Publication 4491-X 2009 Supplement

New Tax Legislation & Other Updates to VITA/TCE Training Products

For Use in Preparing Tax Year 2009 Returns

- Volunteer Income Tax Assistance (VITA)
- Tax Counseling for the Elderly (TCE)

IRS

Link & Learn Taxes

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Introduction

This publication provides instructional guidance covering new legislation and pen and ink changes to the Student Training Guide (Publication 4491), the Instructor Guide (Publication 4555), and the Volunteer Resource Guide (Publication 4012).

These changes impact all five VITA/TCE courses (Basic, Intermediate, Advanced, Military and International). Individuals taking these courses must take the applicable supplemental training before assisting taxpayers with tax law questions or preparing their returns. Quality reviewers must also take this training before performing quality reviews.

CAUTION

Updates to the content in the comprehensive problems and exercises (Publication 4491-W) and Link & Learn Taxes (including the Software Practice Lab) will be issued in Product Alerts through mid-February, as needed. Consult your Site Coordinator for additional guidance.

Pen & Ink Changes to the Printed Publications

Thanks to everyone who provided feedback regarding the printed training material. The following pen and ink changes are responses to concerns received through the first week of December. Please feel free to direct any additional content concerns to your local IRS-SPEC tax consultant or Site Coordinator.

Product	Page	Pen and Ink Changes
4012	C-1	Insert “other than to claim a refund of withholding” at the end of the second bullet under Personal Exemptions.
4012	C-3	On the Overview of the Rules for Claiming an Exemption for a Dependent Chart, #1, **replace** “The child must be younger than you.” **with** “The child must be younger than you **(or your spouse if married filing jointly)**.”
4012	C-3	On the Qualifying Child of More Than One Person Chart, **replace all the text in the bottom left box that begins with** “If a parent can claim the child as a qualifying child…” **with** “If a parent can claim the child as a qualifying child but no parent claims the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, **but only if that person’s AGI is higher than the highest AGI of any of the child’s parents who can claim the child.** If the child’s parents file a joint return with each other, this rule can be applied by dividing the parents’ combined AGI equally between the parents. Subject to the tiebreaker rules, you and the other person may be able to choose which of you claims the child as a qualifying child. See 2009 Publication 17 for more information and examples.”
4012	C-3	In the example at the bottom of the page, right column, second sentence, after “...for which you otherwise qualify” add: “However, if you choose not to claim your daughter, then your mother may claim her as a qualifying child if your mother’s AGI is higher than yours. If your mother cannot claim your daughter, she is not entitled to take any of the six tax benefits listed above unless she has a different qualifying child.”

Product	Page	Pen and Ink Changes
4012	C-4	In Step 1, left column, replace "Was the child younger than you?" with "Was the child younger than you **(or your spouse if married filing jointly)**?"
4012	C-5	In the second column of Step 2, replace "Step 1" with "Step 2."
4012	G-5	In the Decision Tree, Figure A, in the box "Are you married at the end of the tax year?" add "Answer "yes" if you are considered unmarried and qualify to file as Head of Household." after the question.
4012	G-8	At the bottom of the page, second column, last bullet, replace "The non-custodial parent signs…" with "The custodial parent signs…"
4012	2-7	Delete the first paragraph; it no longer applies. The procedure for interest was changed in 2008. It is the same procedure as dividends.
4012	4-1	Replace the third bullet with "If the standard deduction should be increased by certain real estate taxes or new motor vehicle taxes, go to Schedule L, then link to Schedule A. On Schedule A, enter the amount of the sales/excise or real estate tax. The amount is carried to Schedule L."
4012	13-6	On item 3, **delete** the fourth and fifth sentences entirely. **Replace** with the following text: "Even if the taxpayer does not have a Treasury account they can elect this option. The amount requested for savings bonds must be in multiples of $50. For that reason, taxpayers will need another financial account, such as a savings or checking account, when electing the savings bond option to deposit remaining amounts. Once taxpayers know the return has been processed, they can contact the Treasury Retail Securities site at 1-800-245-2804 to inquire about the status of the bonds. See the 2009 Form 8888 and www.irs.gov for more information."

Product	Page	Pen and Ink Changes
4012	13-7	In item 2, make the following corrections to the service provider's phone number and website address: * Official Payments Corporation 1-888-UPAY-TAX™ (1-888-872-9829) www.officialpayments.com * Link2Gov Corporation www.PAY1040.com Add the following additional credit card service provider: * RBS WorldPay, Inc. 1-888-9-PAY-TAX™ (1-888-972-9829) 1-877-517-4881 (Customer Service) www.payUSAtax.com
4491/ 4555	1-4	Replace fourth paragraph from bottom with "All individuals including IRS-SPEC employees participating in VITA/TCE programs, who answer tax law questions, instruct tax law, prepare or correct tax returns and conduct quality reviews of completed tax returns must be certified. NOTE: Quality Reviewers must be certified at the Intermediate level or above." See Lesson 32, Quality Review of the Tax Return for additional information.
4491/ 4555	6-3	In the middle of the page, under Age, after "Under age 19 and younger than the taxpayer…" **add "(or the taxpayer's spouse if married filing jointly)"**
4491/ 4555	6-6	At the end of the example, using the same facts, add: "However, if Lynne chooses not to claim Karen, then Margaret may claim Karen as a qualifying child if Margaret's AGI is higher than Lynne's."

