

Frequently Asked Questions

Will recapture eliminate a borrower's gain from the sale of the home?

No. The recapture tax can never exceed 50 percent of the gain.

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 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 a result of fire, flood or other natural disaster?

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

How does the IRS track the amount of recapture tax due?

MFA is required to report to the IRS the name, social security number and address of all recipients of MRB loans. The borrower is required to file IRS form 8828 with his/her federal income tax return for the tax year in which the home is sold or transferred.

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

No. A death transfer is not a sale or a transfer that qualifies for the recapture tax.



Recapture Tax

from MFA's Homeownership Department

Explaining the history and removing the mystery behind the Federal Recapture Tax



344 4th Street SW, Albuquerque, New Mexico 87102
tel. 505.843.6880 fax 505.243.3289 toll free 800.444.6880
www.housingnm.org



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Some homebuyers, builders, REALTORS® and mortgage lenders who want to use the New Mexico Mortgage Finance Authority's (MFA) low interest rate loans are concerned about the federal "recapture tax." This explanation should help alleviate those concerns and motivate more New Mexicans to take advantage of MFA's Mortgage\$aver and Mortgage Revenue Bond (MRB) programs.

Removing The Mystery

The federal law is only intended to recapture the interest savings from borrowers who no longer need the savings. Since the law has been in effect, it has been determined that the overwhelming majority of borrowers will never have to pay any recapture tax. For others, the amount will be minimal. In any case, the tax will never exceed one half of the gain on the sale of the home, or 6.25 percent of the original mortgage, whichever is less.

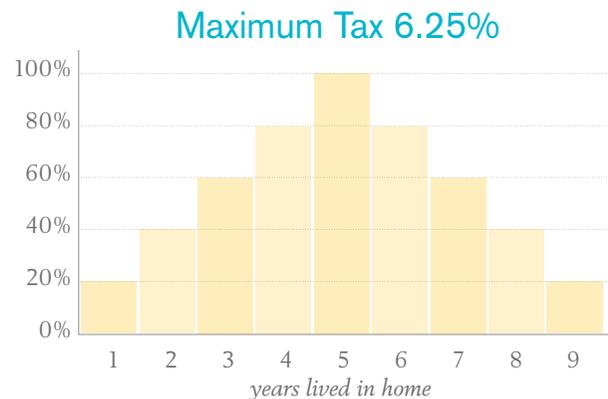
This may sound complicated, but in many cases, no tax is due. For example:

- If your household income does not rise significantly over the life of the loan (generally more than 5 percent per year), there is no recapture.
- If you sell your home after nine years, there is no recapture.
- If you sell your home before nine years but there is no gain (net profit), there is no recapture.

In other words, to owe any recapture tax at all, you must sell your home within nine years, earn significantly more than when you bought your home, and gain from the sale. All three of these criteria must be met.

The basis of recapture is this: Mortgagors will never pay more than 6.25 percent of the original loan amount and usually will pay less, if they pay at all. Recapture taxes are figured on a scale based on the number of years the home buyer has lived in the house, with the fifth year being the worst time to sell.

See chart below.



Even in the worst case, which is the fifth year of homeownership, the maximum recapture tax due is only 6.25 percent.

But that's not the end of the story. Tax guidelines are structured to help mortgagors even if they do have to pay:

- The 5 percent increase in income that makes a mortgagor a candidate for recapture is figured from the maximum income limit for the Mortgage\$aver programs at the time of purchase. For example, Alex earned \$40,000 per year when he purchased his home. At the time, the maximum income limit for the programs was \$50,000. The 5 percent increase would be figured from \$50,000, not \$40,000. Alex would actually have to receive in excess of a 5 percent increase in salary each year to be considered for recapture.
- Recapture tax may not exceed 50 percent of the gain the mortgagor realizes upon the sale of the home. Even if Alex sold his home five years after purchase, his income increased significantly, and he made \$2,000 off the sale, the maximum he could owe is \$1,000. In addition, the gain is calculated after items such as realtor, legal and closing fees are subtracted.
- If the mortgagor's income exceeds the maximum income limit by no more than \$5,000, only a percentage of the tax must be paid. When the program serves those it's intended for, recapture is seldom a threat. For most people, the financial benefits of homeownership far outweigh the risks of recapture.

Explaining Its History

A federal law commonly known as "recapture tax" applies to borrowers who buy their homes using MRB programs like those issued by MFA. Recapture tax requires some mortgagors to repay the government a portion of their gain upon the sale of the home if they financed their home with a Mortgage\$aver program loan. This provision is administered by the Internal Revenue Service (IRS). If any recapture tax is due, the mortgagor will pay it to the IRS. At Mortgage\$aver program closings, MFA provides a Notice of Potential Recapture form. An additional form showing the maximum recapture tax which could be due is mailed to the borrower a few weeks after closing.

The tax will never exceed one-half of the gain on the sale of the home, or 6.25 percent of the original mortgage, whichever is less.