



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

OFFICE OF THE CHIEF COUNSEL

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The Honorable Susan M. Collins
United States Senate
Washington, DC 20510

Attention:

Dear Senator Collins:

This letter responds to your enquiry, dated April 17, 2009, submitted on behalf of your constituent, . She asked whether she can take the first-time homebuyer credit for the 2008 purchase of a home. She stated that her husband purchased a mobile home in 2002 and used the mobile home as his principal residence.

Section 36(a) of the Internal Revenue Code (Code) provides a refundable credit for a first-time homebuyer of a principal residence. A first-time homebuyer is defined as any individual who has not had an ownership interest in a principal residence at any time during the three year period before the date of the purchase of the home. If married, both spouses must be first-time homebuyers as of the date of the purchase (section 36(c)(1)).

For purposes of section 36, the term principal residence has the same meaning as when used in section 121 (section 36(c)(2)). A principal residence may be a house, a houseboat, a house trailer, a mobile home, a cooperative apartment, or a condominium. See page 3 of *Publication 523, Selling Your Home* (enclosed).

Unfortunately, section 36 of the Code does not allow to take the first-time homebuyer credit because her husband had a prior ownership interest in a mobile home used as a principal residence during the three years before the 2008 purchase of the home. The law conditions qualification for the first-time homebuyer credit on lack of prior ownership, not the amount of debt on previously owned property. The Internal

Revenue Service lacks the administrative authority to modify the statutory requirements for taking the credit.

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

Sincerely,

George J. Blaine
Associate Chief Counsel
(Income Tax & Accounting)

Enclosure