Department of the Treasury	Internal Revenue Service	Office of Chief Counsel	**Notice**

CC-2012-005

December 30, 2011

Subject: Litigation under IRC § 36 **Cancel Date**: Upon incorporation into the CCDM

Associate Offices review documents addressing significant issues to be filed with the Tax Court or sent to the Department of Justice. CCDM Exhibit 35.11.1-1, "Issues Requiring Associate Office Review." This notice adds issues under section 36 to the mandatory Associate Office review list.

In general, section 36 provides a refundable credit to first-time homebuyers and long-time resident homebuyers who purchase a principal residence during certain timeframes within a three-year period. Congress amended section 36 several times during this period, raising difficult questions about how the various versions of section 36 relate to other Code sections such as the section 121 exclusion for the sale of a principal residence. To ensure a consistent approach to these issues, the Associate Office will review all briefs and motions and suit and defense letters addressing section 36.

Field Counsel should submit documents addressing section 36 for Associate Office review electronically to the Technical Services Support Branch (TSS4510). CCDM 35.7.3.2 describes the procedures for reviewing briefs and motions filed with the Tax Court. CCDM 34.5.1.1.2.4 describes the procedures for reviewing suit letters and defense letters sent to the Department of Justice.

Questions about this notice should be directed to Branch 4 or Branch 5 of the Associate Office of Income Tax and Accounting at (202) 622-4920 or (202) 622-4950, respectively.

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

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