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H.R. 2863 (117th Congress) – First-Time Homebuyer Act of 2021

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Tax Policy Analysis

H.R. 2863 (117th Congress) – First-Time Homebuyer Act of 2021

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The First –Time Homebuyer Act of 2021 was introduced by Representative Earl Blumenauer (D-OR), co-sponsored by Representative Jimmy Panetta (D-CA), on April 28, 2021 in the House of Representatives and was referred to the House Committee on Ways and Means. The proposed law offers taxpayers a refundable credit of 10% of the purchase price of the residence, limited to $15,000 ($7,500 for Married Filing Separately). Thus, the maximum credit would be for a home costing $150,000 or more.

This credit is a one-time benefit for homebuyers purchasing their first principal residence. The law does not provide a benefit for people who buy a second home, vacation home or a rental property.

The law includes specific requirements that take into account the Area Median Income and the Area Median Purchase Price of housing in different areas of the country. According to the proposed law, the data of the Area Median Income and Area Median Purchase Price should be determined and provided by the Secretary of Housing and Urban Development. To be eligible for the credit, a homebuyer may not have owned a home or co-signed on a mortgage for three years before the purchase, must be at least 18 years old at the date of the purchase, and have income of no more than 160% of the Area Median Income based on the location of their purchased home and household size. For example, if the median income in Chicago, Illinois, is $62,000, a home buyer, who is a single taxpayer, 18 years or older and purchasing their first home, may have up to $99,200 of income to be eligible to claim the credit. The home may not be purchased from a relative, as defined in IRC section 267. Also the law puts a limitation of 110% of the Area Median Purchase Price of the home for the buyer to get the maximum credit amount.

The key purpose of the First-Time Homebuyer Act of 2021 per a press release from Congressman Blumenauer is to “incentivize housing stability and generational wealth-building opportunities for low- and middle-income Americans, particularly amongst historically marginalized communities.”[1]

The table below provides an analysis of the proposed First-Time Homebuyer Act using the AICPA 12 guiding principles of good tax policy.[2]

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1 U.S. Congressman Earl Blumenauer official website. Press release of April 26, 2021, Amidst Unprecedented Housing Demand, Blumenauer Introduces Legislation to Support First-Time Homebuyers; https://blumenauer.house.gov/media-center/press-releases/amidst-unprecedented-housing-demand-blumenauer-introduces-legislation-to-support-first-time-homebuyers.
2 American Institute of Certified Public Accountants (AICPA) Tax Division. (January 2017). Tax Policy Concept Statement No.1-Guiding Principles of Good Tax Policy: A Framework for Evaluation of Tax Proposals; https://us.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/tax-policy-concept-statement-no-1-global.pdf.

Criteria	Does the proposal satisfy the criteria?	Result
Equity and Fairness – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer's income for different income levels of taxpayers.	There are two types of equity to consider. **1. Horizontal equity** Horizontal equity requires that similarly situated taxpayers should be taxed similarly. This principle is met in the proposed law. The First-Time Homebuyer Act moves away from fixed income and house purchase prices limitations. Instead, this act allows similarly situated taxpayers to get the same tax relief for the similar first home purchase, notwithstanding inequality in home purchase prices in different parts of the country. For example, according to Zillow in June 2022, the median price tag for a home in the U.S. was $355,000, while the lowest price was $139,000 in West Virginia, and the highest price was $909,000 in Hawaii.[3] Relying on median purchase prices of different regions and taking into account household size, the proposed law prevents buyers of expensive houses in low-cost areas from getting a much larger tax benefit and provides tax relief for a moderate house purchase for residents of expensive areas, since the maximum credit is tied to and limited by $150,000 home purchase price. The $15,000 cap prevents individuals with eligible income from getting a larger credit for more expensive homes in the areas with lower home prices. Thus, the First-Time Homebuyer Act provides the same amount of credit for the similarly situated taxpayers residing in areas with different prices on the housing market. Therefore, the bill meets the principle of horizontal equity. **2. Vertical equity** Vertical equality means that taxpayers with higher income should pay more taxes than taxpayers with a lower income. Vertical equity is met in this act, because the credit is available and brings tax breaks to low- and middle-class taxpayers, which allows people with lower	+ +

