



What is IRS Recapture Tax and How Does it Impact My Borrower(s)

NC 1st Home Advantage Down Payment \$15k and NC Home Advantage Tax Credit (MCC)



What is Recapture Tax?

The “potential” repayment of money saved by the Borrower through use of a Mortgage Revenue Bond funded home loan or Mortgage Credit Certificate.



What Programs are Affected?

- NC Home Advantage Tax Credit (Mortgage Credit Certificate)
- NC 1st Home Advantage Down Payment (\$15,000 DPA)

What causes the Federal Recapture Tax to “Kick-In”?

In order for you to be subject to the Recapture Tax, **ALL THREE OF THE FOLLOWING CONDITIONS MUST APPLY:**

- You sell or otherwise dispose of your home within the **FIRST NINE (9) YEARS** of closing your mortgage loan.
- In the year you dispose of your home, your income has increased and exceeds the IRS established limits. More than 5% annually.
- You have a “net” profit from the sale.

*You must complete **IRS Form 8828, Recapture of Federal Mortgage Subsidy**, to determine if you owe the Federal Recapture Tax.*

IRS Form 8828

Form **8828**
(Rev. March 2010)
Department of the Treasury
Internal Revenue Service (99)

OMB No. 1545-0074
Attachment
Sequence No. **64**

Recapture of Federal Mortgage Subsidy
▶ Attach to Form 1040. ▶ See separate instructions.
Social security number (as shown on page 1 of your tax return)

Name(s)

Part I Description of Home Subject to Federally Subsidized Debt

1 Address of property (number and street, city or town, state, and ZIP code)

2 Check the box that describes the type of federal subsidy you had on the loan for your home. **Do not**

a Mortgage loan from the proceeds of a tax-exempt bond

b Mortgage credit certificate

Note. If neither box applies, you are not subject to recapture tax on the sale or other disposition of your home. **Do not** complete this form.

3 Name of the bond or certificate issuer _____ State _____ Political subdivision (city, county, etc.) _____ Agency, if any _____

4 Name and address of original lending institution _____ State _____ City _____ Month _____ Day _____ Year _____

5 Date of closing of the original loan _____ Month _____ Day _____ Year _____

Note. If the date of closing of the loan was before January 1, 1991, recapture tax does not apply. **Do not** complete this form. If you (1) checked the box on line 2b (mortgage credit certificate), (2) refinanced your home, and (3) received a reissued mortgage credit certificate, see **Refinancing your home** on page 1 of the instructions.

6 Date of sale or other disposition of your interest in the home _____ Month _____ Day _____ Year _____

7 Number of years and full months between original closing date (line 5) and date of sale or disposition (line 6): _____ Years _____ Full months _____

8 Date of full repayment of the original loan including a refinancing other than one for which a replacement mortgage credit certificate was issued (see instructions) _____ Month _____ Day _____ Year _____

Part II Computation of Recapture Tax

9 Sales price of your interest in the home sold or disposed of (see instructions)	
10 Expenses of sale. Include sales commissions, advertising, legal fees, etc.	
11 Amount realized. Subtract line 10 from line 9	
12 Adjusted basis of your interest in the home sold or disposed of (see instructions)	
13 Gain or (loss) from sale or disposition. Subtract line 12 from line 11. If a loss, stop here and attach this form to your Form 1040. You do not owe recapture tax	
14 Multiply line 13 by 50% (.50)	
15 Modified adjusted gross income (see instructions)	
16 Adjusted qualifying income (see instructions)	
17 Subtract line 16 from line 15. If zero or less, stop here and attach this form to your Form 1040. You do not owe recapture tax	
18 Income percentage. If the amount on line 17 is \$5,000 or more, enter "100." Otherwise, divide the amount on line 17 by \$5,000 and enter the result as a percentage. Round to the nearest whole percentage	_____%
19 Federally subsidized amount (see instructions)	
20 Holding period percentage (see instructions)	_____%
21 Multiply line 19 by the percentage on line 20	
22 Recapture amount. Multiply line 21 by the percentage on line 18	
23 Tax. Enter the smaller of line 14 or line 22. Also, include this amount on the line for total tax on Form 1040. For details, see the instructions for Form 1040	

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 13049F
Form **8828** (Rev. 3-2010)



When do I pay the Federal Recapture Tax?

If you meet all three conditions and are subject to the Recapture Tax, payment is made **when you file your taxes** for the year in which you sell or otherwise dispose of your home.

