

**Q. In the case of a divorce, who is responsible for recapture?**

A. Whoever receives the home in the divorce settlement pays the recapture, if any.

**Q. Will recapture eliminate the borrower's gain from the sale of the home?**

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

**Common Scenario**

John and Kimberly purchased a home in Palmetto for \$74,000 using Florida Housing's First Time Homebuyer Program. At the time they purchased the home, their annual income was \$30,000.

Seven years later, they have one child and they decide to sell their home to move into a larger home. They sell their home for \$100,000, a net gain of 27%. In addition, their income has increased to \$50,000 annually. They aren't subject to any recapture taxes, because they didn't sustain a substantial increase in income.

**Uncommon Scenario**

Mark and Teresa purchased a home in Miami for \$55,000 using Florida Housing's First Time Homebuyer Program. At the time they purchased the home, their annual income was \$25,000.

Six years later, they decide to sell their home (one of the worst years according to the recapture formula). They sell the home for \$85,000 and their income has increased to \$50,000 annually. They realized a gain of \$25,000 on the sale of their home and their income has increased by 100%. As a result, these borrowers would have to pay approximately \$2,500 to repay the amount of interest they saved due to the increase in income and gain realized from the sale of the home.

**Disclosure Statement:**

Florida Housing Finance Corporation is not responsible for calculating recapture tax. The information provided is strictly for informational purposes and should not replace the advice of a tax consultant or the IRS. Please contact either of these sources with any questions.

**About Florida Housing**

*Florida Housing administers a number of rental housing and homeownership programs that help low-income Floridians obtain safe, decent affordable housing that might otherwise be unavailable to them. Our rental housing programs include the Multifamily Mortgage Revenue Bond, Low Income Housing Tax Credit, State Apartment Incentive Loan, Elderly Housing Community Loan, Florida Affordable Housing Guarantee and Home Investment Partnerships programs.*

*Homeownership programs include the First Time Homebuyer Program, the Homeownership Loan Program and down payment assistance programs such as the Homeownership Assistance Program, HOME Down Payment Assistance and Homeownership Assistance for Moderate Income. In addition, Florida Housing offers the Mortgage Credit Certificate program. We also administer combined homeownership and rental housing programs, including the Predevelopment Loan Program and the State Housing Initiatives Partnership program.*



we make housing affordable

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The Internal Revenue Service (IRS) Recapture provision became a federal law on January 1, 1991. Commonly known as “recapture,” it applies to borrowers who purchase their homes using financing derived from tax-exempt mortgage revenue bonds (MRBs) such as those issued by the Florida Housing Finance Corporation (Florida Housing). Initiated by the IRS, recapture allows the federal government to recover lost tax revenues from the sale or transfer of a MRB funded home.

Recapture tax requires some mortgagors to repay the government a portion of their gain upon sale of the home if they financed their home with a mortgage revenue bond (MRB) loan. If any recapture tax is due, the mortgagor pays it to the IRS after selling the home. After the MRB loan closing, a “Welcome Letter/Recapture Notice” is mailed to the homeowner showing the maximum recapture tax which could be due, if any. This information will be needed if you have to calculate the recapture tax. You should keep all mortgage information about recapture as part of your tax records.

Recapture has generated concerns among lenders, real estate professionals and prospective borrowers. For most people, the financial benefits of homeownership - deductions for mortgage interest and taxes as well as the MRB program’s lower interest rates and down payment assistance - far outweigh the risks of recapture.

If you have questions about the details that aren’t outlined in this brochure, you should consult with a tax professional.

## Commonly Asked Questions and Answers

### Q. What is the Federal Recapture Tax?

- A. It is a federal tax that some homeowners with Florida Housing MRB loans may be required to pay from the net profit they receive from the sale of their homes. If the homeowner has

to pay recapture tax, it would be due when federal income tax for the year in which the home is sold is filed.

There are certain expenses of a home sale that the IRS allows to be deducted from the gross profit such as real estate commissions, state tax and home improvement expenses. The reduced figure is the net profit.

### Q. How will a homeowner know if they are subject to pay any recapture tax?

- A. All three of the following events would have to occur in order for the homeowner to be subject to recapture. First, there must be a profit or net gain made on the sale of the home. If there is no net gain, then there is no recapture tax. Second, recapture only affects homes sold within nine years of the date of purchase; homes sold after year nine are not affected. Third, a borrower must have a substantial increase in income (since the time of the loan closing) that puts their current income above the “Adjusted Qualifying Income Limit.”

### Q. What do you mean by a substantial increase in income?

- A. Federal maximum income limits apply to the purchase of your home. Certain regulations automatically increase these maximums at the rate of five percent per year for recapture tax purposes. If at the time you purchase your home your income is near the federal maximum, annual income increases would have to exceed five percent per year before you would be subject to any recapture tax. If your income was considerably below the federal maximum at the time of purchase, there is more leeway for an increase in your income before you would be subject to the recapture tax.

### Q. How do you calculate the “Adjusted Qualifying Income?”

- A. First, determine the borrower’s household size at the time the home is sold or transferred. Next, select the maximum income limit that would have applied to that household size at the time the home was purchased. This number, compounded by five percent per year from the date of purchase until the date the home is sold or transferred is the “Adjusted Qualifying Income.” If the borrower’s year-end income does not exceed this amount, then there is no recapture tax.

### Q. How much recapture will a homeowner have to pay?

- A. The maximum recapture tax a homeowner may have to pay is 6.25 percent of the loan’s original principal balance. For example, on a mortgage loan of \$85,000, the maximum recapture would not exceed \$5,312.50 ( $\$85,000 \times 6.25\% = \$5,312.50$ ). This percentage varies depending upon the number of years since the purchase of the home. (Please see the following scale).

