



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

OFFICE OF
CHIEF COUNSEL

March 04, 2009

Number: **INFO 2009-0028**

Release Date: 3/27/2009

CONEX-104773-09

CC:ITA:4

UIL: 36.00-00

The Honorable Carl Levin
United States Senator
477 Michigan Avenue, Room 1860
Detroit, MI 48226

Attention:

Dear Senator Levin:

This letter responds to your email inquiry dated February 3, 2009, on behalf of your constituent. Your constituent (who was not identified in the email) asked if the IRS will allow a taxpayer to take the first-time homebuyer credit for a home purchased before April 9, 2008, which is the effective date of section 36 of the Internal Revenue Code (Code).

Section 36(a) of the Code 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 \$8,000 (\$7,500 in the case of a home purchased before January 1, 2009). The statute specifically limits the first-time homebuyer credit to homes purchased on or after April 9, 2008, and before December 1, 2009. (See section 36, as amended by section 1006 of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, ___).

Because your constituent bought his residence on April 3, 2008, he does 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 we can assist you further, please call
, or me at .

Sincerely,

Michael J. Montemurro
Branch Chief
Office of Associate Chief Counsel
(Income Tax & Accounting)