What new tax law information do I need to prepare an accurate return?

New Tax Law	Lesson	Topic	Courses
Military housing assistance payments (HAP) made under the American Recovery and Reinvestment Act (ARRA) of 2009 are excluded from gross income	16	Military Income	
First-time homebuyer credit extended and expanded	29	Payments	
Use Tax Refund to Purchase Savings Bonds	31	Refund and Amount of Tax Owed	

What military housing payment income exclusion was provided as a result of late breaking legislation?

This topic precedes What is military separation with disability severance pay? on page 16-2.

The Worker, Homeownership and Business Assistance Act of 2009 expanded the exclusion of income to cover qualified Housing Assistance Payments (HAP) under the 2009 Recovery Act.

Are HAP payments under ARRA excluded from income?

More than 40 years ago, Congress created HAP to compensate qualified military and civilian employee homeowners when base closures negatively impact the real estate market. These payments are excluded from the recipient's gross income.

The 2009 Recovery Act expanded the Department of Defense HAP to assist military personnel required to permanently relocate during the home mortgage crisis and military and civilian personnel adversely impacted by base closings. The Act clarifies that payments for qualified military base realignments and closures made under the expansion of HAP in the 2009 Recovery Act are excluded from income.

The provision is effective for all HAP payments made after February 17, 2009, the effective date of the American Recovery and Reinvestment Assistance Act (ARRA) of 2009.

What changes were made to the First-Time Homebuyer Credit as a result of late breaking legislation?

This topic precedes What about amounts paid with an extension to file? on page 29-8.

The Worker, Homeownership and Business Assistance Act of 2009, signed into law November 6, 2009, extended the First-Time Homebuyer Credit and expanded who qualifies for the credit.

The new law:

- Extends deadlines for purchasing and closing on a home
- Authorizes the credit for long-time homeowners buying a replacement principal residence
- Raises the income limitations for homeowners claiming the credit

Which home purchases qualify for the credit?

The Worker, Homeownership, and Business Assistance Act of 2009 extended the deadline for qualifying home purchases from November 30, 2009, to April 30, 2010. Additionally, if a buyer enters into a binding contract by April 30, 2010, the buyer has until June 30, 2010, to settle on the purchase.

The maximum credit amount remains at $8,000 ($4,000 for married individuals filing separately) for a first-time homebuyer, that is, a buyer who has not owned a primary residence during the three years up to the date of purchase.

The new law also provides a “long-time resident” credit of up to $6,500 ($3,250 for married individuals filing separately) to taxpayers who do not qualify as “first-time homebuyers.” To qualify for the “long-time resident” credit, a buyer must have owned and used the same home as a principal or primary residence for at least five consecutive years of the eight-year period ending on the date of purchase of a new home as a primary residence.

For all qualifying home purchases in 2010, taxpayers have the option of claiming the credit on either their 2009 or 2010 tax returns.

The IRS will issue a revised version of Form 5405, First-Time Homebuyer Credit. Taxpayers who purchase a home after November 6, 2009, must use this new version of the form to claim the credit. Likewise, taxpayers claiming the credit on their 2009 returns, no matter when the house was purchased, must also use the new version of Form 5405. Taxpayers who claim the credit on their 2009 tax return will not be able to file electronically but instead will need to file a paper return.

A taxpayer who purchased a home on or before November 6, 2009, and chooses to claim the credit on an original or amended 2008 return may continue to use the 2008 version of Form 5405.

What are the new income limits?

The new law raises the income limits for people who purchase homes after November 6, 2009. The full credit will be available to taxpayers with modified adjusted gross incomes (MAGI) up to $125,000, or $225,000 for joint filers. Those with MAGI between $125,000 and $145,000, or $225,000 and $245,000 for joint filers, are eligible for a reduced credit. Those with higher incomes do not qualify.

For homes purchased prior to November 7, 2009, existing MAGI limits remain in place. The full credit is available to taxpayers with MAGI up to $75,000, or $150,000 for joint filers. Those with MAGI between $75,000 and $95,000, or $150,000 and $170,000 for joint filers, are eligible for a reduced credit. Those with higher incomes do not qualify.

Are there other new requirements?

Several new restrictions apply to homes purchased after November 6, 2009:

- No credit is available if the purchase price of the home exceeds $800,000.
- The purchaser must be at least 18 years old on the date of purchase. For a married couple, only one spouse must meet this age requirement.
- A dependent is not eligible for the credit.

In addition, there are some provisions in the Act to enhance the administration of the first-time homebuyer credit:

- The new law requires taxpayers to attach a properly executed copy of the settlement statement to the return for tax years ending after November 6, 2009. For most individual taxpayers, this would be for the tax years 2009 and 2010.
- The new law gives the IRS broader authority to deny first-time homebuyer credit claims, without having to first audit a taxpayer's return. Known as math error authority, it applies, retroactively, to credits claimed on original and amended 2008 returns, as well as to claims yet to be filed.

