

# Notice to Applicants

## FEDERAL RECAPTURE TAX REQUIREMENTS

### Application Disclosure

***Important information to be provided to Applicant at time of application***

As a result of a law passed by Congress in 1988, you may, under certain circumstances, be subject to a recapture tax designed to recover some amount of the subsidy reflected in your below market interest rate. This notice contains a brief description of this recapture tax and how it may affect you. THDA recommends, however, that you consult a tax advisor if you have questions about the recapture tax and that you consult a tax advisor at the time you sell or otherwise dispose of your home financed with a THDA loan.

There is no recapture tax if you own your home for more than nine years from the date you close your THDA loan. If you do sell or otherwise dispose of your home within nine years from the date you close your THDA loan, you are subject to the recapture tax and must determine whether you need to pay recapture tax to the federal government.

Several factors determine whether you must pay any recapture tax. These factors include your original loan amount, the length of time you own your home financed with the THDA loan, your income and family size at the time of sale, and the gain that you realize on the sale of your home. Since your income and family size may change during the time you own your home and since gain cannot be determined until an actual sale occurs, there is no way to predict whether you will have to pay recapture tax. Regardless of these factors, any recapture tax you may have to pay is limited to the lesser of (i) your original THDA loan amount times 6.25 or (ii) half of the actual gain from the sale or other disposition of your home financed with the THDA loan.

If you sell your home to a buyer eligible to assume the THDA loan, you must still determine whether you owe recapture tax. The buyer is also subject to the recapture tax for nine years beginning on the date your sale to the buyer is closed.

The recapture tax applies to any disposition of your home financed with the THDA loan, whether by sale, exchange, involuntary conversion, or any other transfer of any interest. If you refinance your THDA loan (without selling your home), no recapture tax is due at the time of refinancing, however, you may still owe recapture tax if you sell your house after the refinancing and the sale occurs within nine years from the date you closed your THDA loan.

If your home is damaged or destroyed by fire, storm, or other casualty, you may not owe recapture tax, if within two years, you rebuild your principle residence on the same site. Generally, you may not owe recapture tax if you transfer your home to a spouse, or a former spouse as a result of a divorce, or if your home is transferred as a result of your death.

The undersigned acknowledges that I/we have read and understand the above disclosure.

Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

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### **Recapture Tax Reimbursement**

As outlined above, Federal law provides for a possible Recapture Tax when homeowners sell their home within the first nine years, income exceeds the IRS established limits and a net profit was made on the sale of the home after receiving a mortgage through THDA. In order to remove the confusion and complexity of paying a recapture tax when the home is sold, THDA will reimburse any THDA homebuyer who purchases their home on or after May 1, 2021, the amount of recapture tax the homebuyer pays to the IRS in connection with the sale of the home.

THDA will not calculate the recapture amount. Upon sale or disposition of the residence, the borrower(s) must consult a tax advisor or the IRS. IRS Form 8828 must be filed. THDA must be provided a signed 4506 covering the tax year the residence was sold, along with an executed Closing Disclosure from the sale or disposition of the property. THDA will process the request for reimbursement once copies of the borrower(s) tax returns are received from the IRS. THDA will only reimburse the Recapture Amount actually paid, but will not reimburse fees, interest, expenses or penalties incurred.