



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

OFFICE OF
CHIEF COUNSEL

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CONEX-115374-09

UIL: 36.00-00

The Honorable Eleanor Holmes Norton
Member, U.S. House of Representatives
529 14th Street NW
Suite 900
Washington, DC 20045

Attention:

Dear Congresswoman Norton:

I am responding to your inquiry, dated February 18, 2009, on behalf of your constituent, . planned on purchasing a home this year and taking the first-time homebuyer credit on her 2008 tax return. Her filing status is head of household and her modified adjusted gross income (MAGI) exceeds the limitation for taxpayers who do not file a joint return. She requests the Internal Revenue Service (IRS) to grant a special dispensation from federal income taxes of \$7,500, equal to the maximum amount of the first-time homebuyer credit for purchases in 2008.

A credit is available to first-time homebuyers of 10 percent of the purchase price of the home, up to a maximum credit of \$8,000 for home purchases in 2009 (see section 36(a) of the Internal Revenue Code (Code)). The amount of the allowable credit is reduced for taxpayers whose MAGI is above \$75,000 (or \$150,000 for married taxpayers filing a joint return) (see section 36(b)(2) of the Code). The allowable credit is reduced to \$0 for taxpayers whose MAGI is \$95,000 or greater (or \$170,000 or greater for married taxpayers filing a joint return). There are no separate MAGI limitations for taxpayers whose filing status is head of household.

Because MAGI exceeds \$95,000 and she does not file a joint return, her maximum allowable credit is \$0. Because the law does not permit the IRS to expand the credit, we cannot grant her a special dispensation.

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

Sincerely,

Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax and Accounting)