

114TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to create a refundable first-time homebuyer tax credit.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to create a refundable first-time homebuyer tax credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “First-Time Homebuyer
5 Credit Act of 2016”.

6 **SEC. 2. FIRST-TIME HOMEBUYER REFUNDABLE CREDIT.**

7 (a) IN GENERAL.—Section 36 of the Internal Rev-
8 enue Code of 1986 is amended to read as follows:

1 **“SEC. 36. FIRST-TIME HOMEBUYER REFUNDABLE CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual who is a first-time homebuyer of a principal resi-
4 dence in the United States during a taxable year, there
5 shall be allowed as a credit against the tax imposed by
6 this subtitle for such taxable year an amount equal to 2.5
7 percent of the purchase price of the residence.

8 “(b) LIMITATIONS; SPECIAL RULES BASED ON MAR-
9 ITAL AND FILING STATUS.—

10 “(1) DOLLAR LIMITATION.—The credit allowed
11 under subsection (a) shall not exceed \$10,000.

12 “(2) LIMITATION BASED ON PURCHASE
13 PRICE.—The amount allowable as a credit under
14 subsection (a) (determined without regard to this
15 paragraph and paragraph (3), and after the applica-
16 tion of paragraph (1)) for the taxable year shall be
17 reduced (but not below zero) by the amount which
18 bears the same ratio to the amount which is so al-
19 lowable as—

20 “(A) the excess (if any) of—

21 “(i) the purchase price of the resi-
22 dence, over

23 “(ii) \$600,000, bears to

24 “(B) \$100,000.

25 “(3) LIMITATION BASED ON MODIFIED AD-
26 JUSTED GROSS INCOME.—

1 “(A) IN GENERAL.—The amount allowable
2 as a credit under subsection (a) (determined
3 without regard to this paragraph and after the
4 application of paragraphs (1) and (2)) for the
5 taxable year shall be reduced (but not below
6 zero) by the amount which bears the same ratio
7 to the amount which is so allowable as—

8 “(i) the excess (if any) of—

9 “(I) the taxpayer’s modified ad-
10 justed gross income for such taxable
11 year, over

12 “(II) \$80,000 (\$160,000 in the
13 case of a joint return), bears to

14 “(ii) \$20,000.

15 “(B) MODIFIED ADJUSTED GROSS IN-
16 COME.—For purposes of subparagraph (A), the
17 term ‘modified adjusted gross income’ means
18 the adjusted gross income of the taxpayer for
19 the taxable year increased by any amount ex-
20 cluded from gross income under section 911,
21 931, or 933.

22 “(4) AGE LIMITATION.—No credit shall be al-
23 lowed under subsection (a) with respect to the pur-
24 chase of any residence for a taxable year if—

1 “(A) the taxpayer has not attained age 18
2 as of the date of such purchase, or

3 “(B) a deduction under section 151 with
4 respect to the taxpayer is allowable to another
5 taxpayer for the taxable year.

6 In the case of a taxpayer who is married, the tax-
7 payer shall be treated as meeting the age require-
8 ment of subparagraph (A) if the taxpayer or the tax-
9 payer’s spouse meets such age requirement.

10 “(5) MULTIPLE PURCHASERS.—If 2 or more in-
11 dividuals who are not married purchase a principal
12 residence, the amount of the credit under subsection
13 (a) shall be allocated among such individuals in such
14 manner as the Secretary may prescribe by taking
15 into account the requirements of paragraphs (2) and
16 (3), except that the total amount of the credits al-
17 lowed to all such individuals shall not exceed
18 \$10,000.

19 “(6) MARRIED COUPLES MUST FILE JOINT RE-
20 TURN.—If an individual is married at the close of
21 the taxable year, the credit shall be allowed under
22 subsection (a) only if the individual and the individ-
23 ual’s spouse file a joint return for the taxable year.

24 “(c) DEFINITIONS.—For purposes of this section—

25 “(1) FIRST-TIME HOMEBUYER.—

1 “(A) IN GENERAL.—The term ‘first-time
2 homebuyer’ means any individual who acquires
3 a principal residence by purchase if such indi-
4 vidual (and, if married, such individual’s
5 spouse)—

6 “(i) has not claimed any credit or de-
7 duction under this title for any previous
8 taxable year with respect to the purchase
9 or ownership of any residence or residen-
10 tial real estate (including for any expendi-
11 tures relating to the placing in service of
12 any property on, in connection with, or for
13 use in such a residence or real estate),

14 “(ii) attests under penalty of perjury
15 that the individual (and, if married, the in-
16 dividual’s spouse) has not owned a prin-
17 cipal residence at any time prior to the
18 purchase of the principal residence to
19 which this section applies, and

20 “(iii) includes the individual’s (and, if
21 married, the individual’s spouse’s) social
22 security number issued by the Social Secu-
23 rity Administration on the return of tax.

