



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

OFFICE OF
CHIEF COUNSEL

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CONEX-119851-09

UIL: 36.00-00

The Honorable Jim Webb
United States Senator
222 Central Park Avenue, Suite 120
Virginia Beach, VA 23462

Dear Senator Webb:

This letter responds to your enquiry dated April 9, 2009, submitted on behalf of your constituent, [REDACTED], who asked whether his daughter will qualify for the first-time homebuyer tax credit if he and his wife co-sign for the mortgage loan. The property will be in his daughter's name only and she will live in the residence and make all payments on the mortgage loan. [REDACTED] currently own a home.

Section 36(a) of the Internal Revenue 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).

Section 36(b)(1)(C) provides that the Secretary of the Treasury can prescribe the manner for allocating the credit between two or more taxpayers who are not married. Under to this authority, the IRS published Notice 2009-12, 2009-6 I.R.B. 446. The Notice provides that, if two or more taxpayers who are not married purchase a principal residence and otherwise satisfy the requirements of section 36, they can allocate the credit between them using any reasonable method. A reasonable method is any method that does not allocate any portion of the credit to a taxpayer not eligible to claim that portion.

Although they co-sign for the mortgage loan, [REDACTED] and his wife are not eligible to claim any portion of the credit because they are not first-time homebuyers. [REDACTED] daughter, therefore, as a first-time homebuyer of a principal residence, can claim the entire amount of the credit.

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

Sincerely,

Donna J. Welsh
Senior Technician Reviewer, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure: 1