

Legal Division Guidance 2010-04-01
(New Home Credit -- Close of Escrow)

Q1: What is the "Close of Escrow"? Is it when the loan funds, or when title records?

A1: For California income/franchise tax purposes, it is when the loan funds. This is a better date, since all events have occurred for money to change hands and "equitable title" to pass from the seller to the buyer.

Q2: If the loan funds on April 26, 2010, and title passes on May 3, 2010, would the taxpayer be able to qualify for a home credit as provided under RTC section 17059.1?

A2: The taxpayer does not qualify. RTC section 17059.1(a)(1) states as follows:

[A]ny taxpayer who purchases a qualified principal residence on and after May 1, 2010, and on or before December 31, 2010, or any taxpayer who purchases a qualified principal residence on and after December 31, 2010, and before August 1, 2011, pursuant to an enforceable contract executed on or before December 31, 2010, there shall be allowed as a credit against the "net tax," as defined in Section 17039.

Therefore, because the close of escrow occurred before May 1, 2010, the taxpayer does not qualify for a credit under RTC section 17059.1.