



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CONEX-137646-08

The Honorable Robert C. Byrd
United States Senate
Washington, DC 20510

Dear Senator Byrd:

This letter responds to your inquiry dated August 20, 2008, submitted on behalf of your constituent, . He asked if the Internal Revenue Service (IRS) may allow a taxpayer to take the first-time homebuyer credit for the purchase of a home before the effective date of § 36 of the Internal Revenue Code (Code).

Congress added § 36 to the Code in § 3011 of the Economic and Housing Recovery Act of 2008, Pub. L. No. 110-289 (122 Stat. 2654, 2888). Section 36(a) provides that a first-time homebuyer of a principal residence (as defined in section 121) may take a credit on his or her federal income tax return equal to 10 percent of the purchase price of the residence, up to a maximum of \$7,500 (\$3,750 for a married taxpayer who files a separate return). The statute specifically limits the first-time homebuyer credit to homes purchased on or after April 9, 2008, and before July 1, 2009.

Because and his wife bought their residence on March 22, 2008, they do not qualify for the first-time homebuyer credit. The statute does not grant the IRS the authority to expand the scope of the credit administratively.

I hope this information is helpful. If you have any further questions, please contact me or at () .

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)