24 “(B) WAIVER IN CASE OF CERTAIN
25 CHANGES IN STATUS.—The Secretary may, in

1 such manner as the Secretary may prescribe,
2 waive the requirements of subparagraph (A) for
3 a taxable year in the case of an individual who
4 is not eligible to file a joint return for the tax-
5 able year, and who was married at the time the
6 individual or the individual's former spouse pur-
7 chased a previous residence.

8 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
9 cipal residence’ has the same meaning as when used
10 in section 121.

11 “(3) PURCHASE.—

12 “(A) IN GENERAL.—The term ‘purchase’
13 means any acquisition, but only if—

14 “(i) the property is not acquired from
15 a person related to the person acquiring
16 such property (or, if either such person is
17 married, such individual's spouse), and

18 “(ii) the basis of the property in the
19 hands of the person acquiring such prop-
20 erty is not determined—

21 “(I) in whole or in part by ref-
22 erence to the adjusted basis of such
23 property in the hands of the person
24 from whom acquired, or

25 “(II) under section 1014(a).

1 “(B) CONSTRUCTION.—A residence which
2 is constructed by the taxpayer shall be treated
3 as purchased by the taxpayer on the date the
4 taxpayer first occupies such residence.

5 “(4) PURCHASE PRICE.—The term ‘purchase
6 price’ means the adjusted basis (without regard to
7 any reduction under section 1016(a)(38)) of the
8 principal residence on the date such residence is pur-
9 chased. Such purchase price shall be included on the
10 return of tax.

11 “(5) RELATED PERSONS.—A person shall be
12 treated as related to another person if the relation-
13 ship between such persons would result in the dis-
14 allowance of losses under section 267 or 707(b) (but,
15 in applying subsections (b) and (c) of section 267
16 for purposes of this section, paragraph (4) of section
17 267(c) shall be treated as providing that the family
18 of an individual shall include only the individual’s
19 spouse, ancestors, and lineal descendants).

20 “(6) MARITAL STATUS.—An individual’s mar-
21 ital status shall be determined in accordance with
22 section 7703.

23 “(d) DENIAL AND RECAPTURE RULES IN CASE OF
24 DISPOSAL OF RESIDENCE WITHIN 5 TAXABLE YEARS.—

1 “(1) DENIAL OF CREDIT IN CASE OF DISPOSAL
2 WITHIN TAXABLE YEAR.—No credit under sub-
3 section (a) shall be allowed to any taxpayer for any
4 taxable year with respect to the purchase of a resi-
5 dence if the taxpayer disposes of such residence (or
6 such residence ceases to be the principal residence of
7 the taxpayer (and, if married, the taxpayer’s
8 spouse)) before the close of such taxable year.

9 “(2) PARTIAL RECAPTURE.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (D), if the taxpayer disposes of
12 the residence with respect to which a credit was
13 allowed under subsection (a) (or such residence
14 ceases to be the principal residence of the tax-
15 payer (and, if married, the taxpayer’s spouse))
16 during the 4-taxable-year period beginning with
17 the taxable year immediately following the cred-
18 it year, the tax imposed by this chapter for the
19 taxable year in which such disposal (or ces-
20 sation) occurs shall be increased by an amount
21 equal to the recapture percentage of the
22 amount of the credit so allowed.

23 “(B) CREDIT YEAR.—For purposes of sub-
24 paragraph (A), the term ‘credit year’ means the

1 taxable year in which the credit under sub-
 2 section (a) was allowed.

3 “(C) RECAPTURE PERCENTAGE.—For pur-
 4 poses of subparagraph (A), the recapture per-
 5 centage with respect to any disposal or ces-
 6 sation described in such subparagraph shall be
 7 determined in accordance with the following
 8 table:

**“If the disposal or cessation The recapture percentage is:
 occurs in:**

the 1st taxable year beginning after the credit year	80 percent
the 2nd taxable year beginning after the credit year	60 percent
the 3rd taxable year beginning after the credit year	40 percent
the 4th taxable year beginning after the credit year	20 percent.