For example, if a home is sold in 2027, IRS Form 8828 must be filed with the homeowner's 2027 income tax returns in April 2028.

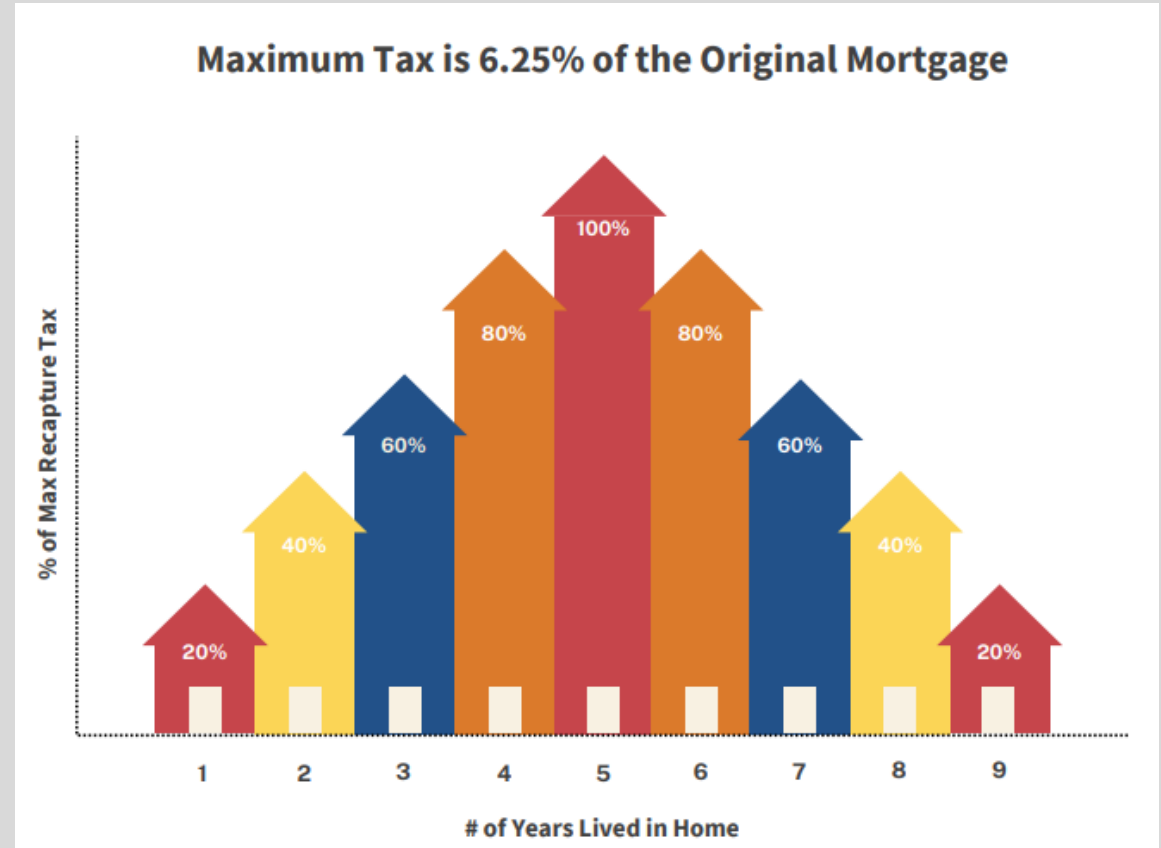
Recapture tax is paid at the time federal income tax returns are filed.

Does refinancing my mortgage activate the recapture tax?

