

Little-known provisions of housing bill

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Like any 700-page bill that is passed in a rush, the Housing and Economic Recovery Act of 2008, signed by President Bush last week, is loaded with fine print that will take a while to emerge.

The law, originally designed to stimulate the housing industry and forestall foreclosures, morphed into a giant federal bailout of Fannie Mae and Freddie Mac. To chink away at the enormous cost, it includes a few revenue raisers. It also includes the usual assortment of pork-barrel perks, such as a tax break for a Canadian railcar manufacturer building a plant in Alabama.

Here are some of the bill's less-publicized provisions:

Merchant reporting: Starting in 2011, the bank or other company that processes a merchant's debit and credit card transactions must send the Internal Revenue Service a form disclosing the dollar amount of payments the merchant received on those cards each year. The merchant would get a copy of the form, which would be similar to the 1099 forms companies use to report other payments to the IRS.

The same requirement applies to companies that process online payments, such as PayPal and Google Checkout. The rule does not apply to merchants who make 200 or fewer online sales totaling \$20,000 or less in one year.

The exception for online sales was originally about \$600, but eBay's PayPal lobbied to raise it. Otherwise, "if you sold an expensive mountain bike on eBay," it might have been reported to the IRS, says PayPal spokesman Michael Oldenberg. He says PayPal is satisfied with the final rule.

The law is designed to crack down on merchants who are under-reporting their revenues. It is expected to raise about \$10 billion over 10 years.

Some merchants say the rule will overstate their card revenues because the gross amount reported to the IRS won't reflect refunds they pay out. Carol Guthrie, a spokeswoman for the Senate Finance Committee, says merchants can still deduct those amounts when they file their tax returns.

Payment processors will not report individual transactions to the IRS, so there will be no impact on consumers, Guthrie says.

As long as that holds true, "I'm not seeing any privacy issues there," says Paul Stephens, director of policy and advocacy for the Privacy Rights Clearinghouse. "If it were to include the name of every individual for whom it processed a payment, that would be a whole 'nother story."

FreedomWorks, a group headed by former House Majority Leader Dick Armey, opposed the measure. "This has nothing to do with the crisis in housing," says Adam Brandon, a spokesman for the group.

"The expected revenue does not seem to justify creating this reporting system. And I worry if this is the start down a slippery slope in collecting detailed economic data on citizens."

Home-buyer credit: The bill includes a well-publicized tax credit for first-time home buyers. If you qualify, the credit will reduce your tax bill by \$7,500 or 10 percent of the purchase price, whichever is less. For married people filing separately, the credit is half that amount. Now for the fine print:

The credit applies only to homes purchased after April 8, 2008, and before July 1, 2009.

The home must be your principal residence. You cannot claim it if you had an ownership interest in a primary residence in the previous three years, says Mark Luscombe, principal tax analyst with CCH.

The credit is really a loan because it must be repaid in equal installments over 15 years. If you sell the house before that, the balance is due in a lump sum. If you die, the balance is forgiven.

The credit is refundable: Even if you don't earn enough money to pay income tax, the government will send you a check for the credit, as long as you file a tax return.

But you can not get the credit if your adjusted gross income is too high. The phase-out range - where the credit is reduced and then eliminated - is \$150,000 to \$170,000 for married couples filing jointly and \$75,000 to \$95,000 for everyone else.

You can't claim it if you are a nonresident alien or your purchase was financed through a tax-exempt mortgage revenue bond.

With all these restrictions, you have to wonder how many home purchases it will stimulate.

New standard deduction: The bill raises the standard deduction for people who pay property taxes but don't itemize deductions. Starting this year, married couples filing jointly can add up to \$1,000 a year in property taxes to their standard deduction. Everyone else can add up to \$500.

This will mainly benefit homeowners who pay little or no mortgage interest, probably because their home is paid off or nearly so. Don't ask me what this is doing in a housing-stimulus bill.

Vacation homes: The bill attempts to crack down on people who avoid taxes by moving into a vacation or rental property to establish it as their primary residence before selling it.

Under current law, if you sell your primary residence, you pay no tax on up to \$250,000 in capital gains (\$500,000 if married).

Previously, a home qualified as your primary residence as long as you owned and lived in it for at least two of the five years before you sold it.

Under the new law, if you convert a vacation or rental property into your primary residence, you could owe tax on part of the gain related to your period of nonqualified use, meaning the years you didn't live in it.

Suppose you and your spouse buy a vacation home next year for \$500,000. Five years later, you make it your primary residence. Three years after that, you sell it for \$900,000.

Under the old rules, you would owe no tax because your gain was less than \$500,000 and you lived in the

home the last two years.

Under the new rules, five-eighths of the gain would be taxed.

The math: Divide five (your years of nonqualified use) by eight (total years of ownership). Multiply this number - 0.625 - by your \$400,000 capital gain.

The result, \$250,000, is subject to capital gains tax. The remaining \$150,000, which relates to your years of residence, is not taxed because it's less than \$500,000.

There are many exceptions. Periods before Jan. 1, 2009, will not count as nonqualified use, Luscombe says. You also won't be penalized for temporary absences caused by a job change, health or "unforeseen circumstances."

And if you live in the house first, then convert it to a vacation or rental home, the new rule won't apply. As always, check with a tax pro if you are affected.

Railcar subsidy: A tiny provision buried in the bill adds Colbert County in northern Alabama to the Gulf Opportunity Zone, a region that gets federal benefits to help with hurricane recovery.

The provision will let National Steel Car of Canada get hundreds of millions of dollars in tax-exempt financing for a plant it is already building in the county, which is almost 300 miles from the coast and far from the ravaged areas.

Legislators in Oregon, home to U.S. railcar manufacturers, objected to the provision, saying it provides an unfair subsidy to a foreign competitor. But Alabama legislators, who had promised the Canadian company it could get state or local financing if the federal subsidy fell through, got it included in the bill.

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