



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

OFFICE OF  
CHIEF COUNSEL

March 19, 2009

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The Honorable Suzanne M. Kosmas  
Member, U.S. House of Representatives  
1000 City Center Circle, 2<sup>nd</sup> Floor  
Port Orange, FL 32129

Attention:

Dear Congresswoman Kosmas:

This letter responds to your request for information dated March 2, 2009, on behalf of your constituent, . She asked whether the Congress or the White House will address waiving repayment of the first-time homebuyer credit for taxpayers who purchased homes in 2008.

To provide a first-time homebuyer credit, the Congress added section 36 to the Internal Revenue Code in section 3011 of the Economic and Housing Recovery Act of 2008 (Pub. L. No. 110-289 (122 Stat. 2654, 2888)). The Congress amended section 36 in section 1006 of the American Reinvestment and Recovery Tax Act of 2009 (Pub. L. No. 111-5 (123 Stat. 115, 316)). Due to the amendment, the rules for the first-time homebuyer credit are different depending on whether a taxpayer purchases a home in 2008 or in 2009.

**Rules for Home Purchases on or After April 9, 2008, and Before January 1, 2009**

A first time homebuyer who purchased a home on or after April 9, 2008, and before January 1, 2009, can 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. Taxpayers who take this credit must repay the credit in equal installments over fifteen years (See former sections 36(b), 36(f), and 36(h) of the Code).

**Rules for Home Purchases on or After January 1, 2009, and Before December 1, 2009**

For taxpayers who purchased their home on or after January 1, 2009, and before December 1, 2009, the law increases the maximum credit to \$8,000. Taxpayers who

claim the credit and use the residence as their principal residence for at least three years beginning on the date of purchase are not required to repay the credit (See sections 36(b), 36(f), and 36(h) of the Code, as amended).

Because [redacted] bought her residence on November 21, 2008, the rules for 2008 home purchases apply to her home purchase, and she must repay the credit. The statute does not grant the IRS the authority to expand the scope of the credit administratively. The Congress would have to change the law to waive repayment of the credit for taxpayers who purchased their homes in 2008.

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

Sincerely,

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