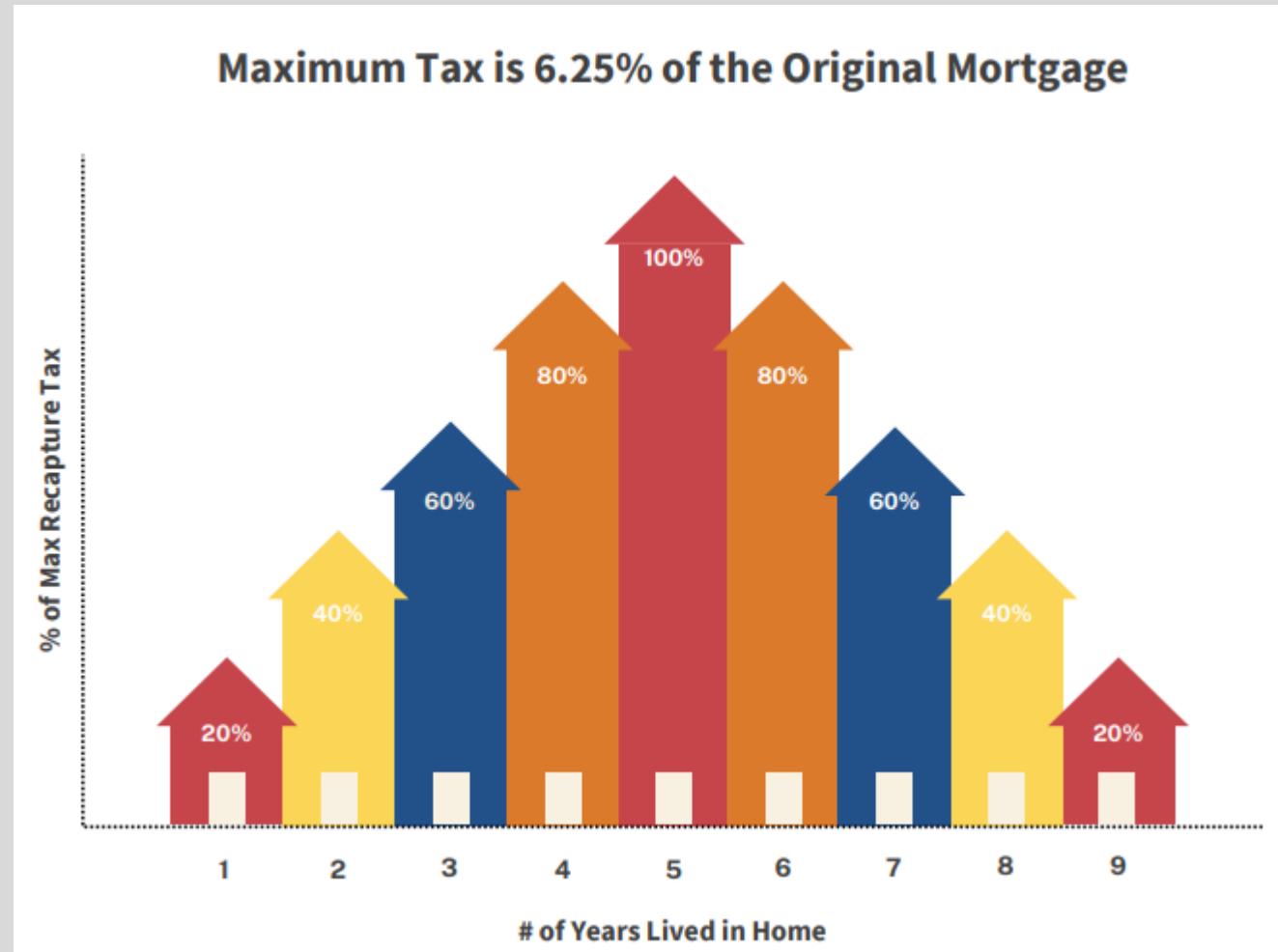
No, however, it does not eliminate the potential recapture tax either. If you refinance your loan and then sell your house within the first nine years of ownership, the potential for recapture still exists.

Maximum Recapture Amount?

The federally-subsidized amount which is 6.25%, multiplied by the highest principal amount of the mortgage, multiplied by the holding period percentage.



Holding Period Adjustment




What is Threshold Income?

- Your household income would need to rise **more than 5% annually** from the year you purchased your home.
- Here's an example:

Say Danica's household income was \$40,000 when she purchased his home, but the income limit to qualify for an MCC was \$56,000. Before recapture is considered, Danica's household income **must increase above the \$56,000 maximum** qualifying income **by 5% each year** she owns the home. If she sells in Year 5, recapture is not considered unless her household income is more than 25% higher (in this example), meaning above \$71,472.

Adjustment Example: Threshold Income

	<u>Occupants 2 or Less</u>	<u>Occupants 3 or More</u>	<u>% Increase</u>
• Closing through Year 1	\$ 67,000	\$ 77,050	
• Year 2	\$ 70,350	\$ 80,902	5%
• Year 3	\$ 73,867.50	\$ 84,947.63	5%
• Year 4	\$ 77,560.88	\$ 89,195.01	5%
• Year 5	\$ 81,438.92	\$ 93,654.76	5%
• Year 6	\$ 85,510.86	\$ 98,337.49	5%
• Year 7	\$ 89,786.41	\$ 103,254.37	5%
• Year 8	\$ 94,275.73	\$ 108,417.09	5%
• Year 9	\$98,989.51	\$ 113, 837.94	5%



Can the NCHFA or the lender tell me what my recapture tax will be?