9 “(D) EXCEPTIONS.—This paragraph shall
 10 not apply in the case of a disposal or cessation
 11 described in subparagraph (A) which occurs
 12 after or incident to any of the following:

13 “(i) Death of the taxpayer or the tax-
 14 payer’s spouse.

15 “(ii) Divorce of the taxpayer.

16 “(iii) Involuntary conversion of the
 17 residence (within the meaning of section
 18 121(d)(5)(A)).

19 “(iv) Relocation of duty station or
 20 qualified official extended duty (as defined
 21 in section 121(d)(9)(C)) of the taxpayer or
 22 the taxpayer’s spouse who is a member of
 23 the uniformed services (as defined in sec-

1 tion 121(d)(9)(C)(ii)), a member of the
2 Foreign Service of the United States (as
3 defined in section 121(d)(9)(C)(iii)), or an
4 employee of the intelligence community (as
5 defined in section 121(d)(9)(C)(iv)).

6 “(v) Change of employment of the
7 taxpayer or the taxpayer’s spouse which
8 meets the conditions of section 217(c).

9 “(vi) Loss of employment, health con-
10 ditions, or such other unforeseen cir-
11 cumstances as may be specified by the Sec-
12 retary.

13 “(e) ADJUSTMENT TO BASIS.—For purposes of this
14 subtitle, if a credit is allowed under this section with re-
15 spect to any property, the taxpayer’s basis in such prop-
16 erty shall be reduced by the amount of the credit so al-
17 lowed.

18 “(f) REPORTING.—If the Secretary requires informa-
19 tion reporting under section 6045 by a person described
20 in subsection (e)(2) thereof to verify the eligibility of tax-
21 payers for the credit allowable by this section, the excep-
22 tion provided by section 6045(e)(5) shall not apply.”.

23 (b) CONFORMING AMENDMENT RELATING TO BASIS
24 ADJUSTMENT.—Subsection (a) of section 1016 of the In-
25 ternal Revenue Code of 1986 is amended—

1 (1) by striking “and” at the end of paragraph
2 (36),

3 (2) by striking the period at the end of para-
4 graph (37) and inserting “, and”, and

5 (3) by adding at the end the following new
6 paragraph:

7 “(38) to the extent provided in section 36(e).”.

8 (c) CONFORMING AMENDMENT.—Section 26(b)(2) of
9 the Internal Revenue Code of 1986 is amended by striking
10 subparagraph (W) and by redesignating subparagraphs
11 (X) and (Y) as subparagraphs (W) and (X), respectively.

12 (d) CLERICAL AMENDMENT.—The item relating to
13 section 36 in the table of sections for subpart C of part
14 IV of subchapter A of chapter 1 of the Internal Revenue
15 Code of 1986 is amended to read as follows:

“Sec. 36. First-time homebuyer refundable credit.”.

16 (e) MATH ERROR AUTHORITY.—Subparagraph (N)
17 of section 6213(g)(2) of the Internal Revenue Code of
18 1986 is amended to read as follows:

19 “(N) in the case of a return claiming the
20 credit under section 36—

21 “(i) the omission of a social security
22 number required under section
23 36(c)(1)(A)(iii),

24 “(ii) the inclusion of a social security
25 number so required if—

1 “(I) the claim of the credit on
2 the return reflects the treatment of
3 such individual as being of an age dif-
4 ferent from the individual’s age based
5 on such social security number, or

6 “(II) except as provided in sec-
7 tion 36(c)(1)(B), such social security
8 number has been included (other than
9 as a dependent for purposes of section
10 151) on a return for any previous tax-
11 able year claiming any credit or de-
12 duction described in section
13 36(c)(1)(A)(i), and

14 “(iii) a claim of such credit for a tax-
15 able year with respect to the purchase of
16 a residence made after the last day of such
17 taxable year.”.

18 (f) IRS RECORDKEEPING.—Notwithstanding the lim-
19 itations on assessment and collection under section 6501
20 of the Internal Revenue Code of 1986, the Commissioner
21 of Internal Revenue shall maintain in perpetuity records
22 of returns and return information (as defined in section
23 6103(b)(2) of such Code) of any taxpayer claiming the
24 credit under section 36 of such Code (as amended by this
25 section) for the taxable year in which such credit is

1 claimed and succeeding taxable years. The Commissioner
2 may, in the Commissioner's discretion, discard such
3 records within a reasonable amount of time after the death
4 of such taxpayer (and, if married, the taxpayer's spouse).

5 (g) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to residences purchased in taxable
7 years beginning after December 31, 2016.