Are there special rules for members of the military?

Members of the military and certain other federal employees serving outside the U.S. have an extra year to buy a principal residence in the U.S. and qualify for the credit. Thus, an eligible taxpayer must buy, or enter into a binding contract to buy, a principal residence on or before April 30, 2011. If a binding contract is entered into by that date, the taxpayer has until June 30, 2011, to close on the purchase. Members of the uniformed services, members of the Foreign Service, and employees of the intelligence community are eligible for this special rule. It applies to any individual (and, if married, the individual's spouse) who serves on qualified official extended duty service outside of the U.S. for at least 90 days during the period beginning after December 31, 2008, and ending before May 1, 2010.

In many cases, the credit repayment (recapture) requirement is waived for members of the uniformed services, members of the Foreign Service, and employees of the intelligence community. This relief applies where a home is sold or is no longer the taxpayer's principal residence after December 31, 2008, in connection with government orders received by the individual (or the individual's spouse) for qualified official extended duty service. The credit is still allowable even if this happens during the year of purchase. Qualified official extended duty is any period of extended duty while serving at a place of duty at least 50 miles away from the taxpayer's principal residence (whether inside or outside the U.S.), or while residing under government orders in government quarters. Extended duty is defined as any period of duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

For more details on the credit, visit the First-Time Homebuyer Credit page on www.irs.gov.

Lesson 31: Refund and Amount of Tax Owed

What is the new information about U.S. savings bonds for the 2010 filing season?

This topic follows the text on page 31-2 after the paragraph on savings bonds.

IRS will provide taxpayers with an opportunity to purchase U.S. savings bonds with their tax refunds. The IRS is working with the Treasury Department and the Bureau of Public Debt on implementation details. Volunteers should review these new guidelines to promote this asset-building opportunity as part of the 2010 filing season.

For the 2010 filing season, bonds can only be issued in the name of the taxpayer (and spouse, if joint return). In the 2011 filing season, the IRS will be able to provide more choices including the purchase of bonds for co-owners, such as children or grandchildren.

What are U.S. savings bonds?

U.S. savings bonds are savings instruments for individuals issued by the Department of the Treasury. For purposes of this new program, only Series I savings bonds will be offered.

Series I bonds are sold at face value (a $50 bond costs $50), and grow in value for up to 30 years. The bonds can be purchased in denominations of $50, $100, $200, $500, $1,000. In any single calendar year, taxpayers can purchase up to $5,000 of savings bonds of any denominations.

Series I bonds pay interest based on a combination of a fixed rate (which remains the same throughout the life of the savings bond) and a semiannual inflation rate which is updated each May and November. Savings bonds accrue interest until redeemed or until they reach their final maturity in 30 years.

Savings bonds can be redeemed for principal and accrued earnings anytime after the first 12 months after they are purchased (unless the taxpayer lives in an area affected by natural disaster). Also, if a savings bond is redeemed within the first five years, the three most recent months' interest will be forfeited. After five years, no penalty will apply.

How can purchases be made at VITA/TCE sites?

For the 2010 filing season, taxpayers can choose to save part or all of their refund by requesting savings bonds on Form 8888, Direct Deposit of Refund into More than One Account. The taxpayer will need another account in which to deposit the remainder of their refund. Form 8888 has been updated to reflect the specific details on how to purchase savings bonds with a federal tax refund.

The 2009 Form 8888 Instructions provide directions for the specific information to include on the form, such as deposit account routing number, for the purchase of savings bonds.

example

Mary's 2009 tax return shows she is due a refund of $548. Mary chooses to buy a savings bond in the amount of $500. Since savings bonds can only be purchased in certain denominations, she will need to designate another account for the remainder of her refund. Mary elects to deposit the remaining $48 into her checking account. Mary's Form 8888 will include the specific information for the $500 savings bond purchase and the checking account deposit of the remaining $48.

How does the taxpayer receive the savings bonds?

Taxpayers will receive the amount they designated by mail in the form of U.S. Series I Savings Bonds. However, if a taxpayer makes an error in figuring his/her refund, the bond request is not a multiple of $50, or the refund is offset for any reason, this option will not apply and the entire amount of the refund will be sent to the taxpayer in the form of a check.

Whom does the taxpayer contact if the savings bonds are not received?

The first step is to check the status of the refund by going to the “Where’s My Refund” feature on www.irs.gov, or calling 1-800-829-1954. Taxpayers can generally get information about their refund 72 hours after the IRS acknowledges receipt of their e-filed return, or three to four weeks after mailing a paper return. If the IRS has processed the refund and placed the order for their savings bonds, the taxpayer will need to contact the Treasury Retail Securities office in Pittsburgh at 1-800-245-2804 to inquire about the status of the savings bonds.

For additional information refer to 2009 Form 8888 or go to www.irs.gov.