



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

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

Dear Senator Byrd:

This letter responds to your inquiry dated February 10, 2009, submitted on behalf of your constituent, . He asked whether he is eligible for the first-time homebuyer credit for the purchase of a home in 2008 financed with the proceeds of tax-exempt mortgage revenue bonds.

The law provides taxpayers with a credit for purchasing their first home during two separate periods. Qualifications for the credit differ between the periods. The first period was between April 9, 2008, and December 31, 2008, and the law denied the first-time homebuyer credit for home purchases financed with the proceeds of tax-exempt mortgage revenue bonds during that period. See section 3011(d)(2) of the Economic and Housing Recovery Act of 2008 (Pub. L. No. 110-289, 122 Stat. 2654 at 2888) and former section 36(d)(2) of the Internal Revenue Code (Code)).

indicates that he purchased his first home and financed it with the proceeds of tax-exempt mortgage revenue bonds during the first period (between April 9, 2008 and December 31, 2008). Consequently, home purchase does not qualify for the first-time homebuyer credit.

Congress amended section 36 of the Code to provide different rules for purchases during the second period, between January 1, 2009, and November 30, 2009. See section 1006 of the American Reinvestment and Recovery Tax Act of 2009 (Pub. L. No. 111-5, 123 Stat. 115 at 316). The amended law does not prohibit financing with the proceeds of tax-exempt mortgage revenue bonds. However, the amendment did not remove the financing prohibition for first-time home purchases, like , before January 1, 2009. Unfortunately, the law does not grant the Internal Revenue Service

administrative authority to disregard the financing prohibition for purchases during the first period.

I hope this information is helpful. If you have any questions regarding this matter, please contact _____ at _____.

Sincerely,

George J. Blaine
Associate Chief Counsel
Office of Associate Chief Counsel
(Income Tax and Accounting)