

A credit of up to \$8,000 for first-time homebuyers (\$6,500 for longtime homeowners) generally has been available to qualified taxpayers on homes purchased before May 1, 2010. In addition to a maximum \$800,000 purchase price cutoff for the credit, however, the homebuyer’s adjusted gross income must be under \$125,000 for singles and \$225,000 for joint filers, subject to a \$20,000 adjusted gross income (AGI) phase out range.

**COMMENT.** *The extension until September 30, 2010 covers both first-time homebuyers and long-time homeowners.*

### REVENUE RAISING PROVISIONS

To offset the \$140 million price tag for the homebuyer credit extension, the “Homebuyer Assistance and Improvement Act of 2010” adds three revenue-raising provisions:



### Travel Promotion Act of 2009

The new law delays from 2010 to 2011 the deadline for the Department of Homeland Security (DHS) to transfer initial set-up fees for its new Travel Promotion Board. The new law also delays by one year (from 2011 to 2012) the dates when the Travel Promotion Board must begin to match funds that DHS transfers to the Travel Promotion Corporation. The fee collection will sunset one year later, in 2015, instead of 2014. These provisions are estimated to raise \$95 million over 10 years.

### Bad check penalty

The new law clarifies application of the bad check penalty to electronic payments. Code Sec. 6657 currently imposes a two-percent tax on check or money order payments made to the IRS but not “duly paid.” The new law fine-tunes the language of this provision by imposing the tax on “any instrument in payment, by any commercially acceptable means.” This amendment would expand the bad check penalty to cover electronic payments made to satisfy a tax liability, but which the taxpayer does not actually pay due to an insufficient balance.

### Prisoner homebuyer credit fraud

Fraudulent claims of the homebuyer tax credit have attracted much attention from Congress recently. The Treasury Inspector General for Tax Administration (TIGTA) released a report in June of 2010 indicating that 4,608 prisoners had attempted to claim the homebuyer tax credit while incarcerated at the time they reported purchasing the home. TIGTA estimated that the IRS’s filters failed to catch 1,295 of those claims, resulting in the

issuance of approximately \$9.1 million in erroneous tax credits.

To help reduce further abuses by the prison population, the new law enhances the Code Sec. 6103 provisions pertaining to disclosures of tax returns and return information of prisoners. Code Sec. 6103(k)(10) currently allows the IRS to disclose prisoners’ tax information to the head of the Federal Bureau

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of Prisons. The new law grants the IRS authority under this provision to also disclose prisoners’ tax information to the head of any State government agency administering prisons. Additionally, the new law removes certain recordkeeping requirements under Code Sec. 6103(p)(4) for any federal or state prison administrative agency.

**COMMENT.** *The head of the Federal Bureau of Prisons is currently restricted from redistributing tax information received from the IRS to third parties. The new law similarly restricts the head of a State prison administration agency from redistributing tax information.*

### REVENUE IMPACT – H.R. 5623

| Expenditures*                            |               |
|--|---------------|
| Extend Homebuyer Credit Closing Deadline | \$140 million |
| Revenue Raisers*                         |               |
| Travel Promotion Act                     | \$95 million  |
| Bad Check Penalties                      | \$48 million  |
| Prisoner Return Disclosure               | \$6 million   |

\*Over 10 years

### OTHER LEGISLATIVE ACTION

The House passed two other tax-related bills June 29, approving the Firearms Excise Tax Improvement Bill of 2010 and the Airport and Airway Extension Act of 2010, Part II (H.R. 5611). The Senate approved the airport tax bill June 30 but held off on the firearms tax bill. The airport bill will go to the White House for the president’s expected signature.

The airport bill is a stopgap measure to extend aviation programs and taxes and fund the Federal Aviation Administration (FAA) through August 1, 2010, while lawmakers work out a long-term FAA Reauthorization Act.

### PENDING SENATE ACTION

Before the Senate’s adjournment until July 12th for the Fourth of July holiday, Senate Finance Committee Chair Max Baucus, D-Mont., and Small Business and Entrepreneurship Committee Chair Mary Landrieu introduced a substitute for the House-approved small business bill, the Small Business Jobs Tax Relief Act of 2010 (H.R. 5486). The Senate bill, the Small Business Jobs Act of 2010 (H.R. 5297), would provide loans to small businesses as well as tax relief. The bill’s tax provisions include:

- An extension of 50-percent bonus depreciation through 2010;
- A doubling of the Section 179 expensing limit to \$500,000 for 2010 and 2011 (and a phase-out threshold beginning at \$2 million);
- A 100 percent exclusion of capital gains on small business stock acquired after February 17, 2009 and before January 1, 2011;
- An enhanced general business credit for small businesses with a five-year carryback and alternative minimum tax offset;
- A reduced five-year holding period for S corporation property with built-in gains; and
- Penalty relief for failing to disclose reportable transactions.

**COMMENT.** *Resolution of this Small Business Jobs Bill amendment with other Senate proposals, as well as the provisions within the house-passed bill, is expected to take place before the August Congressional recess.*

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