HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

INFORMATION REGARDING POTENTIAL RECAPTURE TAX
THIRTY-SECOND EDITION
MAY 01, 2021 – APRIL 30, 2022

SETTLEMENT DOCUMENT

INSTRUCTIONS TO SETTLEMENT:
- Borrower SIGNS on Page 3 at SETTLEMENT. COPY TO BORROWER.
- Return ORIGINAL SIGNED Document to Lender.

INSTRUCTIONS TO LENDER:
-SUBMIT ORIGINAL SIGNED Document with the MBS Post-Closing Compliance package to HOC
.

**Lender completes these items*

*1. Name of Mortgagor(s)______________________________

*2. Date of Settlement of Mortgage______________________________

*3. Address of Residence______________________________

____

*4. Principal Amount of Mortgage on settlement date:

$______________________________ (Remaining principal balance if assumption)

*5. **Maximum Recapture Tax**. The maximum recapture tax that you may be required to pay as an addition to your federal income tax is: $______________________ [6.25% times the amount in #4 above]. This amount is 6.25% of the highest principal amount of your mortgage loan (#4 above) and is your federally subsidized amount with respect to the loan.

TO THE BORROWER:

Your mortgage loan on the property identified above has been made with the proceeds of a tax-exempt qualified mortgage bond. As a result, pursuant to Section 143(m) of the Internal Revenue Code of 1986 ("The Code"), you may be subject to a special recapture tax for federal income tax purposes in the year you dispose of the property. The following information is provided to assist you in determining the amount, if any, of the tax. **You should retain this document with your permanent records for future use. Do not rely on HOC to provide another copy.**

A. Introduction

1. General. When you sell your home, you **may** have to pay a recapture tax as calculated below. The recapture tax may also apply if you dispose of your home in some other way. Any references in this notice to the "sale" of your home also include other ways of disposing of your home. For instance, you may owe the recapture tax if you give your home to a relative.

****

THIRTY-SECOND EDITION
ALL PREVIOUS EDITIONS ARE ABSOLETE
This form expires April 30, 2022

2. Exceptions. In the following situations, no recapture tax is due and you do not need to do the calculations:

   (a) You dispose of your home later than nine years after you close your mortgage loan;

   (b) Your home is disposed of as a result of your death;

   (c) You transfer your home either to your spouse or to your former spouse incident to divorce and you have no gain or loss included in your income under section 1041 of the Internal Revenue Code; or

   (d) You dispose of your home at a loss.

B. **Actual Recapture Tax.** The actual recapture tax, if any, can only be determined when you sell your home, and is the lower of (1) 50% of your gain on the sale of your home, regardless of whether you have to include that gain in your income for federal income tax purposes, or (2) your recapture amount determined by multiplying the following three numbers:

   (i) The amount shown in #5 on page 1 of this document.

   (ii) The holding period percentage, as listed in Table I, and

   (iii) The income percentage as described in paragraph C below.

C. **Income Percentage.** You calculate the income percentage as follows:

   (i) Subtract the applicable adjusted qualifying income in the taxable year in which you sell your home, as shown in Table II, from your modified adjusted gross income in the taxable year in which you sell your home.

Your modified adjusted gross income means your adjusted gross income shown on your federal income tax return for the taxable year in which you sell your home, with the following two adjustments: (a) your adjusted gross income must be increased by the amount of any interest that you receive or accrue in the taxable year from tax-exempt bonds that is excluded from your gross income (under section 103 of the Internal Revenue Code); and (b) your adjusted gross income must be decreased by the amount of any gain included in your gross income by reason of the sale of your home.

   (ii) If the amount calculated in (i) above is zero or less (see example I on page 6), you owe no recapture tax and do not need to make any more calculations. If it is $5,000 or more (see example II on page 6), your income percentage is 100%. If it is greater than zero but less than $5,000 (see example III on page 6), it must be divided by $5,000. This fraction, expressed as a percentage, represents your income percentage. For example, if the fraction is $1,000/$5,000, your income percentage is 20%.

D. **Limitations and Special Rules on Recapture Tax.**

1. If you give away your home (other than to your spouse or ex-spouse incident to divorce), you must determine your actual recapture tax as if you had sold your home for its fair market value.

2. If your home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if, within two years, you purchase additional property for use as your principal residence on the site of the home financed with your original subsidized mortgage loan.

3. In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage loan, the actual recapture tax is determined separately for them based on their interests in the home.

4. If you repay your loan in full during the nineth year recapture period, your holding period percentage may be reduced under the special rule in section 143(m)(4)(C)(ii) of the Internal Revenue Code.

