



# Instructions for Form 8828

## Recapture of Federal Mortgage Subsidy

Section references are to the Internal Revenue Code unless otherwise noted.

### Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

**Recordkeeping** . . . . . 26 min.

**Learning about the law or the form** . . . . . 23 min.

**Preparing the form** . . . . . 1 hr., 20 min.

**Copying, assembling, and sending the form to the IRS** . . . . . 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to both the IRS and the Office of Management and Budget at the addresses listed in the instructions for Form 1040.

### General Instructions

#### Purpose of Form

Use this form to report and figure the recapture of the Federal mortgage subsidy if you sold or otherwise disposed of your home.

#### Federal Mortgage Subsidy

If your home was financed with a mortgage loan from the proceeds of a tax-exempt qualified mortgage bond (QMB), you received the benefit of a lower interest rate than is customarily charged on other mortgage loans. If you received a mortgage credit certificate (MCC) with your mortgage loan, you received the benefit of a credit against your Federal income taxes. Both of these benefits are Federal mortgage subsidies. If you received a qualified rehabilitation loan (QRL) either from the proceeds of a

QMB or with an MCC, you also received a Federal mortgage subsidy subject to the recapture rules.

#### Recapture

If your home was sold or otherwise disposed of during the first 9 years after you received a federally subsidized QMB or MCC loan, the Federal mortgage subsidy is subject to recapture in the form of an increase in your Federal income tax. Refinancing of a federally subsidized loan without a sale or disposition of the home does not result in recapture, but a later sale or disposition after the refinancing may result in recapture.

#### Who Must File

You must file this form if all of the following apply (for exceptions, see **Special Rules** below):

- You sold or otherwise disposed of your home in calendar year 1994 or other tax year which began in 1994, and
- Your original mortgage loan was provided after December 31, 1990, and
- You received a Federal mortgage subsidy (see above).

#### When and Where To File

Attach your 1994 Form 8828 to **Form 1040**, U.S. Individual Income Tax Return. File it when the Form 1040 is due (including extensions). If you have to file Form 8828, you cannot use **Form 1040A**, U.S. Individual Income Tax Return, or **Form 1040EZ**, Income Tax Return for Single and Joint Filers With No Dependents.

**Filing Form 2119.**—You must file **Form 2119**, Sale of Your Home, for the year in which you sell your main home regardless of whether there is a gain on the sale or whether you are electing the one-time exclusion for people 55 or older. See the Form 2119 instructions for additional filing requirements.

### Special Rules

**Giving away your home.**—If you gave away your home (other than to your spouse or ex-spouse incident to divorce), you must figure your recapture tax as if you had actually sold your home for its fair market value at the time of the disposition.

**Divorce.**—You do not owe recapture tax if you transferred your interest in your home either to your spouse or former spouse incident to divorce, and you had no gain or loss included in your income. Do not file this form. See **Pub. 504**, Divorced or Separated Individuals, to determine if you had gain or loss included in your income on the transfer incident to divorce.

**Destruction by casualty.**—If your home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if you replace the home (for use as your main home) on its original site within 2 years after the end of the tax year of the destruction. If you don't replace the home on time, you must file Form 8828 with an amended return (**Form 1040X**, Amended U.S. Individual Income Tax Return) for the year the home was destroyed.

**Two or more owners.**—In general, if two or more persons own a home and are jointly liable for the federally subsidized mortgage loan, the actual recapture tax is figured separately for each, based on the interest of each in the home.

**Qualified rehabilitation loan.**—A qualified rehabilitation loan (QRL) is a loan for the rehabilitation of a home provided that (a) the building was at least 20 years old, (b) a certain percentage of the walls and framework is retained in place, (c) the rehabilitation costs amount to 25 percent or more of your adjusted basis in the building after the rehabilitation, and (d) you are the first occupant of the home after the rehabilitation is completed. If you sell or dispose of this rehabilitated building that was your home within 9 years after you received the QRL, you must recapture the Federal mortgage subsidy. (If, however, you received a qualified

home improvement loan (QHIL), there is no recapture of the Federal mortgage subsidy. A QHIL is limited to \$15,000 and is to be used for alterations, repairs, and improvements that protect or improve the basic livability or energy efficiency of your home.) See section 143(k).