3 Zillow. (June 30, 2022). United States Market Overview. https://www.zillow.com/home-values/.

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	income to pay less taxes. The proposed law prevents higher income taxpayers from getting this credit by imposing limits based a modified adjusted gross income. This results in less tax paid by low-to-middle-earning taxpayers than higher-income ones, when purchasing their first residence. The first-time homebuyer credit helps to keep tax rules more progressive. Therefore, the proposed law meets the principle of vertical equity.	
Certainty – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly.	The bill allows a credit against the tax imposed on an individual, so it is clear for a taxpayer to claim the credit while filing a tax return. However, there are a few specific rules, requirements, and limitations in the proposed bill, like the limitations based on area median income and area median purchase price, purchase from a relative, credit reduction and credit recapture, which can make it unclear for some taxpayers. The proposed bill considers that the IRS will provide guidance and tables with area median income and purchase price limitations. However, it is still complicated for an ordinary taxpayer to check if they meet all the requirements of the law and consider the most current tables. As a result, taxpayers may not feel confident if they calculated and claimed the correct amount of the tax credit. Finally, the proposed bill does not satisfy the principle of certainty.	–
Convenience of payment – Does the rule result in tax being paid at a time that is convenient for the payor?	The proposed First-Time Homebuyer Act does not affect a taxpayer's return due date and methods to pay their taxes. Moreover, the bill offers to a taxpayer an election option to treat the purchase as if it was made on December 31 of the preceding year, meaning that an individual may claim the credit in a prior year tax return (or amended return) and immediately receive a cash payout. Thus, the convenience of payment principle is met.	+

Effective Tax Administration – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers?	From the government perspective, the IRS will need to issue an additional tax form for an individual to claim the tax credit in a tax return. Moreover, the IRS together with the U.S. Department of Housing & Urban Development must promulgate annual guidance to set the area median purchase price, the area median income, and the annual credit amount, increased by the cost-of-living adjustment. Furthermore, the IRS will spend resources to develop and issue regulations and to audit taxpayers who claim the first-time homebuyer credit. A taxpayer most likely will pay for a tax preparer's assistance due to complexities of the rules and requirements in the First-Time Homebuyer Act. The costs of tax reporting to individuals and of tax collection for the government would not be at a minimum level, thus, the effective tax administration principle is not met.	–
Information Security – Will taxpayer information be protected from both unintended and improper disclosure?	Since, the bill requires attaching to the tax return a properly executed copy of the settlement statement used to complete such purchase, additional personal data may be exposed. However, as the IRS reported, 90% of the individual tax returns were filed electronically in 2021.[4] This means that the additional information is protected. Therefore, the risk of its disclosure unlikely would arise. The bill meets the principle of information security.	+
Simplicity - Can taxpayers understand the rule and comply with it correctly and in	The First-Time Homebuyer Act clearly offers a credit of 10% of the purchase price for the first home, but with the maximum amount available of $15,000. However, the bill includes rules and limitations based on area median income and area median purchase price, which must be updated annually. It may be difficult for a	–

4 IRS. Returns Filed, Taxes Collected & Refunds Issued. Highlights of the Data. https://www.irs.gov/statistics/returns-filed-taxes-collected-and-refunds-issued#:~:text=The%20IRS%20processed%20more%20than,other%20forms%20were%20filed%20electronically.

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a cost-efficient manner?	taxpayer to apply the correct credit amount, which should be increased annually according to the cost-of-living adjustment and rounded to the nearest $100. The calculation of the credit reduction and credit recapture are complicated. Most likely, a tax professional's assistance is required to determine the amount of the credit and to apply the rules correctly. Overall, the principle of simplicity is not met.	
Neutrality – Is the rule unlikely to change taxpayer behavior?	The neutrality principle states that the primary purpose of a tax is to raise revenue for governmental activities, rather than to influence business and personal decisions. The First-Time Homebuyer Act was designed to incentivize and support first-time homebuyers by providing a refundable tax credit for the purchase of the home (assuming certain conditions are met). A possibility of getting this tax credit may affect some taxpayers' decisions whether to buy a home or not. However, it is unlikely that it would be a primary motivation for them, given other costs of purchasing a home and because many buyers live in areas where homes cost more than $150,000. Therefore, the proposed bill meets the principle of neutrality.	+
Economic growth and efficiency – Will the rule not unduly impede or reduce the productive capacity of the economy?	The overall purpose of the proposed bill is to incentivize housing stability and generational wealth-building opportunities for low- and middle-income Americans.[5] Low- and middle-income families building their equity via home ownership should help economic growth, not impede it.	+

5 U.S. Congressman Earl Blumenauer official site. (April 26, 2021). Press Release. Amidst Unprecedented Housing Demand, Blumenauer Introduces Legislation to Support First-Time Homebuyers. https://blumenauer.house.gov/media-center/press-releases/amidst-unprecedented-housing-demand-blumenauer-introduces-legislation-to-support-first-time-homebuyers.

Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others?	The proposed bill clearly states the amount of credit - 10% of the home's purchase price up to $15,000, however, taxpayers will also need to determine their eligibility by comparing their income to area median income and home's purchase price to area median purchase price. These conditions may be too complex for taxpayers to understand and determine if the law applies to them. The First-Time Homebuyer Act will not impose any tax, so there is no additional tax burden for taxpayers to be aware of and compliant with. However, the first-time homebuyer credit may be subject to recapture should the taxpayer sell a house during the recapture period (four years). In this case, the tax is increased by a recoverable amount that is calculated as 25% of claimed credit multiplied by a number of tax years remaining in the recapture period. The taxpayers may not be aware of when this tax should be paid and may not understand why so many restrictions exist in the proposal. Taxpayers are likely to be aware of this credit if enacted as real estate salespersons will likely promote its existence.	–
Minimum tax gap – Is the likelihood of intentional and unintentional non-compliance likely to be low?	The tax gap is the difference between taxes that are owed and taxes that are voluntarily paid. Complex laws can lead to noncompliance and, hence, a tax gap due to errors caused by confusion and uncertainty. The proposed bill states that the IRS with the Secretary of Housing and Urban Development will promulgate regulations and guidance that are necessary to apply the tax credit. The likelihood of intentional and unintentional non-compliance may be reduced with clear regulations and procedural rules developed by the IRS. Also, it is important to make area median income and area median purchase price information easily available for taxpayers, so they can make informative decisions. Since the taxpayers will have to attach a copy of the settlement statement to their tax returns to claim the credit, the non-compliance is likely to be low. A tax form	+

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	to calculate the tax should also help in proper computation of the credit. Although, there may be some cases of intentional and unintentional non-compliance when taxpayers might lie about not having owned a home in the past three years or will not follow the recapture rule after selling a home during the recapture period. Overall, the minimum tax gap principle is met.	
Accountability to taxpayers – Will taxpayers know the purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule?	The purpose of this law is easy to understand - to support low- and middle-income Americans to purchase their first home. This law modifies a first-time homebuyer credit that was in effect from 2008 to 2010, so we can assume that the alternatives were considered. However, providing a tax credit will likely be not enough for low-income taxpayers to help them to buy their first home, compared to providing a grant for a down payment and/or a low mortgage rate. Some taxpayers may also not understand why the government would provide a tax benefit for homeowners in addition to tax benefits that already exist, such as the mortgage interest deduction. One may think that if the government wants to encourage people to help purchase their first home, other homeowners tax incentives should be reconsidered. Therefore, the proposed bill does not meet the principle of accountability.	–
Appropriate government revenues – Will the government be able to determine how much tax revenue will likely be collected and when?	A reasonable estimate can be made of the cost of this proposed credit using data on the amount of first-time homebuyers in previous years. Therefore, the bill meets the principle of appropriate government revenues.	+

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The above analysis shows that the First-Time Homebuyer Act of 2021 mostly meets the principles of good tax policy as it meets seven out of the twelve principles. The proposed bill fails to meet principles of certainty, effective tax administration, simplicity, transparency and visibility, and accountability.

Nevertheless, we believe that the government should consider enacting this bill, because its purpose to help buy a first home for low- and middle-income Americans is helpful for the American economy in general and particularly amongst historically marginalized communities. It may help more people to build equity in a home rather than continue to pay rent. This bill also eases the burden for the residents of expensive areas since it relies on an area median purchase price. Therefore, the proposed bill prevents the buyers of unduly expensive houses in less expensive areas from getting the tax benefit and provides the tax relief for moderate house purchase for residents of expensive areas.

Some modifications of the bill can be made to address the failure to meet the principles of simplicity, certainty and accountability, such as eliminating the phase-out provision of the credit. Additional suggestions for improvement:

- Provide the credit or a grant for down payment via the lender at the time of the purchase. With the proposed bill, taxpayers will receive the credit only after they purchase their home and pay the down payment. This can be a dealbreaker for low-income families. Often, families struggle with saving for a down payment. Providing the funds at time of the purchase will help relieve the burden for such taxpayers.
- Reconsider existing tax incentives for homeowners, such as mortgage interest deduction on a second home, mobile home or boat. The mortgage threshold should be kept at $750,000. The unused funds from these tax expenditures can help finance the First-Time Homebuyer Act credit program.
- Perhaps, consider increasing the amount of credit to help taxpayers who live in expensive areas afford the purchase of their first home.

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