

THDA Mortgage Loan Recapture Tax

Congress determined the benefit of the reduced interest rate should be repaid if people sell their home within nine years of the date they bought their home with a THDA mortgage loan. This repayment, if any, is in the form of a tax, called the recapture tax, which applies to all people who obtained a THDA mortgage loan after December 31, 1990.

- Recapture tax is a Federal income tax requirement, NOT a THDA requirement.
- The Internal Revenue Service (IRS) enforces the recapture tax requirement.
- Use IRS Form 8828 "Recapture of Federal Mortgage Subsidy" for calculating recapture tax. This form may be obtained at www.irs.gov or by calling the IRS at 1-800-829-3676.
- Liability for Federal recapture tax is a condition of obtaining a THDA mortgage loan.
- Federal recapture tax applies to all THDA first mortgage loans made since January 1, 1991.
- Whether a THDA borrower has to pay any recapture tax depends on facts and circumstances at the time the THDA borrower sells the house purchased with the THDA mortgage loan.
- The maximum recapture tax a THDA borrower may have to pay depends on:
 1. Length of time since the original THDA loan closing;
 2. The THDA borrower's current family size and income;
 3. Whether gain is realized on the sale of the house, and
 4. Whether the house is transferred to a spouse or former spouse as a result of a divorce or whether the house is transferred due to the THDA borrower's death.
- A THDA borrower will never have to pay any recapture tax if they sell their house more than nine years after they originally closed on their THDA mortgage loan.
- A THDA borrower will always have to calculate whether or not they have to pay recapture tax if they sell their house within nine years from the date they originally closed their THDA mortgage loan even if they previously refinanced and paid off the THDA mortgage loan.
- Refinancing and paying off a THDA mortgage loan does not eliminate recapture tax liability if the house originally purchased with a THDA mortgage loan is later sold within the nine year period.
- Selling a house purchased with a THDA mortgage loan to someone who qualifies for and assumes the THDA mortgage loan DOES NOT eliminate recapture tax for the THDA borrower who is selling the house.
- A buyer who qualifies to assume a THDA mortgage loan also has a recapture tax liability that extends for nine years from the date they assume the THDA mortgage loan.
- We send THDA borrowers a two-page recapture form with information specific to their mortgage loan within ninety days following closing.
- Refer THDA borrowers to a qualified tax preparer for more information about how recapture tax may specifically affect them.

RECAPTURE TAX REIMBURSEMENT

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 calculate the recapture or consult a tax advisor or the IRS. IRS Form 8828 must be filed for the year in which the home was sold or otherwise disposed of.

In order to request a recapture tax reimbursement from THDA the borrower is responsible for the following items:

- Providing an originally signed IRS Form 4506, Request for Copy of Tax Return. The borrower(s) must instruct the IRS, by using IRS Form 4506, to send THDA a copy of each borrower's federal tax return covering the calendar year the residence was sold. An originally signed IRS Form 4506, completed by every Borrower, permitting THDA to obtain a copy of each Borrower's federal tax return, including IRS Form 8828, Recapture of Federal Mortgage Subsidy. THDA will pay any fees associated with obtaining your tax return from the IRS.
- Copy of signed and filed federal tax return, including completed IRS Form 8828, Recapture of Federal Mortgage Subsidy, for the year in which the home was sold or otherwise disposed of.
- Proof federal taxes were paid
- Copy of Final Closing Disclosure issued in connection with the disposition of your home
- Request for Recapture Tax Reimbursement form

THDA will process the request for reimbursement when 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.

Be advised that THDA will issue an IRS Form 1099 so the amount of any recapture tax that THDA reimburses to the borrower will be reported to the IRS as income.

Request for Recapture Tax Reimbursement

I/we, the undersigned Borrower(s) requests reimbursement of the Recapture Tax paid following the sale or other disposition of my/our property. This property was purchased with a mortgage loan financed with funds made available by Tennessee Housing Development Agency (THDA) Single Family Mortgage Revenue Bond Program.

Certain information relating to the mortgage loan is as follows:

Name(s) of Borrower(s): _____

Address of Home: _____

Phone number(s): _____

Email Address: _____

Purchase Price of Home: _____ Mortgage Loan Closing Date: _____

First Mortgage Loan #: _____

Second Mortgage Loan # (if applicable): _____

Sales Price of Home: _____ Date of Sale: _____

Amount of Recapture Tax Paid by Borrower(s): _____

As part of this request for reimbursement, I/we make the following statements, representations, and warranties:

1. The Recapture Tax reported to the Internal Revenue Service (IRS) was calculated by me/us, either alone or with the assistance of a tax advisor or the IRS. I/we have neither requested nor relied on THDA to calculate the Recapture Tax. I/we acknowledge that THDA will not calculate the amount of Recapture Tax on my/our behalf and has no obligation or responsibility to verify the accuracy of the calculations.
2. I/we understand that THDA will reimburse me/us only for the amount of the Recapture Tax I/we paid, as reported to the IRS Form 8828, *Recapture of Federal Mortgage Subsidy*. I/we further understand THDA will not reimburse for any fees, interest, expenses or penalties incurred in connection with the Recapture Tax.
3. The information contained in my/our tax return for the calendar year in which a disposition of this home occurred was true and accurate as of the date the return was filed with the IRS. Such information, together with the information included in this request for reimbursement of my/our Recapture Tax and in any documents or item requested by THDA, is or will be correct as of the date submitted to THDA.

4. I/we have not previously requested THDA to reimburse for any Recapture Tax with respect to the home described above. I/we will not submit another reimbursement request regarding this home for any reason, including but not limited to, the payment of additional Recapture Tax because of any miscalculation.
5. I/we understand that if I/we pay the recapture tax in error, THDA will not reimburse me/us. It will be my/our responsibility to file an amended tax return with the IRS to be reimbursed any monies that were not due them.

I/we acknowledge that THDA will issue an *IRS Form 1099* and report the reimbursement payment to the IRS. I/we acknowledge THDA's reimbursement of the Recapture Tax may constitute income to me/us for federal tax purposes, and that I/we may have to pay taxes on this reimbursement amount. I/we further acknowledge that THDA will not provide any additional funds to pay any taxes on the reimbursement amount. If I/we have questions regarding the treatment of the reimbursement for tax purposes, I/we will check with a tax advisor or the IRS.

I/we have attached this Request for Recapture Tax Reimbursement along with the following documentation:

- Copy of signed and filed federal tax return, including completed *IRS Form 8828, Recapture of Federal Mortgage Subsidy*, for the year in which the home was sold or otherwise disposed of;
- Proof federal taxes were paid;
- Copy of Final Closing Disclosure issued in connection with the disposition of our home;
- An originally signed *IRS Form 4506, Request for Copy of Tax Return*, completed by every Borrower, permitting THDA to obtain a copy of each Borrower's federal tax return, including *IRS Form 8828, Recapture of Federal Mortgage Subsidy*. THDA will pay any fees associated with obtaining your tax return from the IRS.

I/we understand that THDA will not act upon this reimbursement request until copies of the Borrower(s) tax returns are received from the IRS. I/we also understand THDA may need additional documentation to approve this request for reimbursement and I/we will provide such documentation upon request.

Borrower: _____ Date: _____

Borrower: _____ Date: _____

Please send this form and above documentation to:

Tennessee Housing Development Agency
 SFLO Division
 502 Deaderick Street, 3rd Floor
 Nashville, TN 37243