**Qualifying subordinate mortgage loan (or grant).**—A qualifying subordinate mortgage loan (or grant) (QSML) is a loan that can be made in addition to any QMB or MCC federally subsidized financing. To receive a QSML, you must agree that if you sell your home within a 9-year period, you either (a) sell according to certain terms or (b) share any gain with the QSML governmental lender. See section 143(k)(10).

**Refinancing your home.**—Proceeds from a QMB cannot be used to refinance a home mortgage. If the home is refinanced (with conventional financing), the Federal subsidy on your original QMB loan is subject to recapture if you sell or dispose of your home within the 9-year recapture period.

An MCC can be reissued in a refinancing if all of the following conditions are met.

1. The issuer reissues an MCC to replace your existing MCC, which can be the original MCC, an MCC issued to a transferee under Temporary Regulations section 1.25-3T(h), or an MCC previously reissued under the refinancing provisions.

2. The reissued MCC takes effect beginning with the date you refinanced your home (refinancing closing date).

3. The reissued MCC must:

a. Be for the same property as your existing MCC,

b. Replace entirely your existing MCC,

c. Specify a mortgage debt that does not exceed the outstanding debt balance on your existing MCC,

d. Not increase the certificate credit rate specified on the existing MCC,

e. Not increase the allowable credit under your existing certificate for any tax year, and

f. Be issued after December 21, 1993, but not later than 1 year after the date of the refinancing.

**Repayment of the loan.**—If, during the 9-year recapture period, you repay your loan in full or refinance other than with reissuance of an MCC as described earlier, and you sell or dispose of your home later during the period, your holding period percentage

(line 20) may be reduced. See the instructions for line 20.

**Other special rules** may apply in certain cases. See section 143(m).

## Specific Instructions

**Note:** *If your home was financed with a federally subsidized loan, you should have received notification in writing from the bond issuer or the lender at the time your mortgage was provided. The notification should state that your home was financed with a mortgage loan from the proceeds of a tax-exempt bond or that you received a mortgage credit certificate with your mortgage loan. The notification should include information needed to figure your recapture tax and it should advise you to keep it for your records.*

**Name(s) and social security number.**—The name(s) and social security number on Form 8828 should be the same as those shown on your Form 1040.

## Part I—Description of Home Subject to Federally Subsidized Debt

**Line 1.**—List the address of the property that was subject to the federally subsidized debt, not your current address as shown on your Form 1040.

**Line 2.**—Check the applicable box on line 2 from the information on the notification given to you at the time you took out the loan.

**Line 3.**—Fill in the requested information from the notification discussed above. If you have a problem identifying the issuer, contact your lender and ask for the information.

**Line 4.**—Fill in the name and address of the bank or other lender that provided your original mortgage.

**Line 5.**—Fill in the month, day, and year that your original federally subsidized mortgage loan was provided. This generally is the date of settlement on your home. However, if the loan became federally subsidized debt at a later date, use that date instead.

**Line 6.**—Fill in the applicable month, day, and year. Date of sale generally is the date you settled on the sale of your home. However, Form 8828 also applies to certain other dispositions of your home. For instance, the date to enter on line 6 may be the date you deeded the property to a relative (see **Giving away your home** under **Special Rules** on page 1).

**Line 8.**—Enter the date the original federally subsidized loan was fully paid. A refinanced QMB loan is fully paid on the date of its refinancing (with conventional financing). However, a refinanced MCC loan that met all the conditions specified above under **Refinancing your home** is considered an extension of the original MCC loan. Do not enter the refinancing date for such an MCC on line 8. See **Refinancing your home** and the instructions for line 20.

## Part II—Computation of Recapture Tax

**Note:** *You must report all required information for your interest in the home. This may be less than 100% if someone else also has an interest in the home (see **Special Rules** on page 1).*

**Line 9.**—This item applies to both sales and other dispositions (see **Giving away your home** under **Special Rules** on page 1). If your home was disposed of other than by sale, the sales price is the fair market value of the home at the time of the disposition. You should only report the portion of the sales price representing your interest in the home (see **Two or more owners and Qualifying subordinate mortgage loan (or grant)** under **Special Rules** on page 1).

