HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
SINGLE FAMILY MORTGAGE REVENUE BONDS
NOTICE OF POTENTIAL RECAPTURE TAX
CLOSING NOTICE

This Notice must be provided pursuant to Section 143(m) of the Internal Revenue Code. Homebuyers who receive financing through Mortgage Revenue Bonds (MRBs) benefit from a federal subsidy in the form of a reduced mortgage interest rate made possible by tax-exempt MRBs. Federal law requires that homebuyers be provided with a written statement informing them of the potential "Recapture Tax" under federal law. After a Mortgage Loan (and DPA Loan, if applicable) is closed, homebuyers will receive this detailed Notice from the Program Administrator or Lender. Homebuyers should retain this document with their permanent records as it contains information necessary to complete IRS Form 8828 if a homebuyer sells or otherwise disposes of their home within nine (9) years after closing. It contains extremely important information that will be needed to determine if a homebuyer must pay Recapture Tax. This Notice is informational to the homebuyer only. Homebuyers should consult an IRS tax advisor for official guidance because the determination of whether Recapture Tax is owed can only be made at the time the home is sold.

The letter contains information needed to complete IRS Form 8828 such as:

- The loan amount (the highest principal amount of the loan),
- Closing Date,
- Name of the Issuer of the Bonds,
- Name of the lender that originally made the loan, and
- Chart detailing data necessary to complete the computations on IRS Form 8828.

Remember a homebuyer may **not** have to pay Recapture Tax unless ALL THREE of the following are true --

- The home is sold in the first full nine years (108 months) of ownership (from the closing date), **AND**
- There is a net profit on the sale of the home, **AND**
- The homebuyer's household modified adjusted gross income exceeds the income limit in the year the home is sold.

What is "net profit" on the sale of the home?
Homebuyers should consult with a tax advisor for official guidance. Generally, the amount received for the sale of the home minus the expenses of selling the home (i.e., commission paid to a real estate agent, advertising, legal fees, etc.) is the "Amount Realized" from the sale of the home. From the "Amount Realized" the "Adjusted Basis" of the ownership interest in the home is subtracted. The "Adjusted Basis" will be increased by any sales commission paid when purchasing the home and decreased by depreciation. A tax advisor will be helpful in determining the exact amount of the Adjusted Basis. If the total of the "Amount Realized" minus the "Adjusted Basis" is "0" or lower, a gain was not realized (a profit was not made) when the home was sold and Recapture Tax would not be owed. IRS Form 8828 would still need to be completed and filed with the IRS with the federal income tax return for the year in which the home was sold.

What about my income?
If a profit was made on the sale of the home, Recapture Tax may be due. To determine if Recapture Tax is due, income must be considered. Review the chart included in this Notice that shows the maximum income allowable for each 12-month period following closing. The limits are the program limits for the first 12 months and then 5% more than the preceding year for each year thereafter. If the homebuyer's household modified adjusted gross income on their federal income tax return does not exceed the income limit for the 12-month period in which the home is sold, Recapture Tax is not owed. If the homebuyer's household modified adjusted gross income exceeds the income limit, Recapture Tax may be owed.

How much Recapture Tax may be owed?
The amount of Recapture Tax owed will be the LESSER of one-half (½ or 50%) of the gain realized from the sale of the home OR the amount resulting from a calculation that uses -

- The federally subsidized amount with respect to any indebtedness, which is .0625 x the highest principal amount of the loan (Mortgage Loan + DPA Loan, if applicable);
- The holding period percentage; and
- The income percentage (the amount by which the household income exceeds the limit in the year of sale). If the household income exceeds the limit amount by $5,000 or more, then the income percentage is 100%. If it is less than $5,000 then divide the amount by which the household income exceeds the limit by $5,000 and round to the nearest whole percentage.

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TO BE SIGNED BY BORROWERS AND NON-PURCHASING SPOUSE

IMPORTANT CLOSING DOCUMENTS - DO NOT DISCARD

NECESSARY IF YOU SHOULD DECIDE TO SELL YOUR PROPERTY - NOTICE TO BORROWER(S) OF MAXIMUM RECAPTURE TAX AND COMPUTATION OF RECAPTURE TAX ON DISPOSITION OF THIS PROPERTY

Dear Homebuyer:

As previously disclosed, the Mortgage Loan you are receiving is made possible through Mortgage Revenue Bonds (MRBs). You are benefitting from a federal subsidy in the form of a reduced mortgage interest rate that may be subject to "Recapture Tax" if you sell or otherwise dispose of your home within nine years after purchase. Recapture Tax takes the form of an increase to your federal income tax owed for the year of disposition of the home.

