Instructions for Form 8828

(Revised January 1998)

Recapture of Federal Mortgage Subsidy

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

Department of the Treasury
Internal Revenue Service

General Instructions

Purpose of Form

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

Federal Mortgage Subsidy

You have a federal mortgage subsidy if you received either of the following benefits:

1. A mortgage loan (including a qualified rehabilitation loan) that had a lower interest rate than was usually charged because it was funded from a tax-exempt qualified mortgage bond (QMB) issue.

2. A mortgage credit certificate (MCC) with your mortgage loan that you could use to reduce your Federal income taxes.

You may also have a federal mortgage subsidy if, when you bought your home, **either**:

1. You assumed the seller's obligation on a QMB-funded loan, provided that you were qualified to obtain a loan from the proceeds of a QMB, **or**

2. The seller's MCC was transferred to you with the approval of the issuer and both the following apply:

- You met the eligibility requirements needed to get an MCC, and
- The issuer of the MCC issued you a replacement MCC.

Recapture Tax

If you sold or otherwise disposed of your home during the first 9 years after you received a federally subsidized QMB or MCC loan, you may have to pay back (recapture) all or part of the Federal mortgage subsidy you received by increasing your Federal income tax for the year in which you sold or disposed of your home. 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 (whether or not you realized a gain).
- Your original mortgage loan was provided after December 31, 1990.
- You received a Federal mortgage subsidy (see above).

When and Where To File

Attach your Form 8828 to the **Form 1040,** U.S. Individual Income Tax Return, for the tax year in which you sold or otherwise disposed of your home. File it when the Form 1040 is due (including extensions). If you have to file Form 8828, you **must** use Form 1040.

Filing Form 2119. You must file **Form 2119,** Sale of Your Home, for the year in which you sell your main home whether or not there is a gain on the sale. 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. The transfer of an interest in the home by one spouse (or former spouse) to another does not result in recapture tax to either person (do not file this form) if:

1. It is incident to divorce, and

2. No gain or loss was included in income.

See **Pub. 504,** Divorced or Separated Individuals, for situations where gain or loss is 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 when the destruction happened. If you don't replace the home in time, you must file Form 8828 with **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, figure the actual recapture tax separately for each, based on the interest of each in the home.

Qualified rehabilitation loan. A qualified rehabilitation loan (QRL) is a loan funded by a QMB for the rehabilitation of a home provided that:

1. There were at least 20 years between the date of the building's first use and the date rehabilitation began,

2. A certain percentage of the walls and framework was retained in place,

3. The rehabilitation costs amounted to 25 percent or more of your adjusted basis in the building after the rehabilitation, and

4. You were the first occupant of the home after the rehabilitation was completed.

If you sold or disposed of this rehabilitated building that was your home within 9 years after you received the QRL, you must recapture the Federal mortgage subsidy. See section 143(k)(5) for details.

Note: *There is no recapture of the Federal mortgage subsidy if instead of a QRL you received a qualified home improvement loan (QHIL) funded by a QMB. 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)(4) for details.*

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** sell according to certain terms **or** share any gain with the QSML governmental lender. See section 143(k)(10). If you had a QSML, see the line 13 instructions on page 2.

Refinancing your home. Proceeds from a QMB cannot be used to refinance a home mortgage. However, replacement of construction period, bridge, or similar temporary financing used when you first purchased your home is not treated as refinancing.

If, once you have received permanent financing from the proceeds of a QMB, the home is refinanced (with conventional financing), the Federal subsidy on your original QMB loan is subject to recapture when you sell or dispose of your home within the 9-year recapture period. If you refinance within the first 4 years after the closing date of the original loan, you have to adjust your holding period percentage (see the worksheet for line 20 on page 3) as if your loan was fully repaid on the date of the refinancing.

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 Regulations section 1.25-3(p), 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:

- Applies to the same property as your existing MCC,

- Replaces entirely your existing MCC,
- Specifies a mortgage debt that does not exceed the outstanding debt balance on your existing MCC,
- Does not increase the certificate credit rate specified on the existing MCC, and
- Does not increase the allowable credit under your existing certificate for any tax year.

Repayment of the loan. Your holding period percentage (line 20) may be reduced (see the line 20 instructions) if you:

1. Repay your loan in full or refinance other than with reissuance of an MCC (as described earlier) within the first 4 years after the closing date of your original loan, and

2. Sell or dispose of your home later during the 9-year recapture period.

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 repaid. (This may be the same as the date of sale or other disposition on line 6.) A refinanced QMB loan is fully repaid on the date of its refinancing (with conventional financing). However, a refinanced MCC loan that met all the conditions specified earlier 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.

If you received your home, or interest in a home, incident to a divorce, your adjusted basis is generally the same as that of your spouse (or former spouse).

For details on how to determine your adjusted basis, get **Pub. 551,** Basis of Assets.

Line 13. 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)** on page 1.

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

- **Begin with:** Your adjusted gross income as shown on your Form 1040.
- **Add:** Any tax-exempt interest that you received or accrued for the tax year.
- **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% 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 you fully repaid the federally subsidized loan within 4 years of the closing date of the loan, and before selling or otherwise disposing of your home, you will need to use the worksheet on page 3 to redetermine your holding period percentage for line 20.

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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The estimated average time is:

Recordkeeping	26 min.
Learning about the law or the form	19 min.
Preparing the form	1 hr., 17 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 or call the IRS. See the Instructions for Form 1040.

Worksheet for figuring the holding period percentage if you fully repaid the original federally subsidized loan: (1) before the date of sale or disposition of your home and (2) within the first 4 years after the closing date of the original loan. (Keep for your records.) (**Do not** use this worksheet if lines 6 and 8 of Form 8828 are the same date.)

A. Closing date of original loan. 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
If the repayment date on line B is more than 4 years after the closing date on line A, **DO NOT** use this worksheet.

C. Enter the number of years between the dates on lines A and B. **Round up to the nearest whole year** . . . . . **C.** _____ Years

D. **If the number of years on line C is:** **Enter this percentage:**

1	20%
2	40%
3	60%
4	80%

D. _____ %

E. Sale date. Enter the date from Form 8828, line 6 . . . . . **E.** _____ Month Day Year

F. Enter the number of years between the dates entered on lines B and E. Round up to nearest whole year . . . . . **F.** _____ Years

G. **If the number of years on line F is:** **Enter this percentage:**

1	100%
2	80%
3	60%
4	40%
5	20%
6 or more	0%

G. _____ %

H. Multiply the percentage on line D by the percentage on line G. Round to nearest whole percentage. This is your adjusted holding period percentage to enter on line 20 of Form 8828. If this percentage is zero, you will have no recapture, but you still must complete and file Form 8828. . . . . **H.** _____ %