5. Other special rules may apply in particular circumstances. You may wish to consult with a tax advisor or the local office of the Internal Revenue Service when you sell or otherwise dispose of your home to determine the amount if any of your actual recapture tax. See section 143(m) of the Internal Revenue Code generally.

To acknowledge your receipt of this 6-page document, please provide your signature and the date below.

__________________________ __________________________
Borrower's Signature Date

__________________________ __________________________
Co-Borrower's Signature Date

__________________________ __________________________
Co-Borrower’s Signature Date

TABLE I

Holding Period Percentage

When you sell your Home (beginning from the date of settlement)	Percentage
Before the first anniversary of closing	20%
On or after the first anniversary but before the second anniversary of closing	40%
On or after the second anniversary but before the third anniversary of closing	60%
On or after the third anniversary but before the fourth anniversary of closing	80%
On or after the fourth anniversary but before the fifth anniversary of closing	100%
On or after the fifth anniversary but before the sixth anniversary of closing	80%
On or after the sixth anniversary but before the seventh anniversary of closing	60%
On or after the seventh anniversary but before the eighth anniversary of closing	40%
On or after the eighth anniversary but before the ninth anniversary of closing	20%

TABLE II

ADJUSTED QUALIFYING INCOME

THIS FORM DOES NOT CHANGE AFTER SETTLEMENT

A NEW EDITION IS PREPARED ANNUALLY AS THE AREA MEDIAN INCOME IS RE-CALCULATED.

Median family income in the Washington Metropolitan Statistical Area as of the date of settlement is **$129,000.00** as determined by the Department of Housing and Urban Development.

When you sell your home (beginning from the date of settlement)	# of people living in Mortgagor's residence at the time of resale by Mortgagor	
	2 or fewer	**3 or more**
Less than 1 year after settlement	$129,000	$148,350
1 year or more but less than 2 years	$135,450	$155,768
2 years or more but less than 3 years	$142,223	$163,556
3 years or more but less than 4 years	$149,334	$171,734
4 years or more but less than 5 years	$156,801	$180,321
5 years or more but less than 6 years	$164,641	$189,337
6 years or more but less than 7 years	$172,873	$198,804
7 years or more but less than 8 years	$181,517	$208,745
8 years or more but less than 9 years	$190,593	$219,182

To calculate your income percentage, subtract the adjusted qualifying income shown in this table for the taxable year in which you sell your home from your modified adjusted gross income for the same taxable year. Your modified adjusted gross income means your adjusted gross income shown on your federal income tax return for the taxable year in which you sell your home as defined in Page 2, Paragraph C of this document.

EXAMPLES

H and W (no children) purchased a house and obtained their mortgage from HOC in the amount of $200,000. When H and W bought, the area median gross income level was $129,000. Three years and nine months later, H and W sell their house. At that time, they have two children.

<u>Example 1</u>

H and W's modified adjusted gross income they declare on their tax return for that tax year is $75,000. Their recapture tax as determined by the procedure in paragraphs B and C is:

[Maximum tax (6.25% x $200,000)] X 80% X ($75,000 - $171,734) = (-$96,734)
÷ 5000 = (-$19.35) or 0 ***Note: if result is less than zero use 0***

($12,500 X 80%) X (-$96,734) ÷ 5000 = 0

$10,000 X 0 = $0 no tax is due

Because the difference between the modified adjusted gross income ($75,000 in this example) and the adjusted qualifying income ($171,734) taken from Table II) is less than zero, [see C (ii) page 2], no recapture tax is due.

<u>Example 2</u>

H and W's modified adjusted gross income is $179,000 when they sell

[Maximum tax (6.25%) x $200,000)] X 80% X ($179,000 - $171,734) = $7266.00
N***ote: if it is $5000 or more use 100%*** [see C (ii) page 2]

($12,500 X 80%) X 100% = $10,000

$10,000 X 100% = $10,000 additional tax due the federal government

<u>Example 3</u>

H & W's modified adjusted gross income is $175,000 when they sell

(6.25% x $200,000) X 80% X ($175,000- $171,734) ***note: if it is greater than 0 but less than $5000, it must be divided by $5,000. This fraction, expressed as a percentage, represents your income percentage*** [see C (ii) page 2]

($12,500 X 80%) X ($3266.00 ÷ 5000) = .6532
$10,000 x 65.32% = $6,532.00 additional tax due the federal government

To summarize: If your income (as shown on your tax return for the year in which you sell) is not above the level shown in Table II for the appropriate year of your sale, you will not owe a tax.