**Line 10.**—Include sales commissions, advertising, legal fees, etc., allocable to your interest in the home.

**Line 12.**—In general, the adjusted basis of your interest in the home is your share of the cost of the property plus purchase commissions and improvements, minus depreciation. **Do not** reduce the adjusted basis for any gain that you did not recognize on the sale of a previous home. For details, get **Pub. 551, Basis of Assets**.

**Line 13.**—If the amount on this line is a loss, you are not required to fill in the rest of Form 8828 but must attach it to your Form 1040.

Enter "QSML" on the dotted line to the left of the line 13 entry space if you sold your home at a gain within the 9-year recapture period and paid a share of that gain to the QSML governmental lender. In the amount column for line 13, enter your share of the gain. Attach a worksheet to your Form 8828 to explain how you calculated your share of the gain. Show the date you paid the QSML governmental lender its share of the gain and the amount of that share. See **Qualifying subordinate mortgage loan (or grant)**.

**Line 15.**—Figure your modified adjusted gross income as follows:

● **Begin with:** Your adjusted gross income as shown on your 1994 Form 1040, line 31.

● **Add:** Any tax-exempt interest that you received or accrued for 1994 (from line 8b, Form 1040).

● **Subtract:** Any gain included in your gross income because of the disposition of your home.

**Line 16.**—If your home was financed with a federally subsidized loan, you should have received notification in writing from the bond issuer or the

lender at the time your mortgage was provided. The notification contains a table which lists adjusted qualifying income figures. Your adjusted qualifying income is found in the column of the table that corresponds to your family size (number of family members living with you at the time of the sale) on the line that corresponds to the number of full and partial years that you held your home.

**Line 19.**—The federally subsidized amount should be found on the notification you received from the bond issuer or from your lender. It is

equal to 6.25% (.0625) of the highest amount of the loan that was federally subsidized. Enter the figure on line 19.

**Line 20.**—You will find your holding period percentage on the same line of the table from which you obtained your adjusted qualifying income (see line 16 instructions). However, if the date of repayment of the federally subsidized indebtedness from a QMB or an MCC is different from the date of sale or disposition of the property, you will need to use the following worksheet to redetermine your holding period percentage for line 20.

**Worksheet for figuring the holding period percentage if you had fully paid off the original federally subsidized loan before the date of sale or disposition of your home.** (Keep for your records.)

A. Closing date. Enter the date from Form 8828, line 5 . . . . . A. \_\_\_\_\_  
 Month Day Year

B. Repayment date. Enter the date from Form 8828, line 8 . . . . . B. \_\_\_\_\_  
 Month Day Year

C. Period you had federally subsidized debt. Enter the number of months between the dates entered on lines A and B. Round up to nearest whole month . . . . . C. \_\_\_\_\_  
 Months

D. Subtract the number of months on line C from 108. Enter the result but **do not** enter more than 60 D. \_\_\_\_\_  
 Months

E. Sale date. Enter the date from Form 8828, line 6 . . . . . E. \_\_\_\_\_  
 Month Day Year

F. Enter the number of months between the dates entered on lines B and E. Round up to nearest whole month . . . . . F. \_\_\_\_\_  
 Months

G. Subtract line F from line D. If the result is a zero or is less, **stop**; you **do not** owe any recapture tax G. \_\_\_\_\_  
 Months

H. Divide line G by line D and enter the result as a percentage . . . . . H. \_\_\_\_\_ %

I. If the number of months on line C is:	Enter this percentage:	
1 to 12 . . . . .	20%	
13 to 24 . . . . .	40%	
25 to 36 . . . . .	60%	
37 to 48 . . . . .	80%	
49 to 60 . . . . .	100%	
61 to 72 . . . . .	80%	
73 to 84 . . . . .	60%	
85 to 96 . . . . .	40%	
97 to 108 . . . . .	20%	I. _____ %

J. Multiply the percentage on line I by the percentage on line H. Round to nearest whole percentage. This is your adjusted holding period percentage to enter on line 20 of Form 8828. . . . . J. \_\_\_\_\_ %