No, because it would be impossible to predict what your future income, date of sale or profit may be. In addition, neither the Agency nor the lender is qualified to interpret tax regulations.

- The lender and the Agency only provide information alerting you to the potential for recapture when you purchase your home.
- Within 90 days after closing, you will also receive a personalized Recapture Statement Disclosure from the Agency.

Recapture Example

Original Loan Amount: \$150,000

Sale Date: Year 7 (60% - from Holding Period Adjustment Chart)

Net Profit: \$18,000

Threshold Income Exceeded: \$ 2,300

- **Step #1**

(Loan Amt) / \$150,000 x .0625 = \$ 9,375 x .60 (Year of Sale) = **\$5,625** max recapture

- **Step #2**

(Net Profit) \$18,000 x 50% = ~~\$9,000~~ **Higher than \$5,625, so not used**

- **Step #3**

(Over Income) \$2,300 / 5000 (per IRS) = .46 factor

- **Step #4**

Max Recapture from Step #1 **\$5625** x .46 Factor Step Three = **\$2,588** Recapture

	3% NC Home Ad	\$15,000 DPA Bond	MCC Program
Potential Recapture	NO	YES	YES
DPA REPAYMENT	<p>YES</p> <p>Fully forgiven by year 15, 20% per year in years 11-15</p> <p>Repayable years 1-15</p>	<p>YES</p> <p>Fully forgiven by year 15, 20% per year in years 11-15</p> <p>Repayable years 1-15</p>	NA
Mortgage Revenue Bond Funded (MRB)	NO	YES	YES

We Offer Recapture Reimbursement!

Subject to limited restrictions, NCHFA will reimburse eligible borrowers who are required to pay recapture under IRS guidelines and make a legitimate recapture tax payment (not to exceed \$10,000) to the IRS, provided that specific requirements are met.

*Recapture Tax Reimbursement **does not apply to** the Mortgage Credit Certificate (MCC) program*

For full details and Reimbursement Form, go to: <https://www.nchfa.com/home-ownership-partners/lenders/forms-and-resources>

Document Submission Matrix

Document Submission Matrix Checklist Reminder for NCHFA Programs

	NC Home Advantage	\$15,000 DPA ("Bond" Program)	Mortgage Credit Certificate
Required Documents	No DPA & 3% DPA	\$15,000 DPA Program ¹	MCC Program ¹
Lender Provided Documents Needed - <u>BEFORE</u> Closing:			
1003 (loan amounts must match AUS Findings)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
URAR – Appraisal – All Pages (color, PDF)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 08 Underwriter Certification		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
AUS Findings (must match 1003 data/loan amounts)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Loan Estimate (1 st Mortgage; loan amounts must match 1003)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Loan Estimate for DPA 2 nd (use LE generated from your LOS system)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Pre-Purchase Education Certificate *if a first-time home buyer)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
YTD Paystub (dated within 45 days)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
VOEs / VoRs (Rent-free borrowers)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Credit Report for All Occupying Borrowers/Mortgagors		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
W2s/1099s for Previous Tax Year Only		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Federal Tax Transcripts or Signed Returns - Last 3 Years		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
NCHFA Documents Needed - <u>BEFORE</u> Closing:			
Form 013 – Seller Affidavit		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 015 – Preliminary Notice to Applicants of Potential Recapture		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 016 – Mortgage Affidavit and Borrower Certification		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 026 – Notice to Borrower (if using DPA)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
NCHFA Documents Required - <u>AT</u> Closing:			
Closing Disclosure (final, signed at closing)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 405 – DPA Deed of Trust	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Form 406 – DPA Promissory Note	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Form 101 – Borrower Closing Affidavit		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Form 102 – Lender Closing Affidavit		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
General Warranty Deed (Recorded version)	<input checked="" type="checkbox"/> (3%)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
FHA Award Letter (signed; FHA loans only)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

Note: Additional forms or documentation may be needed upon full loan review.

Nov 2023

Thank You! We look forward to helping you!

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