Recapture Tax only applies if certain criteria are met. To owe Recapture Tax, a homebuyer must sell their home within the first nine years, make a net profit on the sale of the home **AND** have a significant increase in income. A significant increase in income occurs when income exceeds program income limits in the first year and increases by an additional 5% or more over the previous year, every year thereafter. Consult a tax advisor for more information.

In accordance with Section 143(m)(7) of the Internal Revenue Code of 1986, as amended, (the "Code") this Notice serves to inform you that the "federally subsidized amount" with respect to your mortgage loan is 6.25% of the projected highest principal amount of your loan (Mortgage Loan + DPA Loan, if applicable). Further, the adjusted qualifying income for each category of familial size for each year of the 9-year period beginning on the date of closing on your mortgage loan is set forth below.

Holding Period Percentage Table

If you dispose of your house within months*:	Holding Period Percentage	Adjusted qualifying Income Disposition, for	
		1-2 person Household	3+ person Household
1 - 12	20%		
13 - 24	40%		
25 - 36	60%		
37 - 48	80%		
49 - 60	100%		
61 - 72	80%		
73 - 84	60%		
85 - 96	40%		
97 - 108	20%		
109 or more	No Recapture Tax		

*from closing date of your loan

By signing below, I/we acknowledge that I/we have read and understand this Notice of Potential Recapture Tax, and that HHFDC has advised me/us to consult a tax professional regarding its application.

Borrower Signature _____ **Date** _____

Co-Borrower Signature _____ Date _____

Non-Purchasing Spouse Signature _____ Date _____

1. GENERAL - When you sell your house, you may have to pay the Recapture Tax as calculated on IRS Form 8828. Recapture Tax may also apply if you dispose of the property in some other way, such as giving the property to a relative. Whenever “sale” is used in this Notice, it also applies to other ways of disposing your house.
2. EXCEPTIONS - In the following scenarios, Recapture tax would not be due:
    a. You dispose of your house more than nine (9) years after you close your mortgage loan;
    b. Your house is disposed of as a result of your death;

SAMPLE

    c. You transfer your house, either to your spouse or former spouse due to divorce, and you have no gain or loss reflected in your income (under Section 1041 of the Internal Revenue Code);
    d. You dispose of your house at a loss.
3. MAXIMUM RECAPTURE TAX - The maximum Recapture Tax that you may be required to pay as an addition to your Federal Income Tax is equal to the "federally subsidized amount" set forth above.
4. ACTUAL RECAPTURE TAX - The actual Recapture Tax, if any, can only be determined when you sell your house, and will be the LESSER of:
    a. One half (½) or 50% of the gain on the sale, regardless of whether it is included in your income for Federal Income Tax purposes, or
    b. Your Recapture Tax amount, which is calculated by multiplying the following three (3) amounts:
        - Maximum Recapture Tax Amount (see "How much Recapture Tax may be owed"),
        - Holding Period Percentage (see "Holding Period Percentage Table"), and
        - Income Percentage (Described in Item 5 below)
5. INCOME PERCENTAGE - Calculate as instructed by IRS Form 8828.
6. LIMITATIONS AND SPECIAL RULES ON RECAPTURE TAX - Additional provisions and rules apply in specific circumstances such as the destruction of the property, disposition by gift, sale upon early prepayment and others.

The determination of whether you are subject to any Recapture Tax can only be made at the time you sell your property. You are encouraged to consult a tax advisor and/or Internal Revenue Service office for more details related to your personal circumstances. General Information on Recapture Tax can be found in Section 143(m) of the Code, or by logging on to www.irs.gov. Review IRS Form 8828 and instructions to further understand how Recapture Tax can impact you.

FOR YOUR REFERENCE:

Your Loan Servicer:
Originating Lender:
Loan #:
Loan Amount:
Term in Months:
Closing Date:
Issuer:
Program:
Property Address:

County:

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